3CODE OF ORDINANCES

Chapter 1 - GENERAL PROVISIONS

Sec. 1-1. Designation and citation of Code.

The ordinances embraced in this and the following chapters and sections shall constitute and be designated the "Code of the County of Henrico, Virginia, of 2010," and may be so cited.

(Code 1980, § 1-1; Code 1995, § 1-1)

State law reference—Authority to codify ordinances, admissibility of Code as evidence in courts, Code of Virginia, § 15.2-1433.

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

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

Board of supervisors. The term "board of supervisors" means the board of supervisors of the County of Henrico, Virginia.

State law reference—Definition of board of supervisors, Code of Virginia, § 15.2-102; general powers of board of supervisors under county manager form of government, Code of Virginia, § 15.2-604.

Code. The term "Code" means and refers to the Code of the County of Henrico, Virginia, of 2010, as designated in section 1-1.

Code of Virginia. The term "Code of Virginia" means the Code of Virginia, 1950, as amended, including the latest edition or supplement, unless otherwise indicated, and may be so cited.

Commonwealth. The term "commonwealth" means the Commonwealth of Virginia.

Computation of time. When a notice is required to be given, the day of such notice shall not be counted against the time allowed, but the day on which such act is performed may be counted as part of the time. When it is required that an act be performed within a prescribed amount of time after any event, the day on which the event occurred shall not be counted against the time allowed. When the last day for any act to be done falls on a Saturday, Sunday or legal holiday, or any day on which county offices are closed, the act may be done on the next day that is not a Saturday, Sunday or legal holiday, or day on which county offices are closed.

State law reference—"Computation of time" defined, Code of Virginia, § 1-210.

County. The term "county" means Henrico County, Virginia.

Designees. Whenever a county officer or county employee is authorized to act, his duly appointed designee shall have the same authority to act.

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

State law reference—"Gender" defined, Code of Virginia, § 1-216.

Highway; street. The terms "highway" and "street" include highways, streets, avenues, boulevards, roads, alleys, walkways, lanes, viaducts, bridges and approaches thereto and all other public ways in the county and shall mean the entire width thereof between the abutting property lines.

May. The term "may" is permissive.

Number. A word used in the singular includes the plural and a word used in the plural includes the singular.

State law reference—"Number" defined, Code of Virginia, § 1-227.

Oath. The term "oath" includes an affirmation in all cases in which, by law, an affirmation may be substituted for an oath.

State law reference—"Oath" defined, Code of Virginia, § 1-228.

Officers; employees; departments; boards; commissions; agencies. Any reference to an officer, employee, department, board, commission or agency is a reference to a county officer, county employee, county department, county board, county commission or county agency.

Person. The term "person" includes any individual, corporation, partnership, association, cooperative, limited liability company, trust, joint venture, government, political subdivision, or any other legal or commercial entity and any successor, representative, agent, agency, or instrumentality thereof.

State law reference—"Person" defined, Code of Virginia, § 1-230.

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

Shall. The term "shall" is mandatory.

State. The term "state" means the Commonwealth of Virginia.

Swear; sworn. The terms "swear" and "sworn" are equivalent to the terms "affirm" and "affirmed" in all cases in which by law an affirmation may be substituted for an oath.

State law reference—"Swear, sworn" defined, Code of Virginia, § 1-250.

Year. The term "year" means a calendar year.

State law reference—"Year" defined, Code of Virginia, § 1-223.

(Code 1980, § 1-2; Code 1995, § 1-2; Ord. No. 1098, § 1, 3-27-2007)

Sec. 1-3. Catchlines of sections.

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

(Code 1980, § 1-3; Code 1995, § 1-3)

State law reference—Headlines of sections of statutes, Code of Virginia, § 1-217.

Sec. 1-4. References to chapters, articles, divisions or sections.

All references in this Code to chapters, articles, divisions or sections shall be to those chapters, articles, divisions or sections of the Code of the County of Henrico, Virginia, of 2010, unless otherwise specified.

(Code 1995, § 1-4)

Sec. 1-5. History notes.

The history notes appearing in parentheses after sections in this Code are not intended to have any legal effect, but are merely intended to indicate the source of matter contained in the sections.

(Code 1995, § 1-5)

Sec. 1-6. Editor's notes and reference notes.

The editor's notes and state law references in this Code are not intended to have any legal effect, but are merely intended to assist the user of this Code.

(Code 1995, § 1-6)

Sec. 1-7. Code not to affect prior offenses or rights.

Nothing in this Code or the ordinance adopting this Code shall affect any offense or act committed or done, or any penalty or forfeiture incurred, or any contract or right established or accruing before the effective date of this Code.

(Code 1995, § 1-7)

Sec. 1-8. Provisions considered as continuation of existing Code and ordinances.

The provisions appearing in this and the following chapters and sections, so far as they are the same as those of ordinances existing at the time of the adoption of this Code, shall be considered as a continuation thereof and not as new enactments.

(Code 1980, § 1-4; Code 1995, § 1-8)

Sec. 1-9. Repeal of ordinance not to revive former ordinances.

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

(Code 1995, § 1-9)

State law reference—Repeal not to affect liabilities, etc., Code of Virginia, § 1-239.

Sec. 1-10. Ordinances not affected by Code.

(a) Nothing in this Code or the ordinance adopting this Code shall affect the following when not in conflict with the Code:

(1) Any offense or act committed or done or any penalty or forfeiture incurred or any contract or right established or accruing before the effective date of this Code.

(2) Any prosecution, suit or proceeding pending or any judgment rendered prior to the effective date of this Code.

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

(4) Any annual tax levy.

(5) Any right or franchise conferred by ordinance or resolution on any person.

(6) Any ordinance adopted for purposes which have been consummated.

(7) Any ordinance which is temporary, although general in effect, or special, although permanent in effect.

(8) Any ordinance relating to the compensation of the county's officers or employees.

(9) Any ordinance naming, renaming, opening, accepting or vacating streets, alleys, easements or rights-of-way in the county.

(10) Any ordinance relating to rezoning or the zoning map.

(11) Any ordinance not in conflict with this Code which:

a. Establishes a vehicular speed limit;

b. Establishes a one-way street or alley;

c. Designates a through street;

d. Designates a truck route to be followed by trucks passing through the county;

e. Designates intersections at which "stop" or "yield" signs are to be maintained;

f. Prohibits, limits or restricts the parking of vehicles in any respect;

g. Establishes any taxicab stand, bus stop, school zone or other zone relating to vehicular traffic or the stopping, standing or parking of vehicles;

h. Directs that any traffic control sign, signal or marking or other traffic control device be installed or maintained; or

(12) Any ordinance establishing fees or charges which are not set out in this Code.

(b) All such ordinances shall be on file in the county offices.

(Code 1995, § 1-10)

Sec. 1-11. Amendments to Code; effect of new ordinances; amendatory language.

(a) All ordinances passed subsequent to this Code which amend, repeal or in any way affect this Code may be numbered in accordance with the numbering system of this Code and printed for inclusion in the Code. In the case of repeal of chapters, sections and subsections, or any part thereof, by subsequent ordinances, such repealed portions may be excluded from the Code by omission from reprinted pages affected thereby. Any and all additions and amendments to this Code, when passed in such form as to indicate the intention of the board of supervisors to make the addition or amendment a part of this Code, shall be deemed to be incorporated in the Code, so that a reference to the Code shall be understood and intended to include such additions and amendments.

(b) Amendments to any of the provisions of this Code may be made by amending such provisions by specific reference to the section number of this Code in substantially the following language: "That section _____ of the Code of the County of Henrico, Virginia, of 2010, is hereby amended to read as follows:…." The new provisions shall then be set out in full as enacted.

(c) If a new section not heretofore existing in the Code is to be added, the following language may be used: "That the Code of the County of Henrico, Virginia, of 2010, is hereby amended by adding a section, to be

numbered _____, which section reads as follows:…." The new section shall then be set out in full as enacted.

(d) All sections, articles, chapters or provisions desired to be repealed shall be specifically repealed by section, article or chapter number, as the case may be.

(Code 1995, § 1-11)

Sec. 1-12. Severability of parts of Code.

It is hereby declared to be the intention of the board of supervisors that the sections, paragraphs, sentences, clauses and phrases of this Code are severable, and, if any phrase, clause, sentence, paragraph or section of this Code shall be declared unconstitutional or invalid by the valid judgment or decree of a court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Code.

(Code 1980, § 1-5; Code 1995, § 1-12)

State law reference—Severability of provisions of statutes, Code of Virginia, § 1-243.

Sec. 1-13. General penalty; continuing violations; injunctive relief.

(a) In this section, the term "violation of this Code" means:

(1) Doing an act that is prohibited or made or declared unlawful, an offense or a misdemeanor by ordinance or by rule, regulation or order authorized by ordinance;

(2) Failure to perform an act that is required to be performed by ordinance or by rule, regulation or order authorized by ordinance; or

(3) Failure to perform an act if the failure is declared a misdemeanor or an offense or unlawful by ordinance or by rule, regulation or order authorized by ordinance.

(b) In this section, the term "violation of this Code" does not include the failure of a county officer or county employee to perform an official duty, unless it is provided that failure to perform the duty is to be punished as provided in this section or it is clear from the context that it is the intent to impose the penalty provided for in this section upon the officer or employee.

(c) Except as otherwise provided:

(1) A person convicted of a violation of this Code shall be punished by a fine or imprisonment not exceeding the penalty provided in general law of the Code of Virginia for the violation of a class 1 misdemeanor.

(2) Any violation of this Code that is declared to be a class 2 misdemeanor shall be subject to the penalty provided by general law for a class 2 misdemeanor.

(3) Any violation of this Code that is declared to be a class 3 misdemeanor shall be subject to the penalty provided by general law for a class 3 misdemeanor.

(4) Any violation of this Code that is declared to be a class 4 misdemeanor shall be subject to the penalty provided by general law for a class 4 misdemeanor.

(5) No fine or term of confinement for the violation of a violation of this Code shall exceed the penalty provided by general law of the Code of Virginia for like offenses.

(d) Each day a violation of this Code or any such ordinance, rule, regulation or order continues shall constitute, except where otherwise provided, a separate offense.

(e) The imposition of a penalty does not prevent revocation or suspension of a license, permit or franchise or other administrative sanctions.

(f) The imposition of any penalty does not prohibit the county, in any proper case, from seeking equitable relief in any court of competent jurisdiction to enjoin the violation of any provision of this Code or other

county ordinance.
(Code 1980, § 1-6; Code 1995, § 1-13)

State law reference—Penalties for violation of county ordinances, Code of Virginia, § 15.2-1429; penalties for misdemeanors, Code of Virginia, § 18.2-11.

Sec. 1-14. Disposition of fines and costs.

(a) All fines and costs collected under the terms of this Code or other county ordinances shall be paid over to the director of finance of the county and credited by him to the county general revenue fund.
(b) Costs shall be taxed in prosecution under this Code or other county ordinances in the same amounts and in the same manner as prescribed by law in misdemeanor cases under the Code of Virginia, as amended.
(Code 1980, § 1-7; Code 1995, § 1-14)

State law reference—Fines paid to county, Code of Virginia, § 16.1-69.48; fines in traffic cases, Code of Virginia, § 46.2-1308.

Chapter 2 - ADMINISTRATION

***Cross reference—**Division of police, § 15-19 et seq.; public procurement, ch. 16.

***State law reference—**Administration of counties having county manager form of government, Code of Virginia, § 15.2-607 et seq.

ARTICLE I. IN GENERAL

Secs. 2-1—2-18. Reserved.

ARTICLE II. PLANNING COMMISSION

***Cross reference—**Subdivisions, ch. 19; zoning, ch. 24; administration and enforcement of the zoning chapter, § 24-107 et seq.

***State law reference—**Duty of county to create planning commission, Code of Virginia, § 15.2-2210; local planning generally, Code of Virginia, § 15.2-2200 et seq.

Sec. 2-19. Created; membership; term of members; staff.

(a) There is hereby created a county planning commission. The planning commission shall consist of six members appointed by the board of supervisors. All members shall be county residents, qualified by knowledge and experience to make decisions on questions of community growth and development. At least one-half of the members shall be owners of real property. There shall be one member from the board of supervisors and five citizen members. Each member shall take the oath of office in the form prescribed in Code of Virginia, § 49-1.

(b) The term of the board of supervisors member shall be coextensive with the term of office to which he has been elected or appointed, unless the board of supervisors, at its first regular meeting each year, appoints another to serve as its representative. The citizen members shall be appointed in January of each year for one-year terms.

(c) The director of planning shall serve as secretary to the planning commission and shall be responsible for maintaining the planning commission's records and for providing the staff support necessary for proper functioning of the planning commission.

(Code 1980, § 2-4; Code 1995, § 2-31)

State law reference—Planning commission required, Code of Virginia, § 15.2-2210; appointment of members of planning commission, Code of Virginia, § 15.2-2212; standards of conduct, Code of Virginia, § 2.2-3100 et seq.

Sec. 2-20. Officers; rules of procedure; records.

The planning commission shall elect a chairperson and vice-chairperson from among the citizen members for one-year terms. The planning commission shall adopt rules for the transaction of business and shall keep a record of its transactions. Such record shall be a public record.

(Code 1980, § 2-8; Code 1995, § 2-32)

State law reference—Officers and records of local planning commissions, Code of Virginia, § 15.2-2217.

Sec. 2-21. Powers and duties.

(a) The planning commission shall exercise all powers and perform all duties prescribed in the Code of Virginia.

(b) The planning commission shall perform all duties required by this Code, including review of every proposed amendment, supplement or change of the zoning and subdivision ordinances and every proposed change in district boundaries shown on county zoning maps. The planning commission may initiate changes in the district boundaries on its own motion.

(c) The planning commission may hold public hearings to consider amendments to the zoning ordinance or to make recommendations to the board of supervisors on any matter the board of supervisors refers.

(d) The planning commission shall exercise its powers and perform its duties only as funds are appropriated by the board of supervisors for such purpose.

(Code 1980, § 2-5; Code 1995, § 2-33)

State law reference—Duties of planning commission, Code of Virginia, § 15.2-2221; comprehensive planning, Code of Virginia, § 15.2-2223 et seq.

Sec. 2-22. Preparation of comprehensive plan.

The planning commission shall prepare and recommend a comprehensive plan for the growth and development of the county in accordance with Code of Virginia, § 15.2-2223. Upon request, the county manager shall provide the planning commission copies of any consultant reports prepared for the county.

(Code 1980, § 2-7; Code 1995, § 2-34)

State law reference—Comprehensive planning, Code of Virginia, § 15.2-2223 et seq.

Secs. 2-23—2-47. Reserved.

ARTICLE III. OFFICERS AND EMPLOYEES

***Cross reference—**Ordinances relating to compensation of officers or employees saved from repeal, § 1-10(a)(8); animal control supervisor, § 5-2; division of police, § 15-19 et seq.

***State law reference—**State and Local Government Conflict of Interests Act, Code of Virginia, § 2.2-3100 et seq.

Sec. 2-48. Bonds.

(a) *Director of social services.* The director of social services shall give bond with surety in the amount of $100,000.00, payable to the county, conditioned on the faithful discharge of such director's duties.

(b) *Director of finance.* The director of finance shall give bond with surety in the amount of $1,000,000.00, conditioned on the faithful discharge of his duties and the proper accounting for all funds coming into his possession, which shall be satisfied by his inclusion in the state self-insurance plan or a similar plan promulgated by the division of risk management of the state department of general services.

(c) *Other persons.* Persons holding the following positions shall give bond with surety in the amount of $100,000.00, payable to the county, conditioned on the faithful discharge of their duties and the proper accounting for all funds coming into their possession:

(1) The county manager and all deputy county managers;

(2) The purchasing director; and

(3) The registrar.

(d) *Payment of premium.* Except with respect to the director of finance, the county shall pay the premium for all such bonds.

(Code 1980, § 2-1; Code 1995, § 2-51; Ord. No. 897, § 1, 6-14-1995)

State law reference—Bond of certain employees, Code of Virginia, § 15.2-641; blanket bonding, Code of Virginia, § 2.2-1840.

Sec. 2-49. Deferred compensation accounts; use of deferred compensation funds.

The director of finance shall establish special accounts for the deferred compensation program. Funds retained by the county under such program shall be placed in such accounts and utilized only for purposes of defraying obligations which the county may incur as part of the program.

(Code 1980, § 2-20; Code 1995, § 2-52)

State law reference—Deferred compensation program, Code of Virginia, § 51.1-600 et seq.

Sec. 2-50. Criminal history record check and fingerprinting.

(a) *Finding.* The board of supervisors finds it necessary in the interest of public welfare and safety to determine whether the past criminal conduct of each person described in subsection (d) of this section is compatible with the nature of the county employment conditionally offered to such person.

(b) *Intent.* It is the intent of the board of supervisors in enacting this section to comply with the provisions of Code of Virginia, §§ 15.2-1503.1, 15.2-1505.1, 15.2-1505.3, and 19.2-389(A)7 to be able to access criminal history record information regarding those persons described in subsection (d) of this section conditionally offered county employment in order to determine whether the past criminal conduct of such persons would be compatible with the nature of such employment. Further, the provisions of this section are intended to be in addition to, and not in derogation of, all other federal and state statutes providing for access to criminal history record information concerning applicants for, and persons offered, county employment.

(c) *Definitions.*

(1) As used in this section, the term "conditionally offered employment" shall include a conditional offer of initial employment or a conditional offer to promote, demote, or laterally transfer an employee.

(2) As used in this section, the term "authorized position" means a position listed in the personnel complement as approved by the board of supervisors or the county manager, as the case may be, and assigned a unique position number by the department of human resources.

(3) As used in this section, the term "hourly safety-sensitive position" shall mean an hourly position, as defined in the County of Henrico, Virginia, Personnel Rules and Regulations, that the county manager, after consultation with the director of human resources, has determined is safety-sensitive. In determining whether an hourly position is safety-sensitive, the county manager shall consider whether the prospective employee would:

a. Be responsible for providing services directly to members of the public;

b. Be able to enter residences or businesses in the course of employment;

c. Have the capability of making changes to county technology systems;

d. Be permitted to operate a county vehicle in the course of employment;

e. Be permitted to handle cash, have the ability to effect transfers of funds of the county or others, or otherwise be accountable for funds of the county or others;

f. Have access to records containing identifying information of a personal, medical or financial nature; or

g. Be permitted to enter restricted or secure county facilities.

(4) For purposes of this section, the director of human resources must be a county employee.

(d) *Policy; authorized and hourly safety-sensitive positions.* All persons conditionally offered employment in an authorized or hourly safety-sensitive position shall, as a condition of employment, submit to fingerprinting and provide personal descriptive information to be forwarded to the Central Criminal Records Exchange and the Federal Bureau of Investigation for the purpose of obtaining criminal history record information. All offers of employment in such positions shall be conditioned upon the person offered such employment submitting to fingerprinting and providing personal descriptive information as described above. Failure of the person conditionally offered employment in such a position to submit to fingerprinting and to provide personal descriptive information shall disqualify the person from employment in the position.

(e) *Responsibilities.*

(1) The county manager shall:

a. After consultation with the director of human resources, establish and maintain the list of hourly safety-sensitive positions that are subject to the provisions of this section. The county manager may, from time to time, add or remove positions from the list of hourly safety-sensitive positions.

b. Receive the report from the Central Criminal Records Exchange concerning whether the person conditionally offered employment in an authorized or hourly safety-sensitive position has no criminal history record information or the record of criminal history information. The county manager may designate the director of human resources to receive such reports.

(2) The director of human resources shall:

a. Ensure that potential applicants for authorized or hourly safety-sensitive positions are notified that the positions are subject to the provisions of this section.

b. Upon making a conditional offer of employment in an authorized or hourly safety-sensitive position, inform the applicant that, as a condition of employment, the applicant must submit to fingerprinting and provide personal descriptive information to be forwarded along with the applicant's fingerprints to the Central Criminal Records Exchange and the Federal Bureau of Investigation for the purpose of obtaining criminal history record information.

c. Upon receipt of a report from the Central Criminal Records Exchange concerning a person conditionally offered employment that indicates that the person has a criminal history record, determine whether the conviction contained in the record directly relates to the authorized or hourly safety-sensitive position, whether the past criminal conduct contained in the record is compatible with the nature of the employment in the authorized or hourly safety-sensitive position, and whether such conviction disqualifies the person from employment in that authorized or hourly safety-sensitive position. In determining whether a criminal conviction directly relates to an authorized or hourly safety-sensitive position, the director shall consider the following criteria:

1. The nature and seriousness of the crime;

2. The relationship of the crime to the work to be performed in the position applied for;

3. The extent to which the position applied for might offer an opportunity to engage in further criminal activity of the same type as that in which the person had been involved;

4. The relationship of the crime to the ability, capacity, or fitness required to perform the duties and discharge the responsibilities of the position being sought;

5. The nature and extent of the person's past criminal activity;

6. The age of the person at the time of the commission of the crime;

7. The amount of time that has elapsed since the person's last involvement in the commission of a crime;

8. The conduct and work activity of the person before and after the criminal activity; and

9. Evidence of the person's rehabilitation or rehabilitative efforts while incarcerated or following release.

d. Notify in writing all persons who are denied employment in an authorized or hourly safety-sensitive position because of the information appearing in their criminal history record that information obtained from the Central Criminal Records Exchange contributed to such denial and inform them of their right to obtain a copy of their criminal history record from the Central Criminal Records Exchange.

e. Issue procedural instructions and promulgate all forms necessary to carry out the provisions of this section.

(Ord. No. 1128, § 1(2-53), 12-9-2008)

Secs. 2-51—2-73. Reserved.

ARTICLE IV. CHECKS AND WARRANTS

***Cross reference—**Public procurement, ch. 16.

Sec. 2-74. Issuance of warrants by school board.

The county school board shall issue all warrants for expenditures approved by the board in accordance with the laws of the state. The form of the warrants shall be approved by the county attorney.

(Code 1980, § 2-9; Code 1995, § 2-80)

State law reference—Payment of claims by school board, Code of Virginia, § 22.1-122.

Sec. 2-75. Issuance of warrants by county manager and department heads.

The county manager, or, in his absence or inability to act, the acting county manager, is hereby authorized and empowered to issue and sign all orders and warrants on behalf of the board of supervisors for all expenditures other than expenditures by the county school board and the county board of social services. However, the county manager, or the acting county manager, is authorized and empowered to delegate to his assistants, or to heads of departments or their duly appointed deputies and assistants, the authority to issue and sign orders and warrants authorizing the expenditure of funds appropriated for the operation of their respective departments. The form of warrant shall be approved by the county attorney.

(Code 1980, § 2-10; Code 1995, § 2-81)

Sec. 2-76. Preparation of checks.

The county school board, the county board of social services and the county manager shall cause all warrants to be sent to the director of finance, who shall prepare all checks in payment of all warrants received. The director of finance shall not prepare any check in payment of a warrant without first having received a proper warrant issued by the proper authorities on the forms prescribed. The director of finance shall prepare any other checks which are permitted by law to be prepared without the issuance of a warrant.

(Code 1980, § 2-11; Code 1995, § 2-82)

Sec. 2-77. Signing of checks by county manager.

The county manager or his duly appointed deputy or assistants are hereby authorized to sign all checks prepared and issued by the director of finance in accordance with this article and the laws of the state.

(Code 1980, § 2-12; Code 1995, § 2-83)

Sec. 2-78. Countersigning of checks by director of finance.

The director of finance shall countersign all checks which have been issued by him and signed by the county manager.

(Code 1980, § 2-13; Code 1995, § 2-84)

State law reference—Director of finance to have charge of disbursement of county funds, Code of Virginia, § 15.2-617.

Sec. 2-79. Signing of checks in case of absence or inability of county manager or director of finance.

In the absence or inability of the county manager or his duly appointed deputy or assistants to act, the acting county manager shall sign all checks. In the absence or inability of the director of finance to act, the deputy director of finance shall perform his duties and shall countersign all checks. In the absence or inability of both the director of finance and the deputy director of finance to act, such one other assistant in the department of finance as the director of finance may designate shall perform the duties of the director of finance and shall countersign all checks. The county manager and the director of finance shall, in writing, inform the board of supervisors and its clerk of the identity of individuals whom they designate as authorized to sign checks in their absence.

(Code 1980, § 2-14; Code 1995, § 2-85)

Sec. 2-80. Signing of checks using signature plates.

The county manager and his duly appointed deputy or assistants, the acting county manager, the director of finance, the deputy director of finance and such other one assistant in the department of finance as the director of finance may designate may use individual signature plates to sign county checks. Each plate shall be kept in a secure and safe place by the respective person whose signature is carried on the plate, and such plate shall be used only with the approval and at the direction of such individual.

(Code 1980, § 2-15; Code 1995, § 2-86)

Sec. 2-81. Service charge on returned payments.

A person who tenders any check, draft, order, credit card, debit card, electronic funds transfer or other means of payment for the payment of taxes or any other sums due the county which is subsequently returned unpaid because of insufficient funds, because there is no account, or because the account has been closed, shall be subject to a service charge of $50.00 for the processing of the returned check, draft, order, credit card, debit card, electronic funds transfer or other means of payment. A drawer shall be charged a fee of $50.00 for return of a check, draft, or order on which the drawer placed a stop-payment order in bad faith.

(Code 1980, § 2-16; Code 1995, § 2-87; Ord. No. 1068, § 1, 8-10-2004)

State law reference—Fee for passing bad check to locality authorized, Code of Virginia, § 15.2-106.

Secs. 2-82—2-105. Reserved.

ARTICLE V. COUNTY PROPERTY

***Cross reference—**Parks and recreation, ch. 14; public procurement, ch. 16; streets, sidewalks and other public property, ch. 18.

Sec. 2-106. Use for private purposes.

(a) Vehicles, machinery, tools and other items of personal property owned by the county shall not be loaned or leased to any person; provided that the board of supervisors may by resolution provide rules and regulations whereby the county manager may authorize specified items of county-owned personal property to be used for private purposes when such use would not interfere with or delay any county work project, upon the payment of specified charges, and subject to such terms and conditions as may be stipulated by the county manager. If and when any such resolution is in effect, the provisions thereof and the provisions of this subsection shall be deemed to be incorporated in and made a part of any authorization made thereunder by the county manager, and all persons for whose benefit any county-owned personal property is used shall be bound thereby and shall likewise be bound by the stipulations of the county manager.

(b) This section shall not be construed so as to limit the authority of the board of supervisors to authorize the use of county-owned personal property by public entities or agencies of the state under mutually agreed-upon terms and conditions.

(Code 1980, § 2-3; Code 1995, § 2-106)

Cross reference—Streets, sidewalks and other public property, ch. 18.

Secs. 2-107—2-125. Reserved.

ARTICLE VI. COURT COSTS

***Cross reference—**Offenses, ch. 13; police, ch. 15; traffic and vehicles, ch. 22.

DIVISION 1. GENERALLY

Secs. 2-126—2-145. Reserved.

DIVISION 2. ASSESSMENTS

Sec. 2-146. Funding of law library.

(a) The purpose of this section is to provide a source of funding for the law library maintained by the county as authorized by Code of Virginia, § 42.1-70, such library being located in the Tuckahoe Library and open to the public.

(b) In addition to any other fees imposed by law, there is hereby imposed on each civil action filed in the circuit, general district and juvenile and domestic relations district courts of the county a fee of $4.00, which shall be assessed as part of the costs. Such fee shall not be imposed upon actions in which the state, or any political subdivision thereof, or the federal government is a party and in which the costs are assessed against such government.

(c) The fee imposed by this section shall be collected by the clerks of the respective courts and periodically transmitted by them to the director of finance of the county for deposit into the treasury of the county.

(d) The sums collected from the fee imposed in this section shall be used only for such purposes as are authorized by Code of Virginia, § 42.1-70.

(Code 1980, § 2-21; Code 1995, § 2-126)

State law reference—Assessment of court costs for law library, Code of Virginia, § 42.1-70.

Sec. 2-147. Funding of construction and maintenance of courthouse and jail facilities.

(a) The purpose of this section is to provide a source of funding for the construction, renovation or

maintenance of the county courthouse and jail and court-related facilities, and to defray increases in the cost of heating, cooling, electricity and ordinary maintenance.

(b) In addition to any other fees imposed by law, there is hereby imposed in each civil action and criminal and traffic case in the circuit, general district and juvenile and domestic relations district courts of the county a fee of $2.00, which shall be assessed as part of the fees taxed as costs in each such action and case.

(c) The assessment imposed by this section shall be collected by the clerks of the respective courts and remitted to the director of finance of the county and held by such director subject to disbursements by the board of supervisors of the county for the construction, renovation or maintenance of the county's courthouse and jail and court-related facilities and to defray increases in the cost of heating, cooling, electricity and ordinary maintenance.

(Code 1980, § 2-22; Code 1995, § 2-127)

State law reference—Assessment for courthouse construction, renovation or maintenance, Code of Virginia, § 17.1-281.

Sec. 2-148. Funding of courthouse security.

(a) The purpose of this section is to provide a source of funding of courthouse security.

(b) In addition to any other fees imposed by law, there is hereby assessed a fee of $10.00 as part of the costs in each criminal and traffic case in the circuit and district courts of the county in which the defendant is convicted of a violation of any statute or ordinance.

(c) The assessment imposed by this section shall be collected by the clerks of the respective courts and remitted to the director of finance of the county and held by such director to be appropriated by the board of supervisors solely for the purposes enumerated in Code of Virginia, § 53.1-120.

(Code 1995, § 2-128; Ord. No. 1030, § 1, 8-13-2002; Ord. No. 1047, § 1, 8-12-2003; Ord. No. 1071, § 1, 8-10-2004; Ord. No. 1087, § 1, 8-22-2006; Ord. No. 1107, § 1, 8-14-2007)

State law reference—Assessment for funding of courthouse security personnel authorized, Code of Virginia, § 53.1-120.

Sec. 2-149. Costs of processing arrested persons into jail following conviction.

(a) The purpose of this section is to provide a source of funding to defray the costs of processing arrested persons into the Henrico jail following conviction.

(b) In addition to any other fees imposed by law, there is hereby imposed in each case in the circuit, general district and juvenile and domestic relations district courts of the county after conviction a fee of $25.00 which shall be assessed as part of the fees taxed as costs in each such case.

(c) The assessment imposed by this section shall be collected by the clerks of the respective courts and remitted to the director of finance of the county and held by such director subject to disbursements by the board of supervisors of the county to defray the costs of processing arrested persons into the Henrico jail following conviction.

(Code 1995, § 2-129; Ord. No. 1030, § 2, 8-13-2002)

State law reference—Assessment for costs of processing arrested persons into jail following conviction authorized, Code of Virginia, § 15.2-1613.1.

Sec. 2-150. Funding of criminal justice training academies.

(a) The purpose of this section is to provide a source of funding for the training academies operated by the division of police and the sheriff.

(b) In addition to any other fees imposed by law, there is hereby imposed in each case in the circuit, general district and juvenile and domestic relations district courts of the county in which costs are assessable, pursuant to Code of Virginia, §§ 16.1-69.48:1, 17.1-275.1, 17.1-275.2, 17.1-275.3, 17.1-275.4, 17.1-275.7, 17.1-275.8, or 17.1-275.9, a fee of $5.00 to support the criminal justice training academies operated by the division of police and the sheriff.

(c) The assessment imposed by this section shall be collected by the clerks of the respective courts and remitted to the director of finance of the county and held by such director subject to disbursements by the board of supervisors of the county solely to support the criminal justice training academies operated by the division of police and the sheriff.

(Code 1995, § 2-130; Ord. No. 1055, § 1, 10-14-2003)

State law reference—Assessment for funding of criminal justice training academies, Code of Virginia, § 9.1-106.

Chapter 3 - ALARM SYSTEMS

ARTICLE I. IN GENERAL

Secs. 3-1—3-18. Reserved.

ARTICLE II. POLICE ALARM SYSTEMS

*__Cross reference__—Police, ch. 15.

*__State law reference__—Local regulation of alarm company operators authorized, Code of Virginia, § 15.2-911.

Sec. 3-19. Purpose.

The purpose of this article is to minimize unnecessary use of the county's law enforcement resources by reducing the number of false alarms and regulating the installation and maintenance of alarm systems.

(Code 1980, § 16-9; Code 1995, § 3-1)

Sec. 3-20. 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:

Alarm system.

(1) The term "alarm system" means any device or system that transmits a signal that indicates a hazard or occurrence requiring an emergency response.
(2) The term "alarm system" shall not include a personal, direct telephonic call requesting emergency services.

Alarm user or *user* means the occupant of the premises protected by an alarm system.

Answering service means a telephone answering service that receives emergency signals from alarm systems and informs the county public safety communications center.

Automatic dialing device means a device interconnected to a telephone line and programmed to indicate a need for emergency response.

Chief means the chief of police or his designee.

False alarm.

(1) The term "false alarm" means any alarm signal to the county public safety communications center which is not in response to actual or threatened criminal activity. False alarms include:
a. Negligently activated signals;
b. Signals due to faulty, malfunctioning or improperly installed or maintained equipment; and
c. Signals purposely activated to summon police personnel in nonemergency situations.
(2) The term "false alarm" shall not include a signal activated by unusually severe weather conditions, utility conditions or other causes which the chief determines were beyond the user's control.

Indirect alarm transmittal means any alarm system which causes a third party or answering service to notify the county public safety communications center of an alarm activation.

Installer means any person who installs, services, monitors, sells or leases any alarm system.

Interconnect means to connect an alarm system to a voice-grade telephone line, either directly or through a mechanical device that utilizes a standard telephone, to transmit an emergency message upon the activation of the alarm system.

Negligently activated signals means signals transmitted due to carelessness or negligence in installation, maintenance or operation of an alarm system.

Nonemergency situations means situations where an immediate response to criminal activity by police personnel is not necessary.

(Code 1980, § 16-10; Code 1995, § 3-2)

Cross reference—Definitions and rules of construction, § 1-2.

Sec. 3-21. User data form.

Upon installing an alarm system, all users shall submit a county data form to the county public safety communications center with the following information:

(1) Name and location of the alarmed premises;
(2) Type of alarmed premises (residential or commercial);
(3) Normal operating hours, if commercial;
(4) Individuals designated by the user to respond when notified;
(5) Manufacturer, model and type of alarm system;
(6) Name, address and telephone number of the service company;
(7) Zone of alarm, if applicable; and
(8) Other applicable information.
(Code 1980, § 16-12; Code 1995, § 3-4)

Sec. 3-22. Training of persons using system; maintenance of system.

It shall be the responsibility of alarm system users to provide training to employees, tenants or other persons about activation of the alarm system in emergency situations and about proper operation of the alarm system, including setting, activating and resetting the alarm. All instructions about alarm systems and procedures shall be in writing and shall be available for inspection by the chief. The user shall also be responsible for maintaining the alarm system in proper working order.

(Code 1980, § 16-13; Code 1995, § 3-5)

Sec. 3-23. Automatic dialing devices.

It shall be unlawful for any person to install, sell, lease, use or cause or allow to be installed, sold, leased or used within the county automatic dialing devices or systems which are set or programmed to directly contact the county public safety communications center without the prior approval of the chief.

(Code 1980, § 16-11; Code 1995, § 3-6)

Sec. 3-24. Deliberate false alarms.

It shall be unlawful for any person to knowingly activate or cause to be activated an alarm system in a nonemergency situation without just cause. This shall not prohibit periodic testing of direct transmittal systems when the county public safety communications center has been notified in advance.

(Code 1980, § 16-14; Code 1995, § 3-7)

Sec. 3-25. Service fee for false alarms.

(a) *Amount.* Alarm system users shall pay a service fee for false alarms within 30 days of billing. The service fee shall be assessed for each false alarm during a 180-day period as follows:

(1) First false alarm: No charge.

(2) Second false alarm: $15.00.

(3) Third false alarm: $25.00.

(4) Fourth false alarm: $35.00.

(5) Fifth false alarm: $50.00.

(6) Sixth false alarm: $75.00.

(b) *Exceptions.* Service fees shall not be charged for false alarms from alarm systems in premises owned, leased, occupied or under the control of the United States, the state, political subdivisions of the state, or any of their officers, agents or employees while they are acting or are employed in their official capacity. However, all other requirements of this article shall apply to such systems.

(c) *Billing.* At the end of each month, the chief shall notify the director of finance of service fee assessments for false alarms. The chief shall provide the name of the alarm system user, the address of the false alarm, and the amount due for the false alarm. The director of finance shall bill the user and notify the chief when any account is more than 30 days in arrears.

(Code 1980, §§ 16-15—16-17; Code 1995, § 3-8)

Sec. 3-26. Termination and reinstatement of police response.

(a) The chief shall notify an alarm user whose account is more than 30 days in arrears that the division of police shall not respond to further alarm transmittals until the amount in arrears and a reinstatement fee is paid to the county.

(b) After seven false alarms have been transmitted during a 180-day period, the chief shall notify the alarm user that the division of police will not respond to alarm transmittals from the premises until service is reinstated. Police response shall not be reinstated until a licensed alarm company has inspected the alarm system and certifies that the system has been repaired and is operating correctly. The cost of inspection, repair and certification shall be paid by the alarm user.

(c) If the false alarm occurred because of negligence rather than mechanical failure, the user, its employees and all others having access to the alarm system shall complete a training program satisfactory to the chief.

(d) In all cases where police response has been terminated, the alarm user shall pay a $100.00 fee for reinstatement of service.

(Code 1980, §§ 16-15, 16-17; Code 1995, § 3-9)

Secs. 3-27—3-55. Reserved.

ARTICLE III. FIRE ALARM SYSTEMS

***Cross reference—** False fire alarms, § 11-7.

***State law reference—** Local regulation of alarm company operators authorized, Code of Virginia, § 15.2-911.

Sec. 3-56. Purpose.

The purpose of this article is to minimize unnecessary use of the county's emergency services by reducing the number of false alarms and regulating the installation and maintenance of alarm systems.

(Code 1980, § 10-23; Code 1995, § 3-21)

Sec. 3-57. 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:

Alarm system.

(1) The term "alarm system" means any device or system that transmits a signal that indicates a hazard or occurrence requiring an emergency response.
(2) The term "alarm system" shall not include a personal, direct telephonic call requesting emergency services.

Alarm user or *user* means the occupant of the premises protected by an alarm system.

Answering service means a telephone answering service that receives emergency signals from alarm systems and informs the county public safety communications center.

Automatic dialing device means a device interconnected to a telephone line and programmed to indicate a need for emergency response.

Chief means the fire chief or his designee.

False alarm.

(1) The term "false alarm" means any alarm signal to the county public safety communications center which is not in response to an actual or possible emergency. False alarms include:
a. Negligently activated signals;
b. Signals due to faulty, malfunctioning or improperly installed or maintained equipment; and
c. Signals purposely activated to summon fire personnel in nonemergency situations.
(2) The term "false alarms" shall not include signals activated by unusually severe weather conditions, utility conditions or other causes which the chief determines were beyond the user's control.

Indirect alarm transmittal means any alarm system which causes a third party or answering service to notify the county public safety communications center of an alarm activation.

Installer means any person who installs, services, monitors, sells or leases any alarm system.

Interconnect means to connect an alarm system to a voice-grade telephone line, either directly or

through a mechanical device that utilizes a standard telephone, to transmit an emergency message upon the activation of the alarm system.

Negligently activated signals means signals transmitted due to carelessness or negligence in installation, maintenance or operation of an alarm system.

Nonemergency situations means situations where an immediate response by fire personnel is not necessary to protect life or property.

(Code 1980, § 10-24; Code 1995, § 3-22)

Cross reference—Definitions and rules of construction, § 1-2.

Sec. 3-58. User data form.

Upon installing an alarm system, all users shall submit a county data form to the county public safety communications center with the following information:

(1) Name and location of the alarmed premises;
(2) Type of alarmed premises (residential or commercial);
(3) Normal operating hours, if commercial;
(4) Individuals designated by the user to respond when notified;
(5) Manufacturer, model and type of alarm system;
(6) Name, address and telephone number of the service company;
(7) Zone of alarm, if applicable; and
(8) Other applicable information.

This requirement shall not be applicable to single-unit heat and smoke detectors four or less in number.
(Code 1980, § 10-26; Code 1995, § 3-24)

Sec. 3-59. Training of persons using system; maintenance of system.

It shall be the responsibility of alarm system users to provide training to employees, tenants or other persons about activation of the alarm system in emergency situations and about proper operation of the alarm system, including setting, activating and resetting the alarm. All instructions about alarm systems and procedures shall be in writing and shall be available for inspection by the chief. The user shall also be responsible for maintaining the alarm system in proper working order.

(Code 1980, § 10-27; Code 1995, § 3-25)

Sec. 3-60. Automatic dialing devices.

It shall be unlawful for any person to install, sell, lease, use or cause or allow to be installed, sold, leased or used within the county automatic dialing devices or systems which are set or programmed to directly contact the county public safety communications center without the prior approval of the chief of police.

(Code 1980, § 10-25; Code 1995, § 3-26)

Sec. 3-61. Deliberate false alarms.

It shall be unlawful for any person to knowingly activate or cause to be activated an alarm system in a

nonemergency situation without just cause. This shall not prohibit periodic testing of direct transmittal systems when the county public safety communications center has been notified in advance.

(Code 1980, § 10-28; Code 1995, § 3-27)

State law reference—False alarms, Code of Virginia, § 18.2-212(A).

Sec. 3-62. Service fee for false alarms.

(a) *Amount.* Alarm system users shall pay a service fee for false alarms within 30 days of billing. The service fee shall be assessed for each false alarm during a 180-day period as follows:

(1) First false alarm: No charge.

(2) Second false alarm: $15.00.

(3) Third false alarm: $25.00.

(4) Fourth false alarm: $35.00.

(5) Fifth false alarm: $50.00.

(6) Sixth and subsequent false alarms: $75.00.

(b) *Exceptions.* Service fees shall not be charged for false alarms from alarm systems in premises owned, leased, occupied or under the control of the United States, the state, political subdivisions of the state, or any of their officers, agents or employees while they are acting or are employed in their official capacity. However, all other requirements of this article shall apply to such systems.

(c) *Billing; interest on unpaid charges.* At the end of each month, the chief shall notify the director of finance of service fee assessments for false alarms. The chief shall provide the name of the alarm system user, the address of the false alarm, and the amount due for the false alarm. The director of finance shall bill the user and notify the chief when any account is more than 30 days in arrears. Any account more than 30 days in arrears shall be subject to interest at the legal rate provided by the Code of Virginia, commencing when the account is more than 30 days in arrears.

(Code 1980, §§ 10-29—10-31; Code 1995, § 3-28)

Chapter 4 - AMUSEMENTS

***Cross reference—** Noise regulations, §0-67 et seq.; license tax generally, §-350 et seq.; license tax on certain amusements and entertainments, § 20-506 et seq.

***State law reference—** Locality may regulate minors from frequenting amusements, Code of Virginia, § 15.2-926(B).

ARTICLE I. IN GENERAL

Secs. 4-1—4-30. Reserved.

ARTICLE II. BILLIARD PARLORS

***Cross reference—** License tax, § 20-350 et seq.

Sec. 4-31. Hours of operation.

It shall be unlawful for any person owning, managing or operating a billiard parlor as defined in section 24-3 to keep open or operate such billiard parlor on any day between the hours of midnight and 6:00 a.m. of the following day, except on Sunday, when it shall be unlawful to open or operate a billiard parlor before 1:00 p.m. and after midnight, unless the operation of such establishment and hours of operation are specifically authorized by a provisional use permit approved by the board of supervisors in accordance with section 24-122.1. It shall be unlawful for any person, except its employees, to enter a billiard parlor during the hours in which it is closed.

(Code 1980, § 3-1; Code 1995, § 4-31)

Sec. 4-32. Minors.

(a) Except as otherwise provided in this section, it shall be unlawful for any person owning, managing or operating a billiard parlor to allow any minor to enter the billiard parlor except for the transaction of business. It shall be unlawful for any minor who is in a billiard parlor for the transaction of business to remain there after the business has been transacted, and it shall be unlawful for the owner, manager or operator to allow such minor to thereafter remain in the billiard parlor.

(b) Any person owning, managing or operating a billiard parlor may, in his discretion, allow minors to play or watch the play of billiards in the billiard parlor after the person owning, managing or operating the billiard parlor has ensured that:

(1) The minor is accompanied by a parent, person in loco parentis or legal guardian;

(2) A copy of this article is posted in plain and conspicuous view in the billiard parlor;

(3) The interior of the billiard parlor is lighted throughout at a level of 40 footcandles;

(4) No partitions, other than those for toilet facilities, are maintained in the billiard parlor; and

(5) No window in the billiard parlor is permanently covered or otherwise obstructed.

Failure to ensure that all these conditions are met shall be unlawful.

(c) It shall be unlawful for any person to accompany a minor in a billiard parlor unless such person is a parent, person in loco parentis, or legal guardian of the minor. It shall be unlawful for a parent, person in loco parentis, or legal guardian to permit a child under the age of 18 years to enter a billiard parlor unless the child is accompanied by such parent, person or guardian. It shall be unlawful for a parent, person in loco parentis, or legal guardian, having accompanied a child under the age of 18 years of age in a billiard parlor, to leave the billiard parlor without the child. It shall be unlawful for any minor to enter a billiard parlor

except in compliance with the provisions of this section. It shall be unlawful for any person owning, managing or operating a billiard parlor to knowingly permit any person to violate the provisions of this section.

(Code 1980, § 3-2; Code 1995, § 4-32)

State law reference—Authority to prohibit loitering by minors in public places of amusements, Code of Virginia, § 15.2-926(B).

Sec. 4-33. Gambling.

(a) *Prohibited.* It shall be unlawful for any person to bet or participate in unlawful gambling in any billiard parlor. No proprietor or person in charge of any billiard parlor shall permit betting or unlawful gambling on the premises.

(b) *Penalty.* Violations of this section shall be punishable by a fine not to exceed $2,500.00 or imprisonment in jail for up to 12 months, or both.

(Code 1980, § 3-3; Code 1995, § 4-33)

State law reference—Gambling prohibited, Code of Virginia, § 18.2-325 et seq.; authority to adopt ordinances prohibiting gambling, Code of Virginia, § 18.2-340.

Sec. 4-34. Penalty; revocation of provisional use permit.

Violation of any provision of this article shall be grounds for revocation of the provisional use permit by the board of supervisors in accordance with section 24-122.1(b). Violations of sections 4-31 and 4-32 shall be class 3 misdemeanors.

(Code 1980, § 3-4; Code 1995, § 4-34)

State law reference—Penalty for class 3 misdemeanor, Code of Virginia, § 18.2-11.

Secs. 4-35—4-60. Reserved.

ARTICLE III. DANCE HALLS

***Cross reference—**License tax, § 20-350 et seq.

***State law reference—**Authority to regulate dance halls, Code of Virginia, § 15.2-912.3.

Sec. 4-61. 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:

Public dance hall means any place open to the general public where dancing by patrons is permitted.

(Code 1980, § 3-4; Code 1995, § 4-61; Ord. No. 1093, § 1, 3-13-2007)

Sec. 4-62. Penalty.

Any person violating the provisions of section 4-63(a), 4-68 or 4-69 shall be guilty of a class 3 misdemeanor.

(Code 1980, § 3-9; Code 1995, § 4-62; Ord. No. 1093, § 1, 3-13-2007)

Cross reference—Definitions and rules of construction, § 1-2.

State law reference—Penalty for class 3 misdemeanor, Code of Virginia, § 18.2-11.

Sec. 4-63. Required permit; application and fee.

(a) No person shall operate or conduct a public dance hall in the county except in accordance with a permit issued by the chief of police and such other regulations in this article which may apply. Such permit shall be maintained on the premises of the dance hall and made available for inspection in accordance with section 4-67.

(b) Application for a permit under this article shall be made in writing on forms provided for this purpose and filed with the chief of police. Applicants shall provide the following:

(1) The name, street address and telephone number of the proposed public dance hall.

(2) The name, residential address, telephone number, date of birth, sex, race, hair and eye color, height and weight of the individual applicant or the individual applying on behalf of an entity.

(3) The name, address and telephone number of each individual who is an officer, director, partner, principal or manager of the proposed public dance hall, as well as any promoter involved in conducting the dances at the proposed public dance hall.

(4) Whether the applicant or any of the persons listed in subsection (b)(3) of this section has been convicted of any felony or misdemeanor and, if so, the nature of the offense, when and where convicted and the penalty or punishment assessed.

(5) Whether the applicant or any of the persons listed in subsection (b)(3) of this section has had a public dance hall permit denied or revoked by any jurisdiction in the last five years and, if so, when and where the denial or revocation occurred.

(6) The name, residential address and telephone number of two references who are neither minors nor relatives of the applicant or of any person listed in subsection (b)(3) of this section.

(7) If the applicant does not own the premises of the proposed public dance hall, a signed statement from the owner or owners authorizing use of the premises for a public dance hall.

(8) Written declaration, dated and signed by the applicant, certifying that the information contained in the application is true and correct and authorizing the chief of police to undertake a criminal background and reference check.

(c) Each such application for a permit shall be accompanied by a fee in the amount of $200.00.

(d) In addition to submitting the information required by subsection (b) of this section, applicants shall make the premises of the proposed public dance hall reasonably available for inspection pursuant to this article by representatives of the division of police, the division of fire, the department of building construction and inspections, and the department of planning of the county.

(Code 1980, § 3-5; Code 1995, § 4-63; Ord. No. 1093, § 1, 3-13-2007)

Sec. 4-64. Issuance or denial of permit.

(a) Within 30 days of the filing of an application completed in accordance with section 4-63, or a longer period if requested by the applicant, the chief of police shall issue a permit or provide a written decision of denial to the applicant.

(b) Upon receipt of a completed application, the chief of police shall provide relevant portions of the application to the fire chief, the building official and the director of planning of the county for their review. Within 20 days of receipt, or a longer period if the applicant has requested that the permit decision be rendered more than 30 days after filing:

(1) The fire chief shall inform the chief of police in writing whether the structure in which the proposed

dance hall is located meets all the provisions in the county's fire prevention code, including the Virginia Statewide Fire Prevention Code, and whether the parking facilities impede the approach of fire apparatus;

(2) The building official shall inform the chief of police in writing whether the structure in which the proposed dance hall is located meets all the applicable provisions in the Virginia Uniform Statewide Building Code; and

(3) The director of planning shall inform the chief of police in writing whether the zoning requirements have been fulfilled for the proposed dance hall.

(c) The chief of police shall issue a permit if he finds that:

(1) The fire chief has determined that the structure in which the proposed dance hall is located meets all the provisions in the county's fire prevention code, including the Virginia Statewide Fire Prevention Code, and the parking facilities do not impede the approach of fire apparatus;

(2) The building official has determined that the structure in which the proposed dance hall is located meets all the applicable provisions in the Virginia Uniform Statewide Building Code;

(3) The director of planning has determined that the zoning requirements have been fulfilled for the proposed dance hall; and

(4) None of the following grounds for denial appears to exist:

a. The applicant or any person listed in section 4-63(b)(3) has been convicted within the past five years of a felony, or within the past three years of a misdemeanor involving moral turpitude, under the laws of any state or of the United States.

b. The applicant or any person listed in section 4-63(b)(3) has operated another dance hall or a business affiliated with the proposed dance hall that permitted repeated occurrences of disorderly, violent, obscene or other unlawful conduct or was declared a public nuisance.

c. The applicant or any person listed in section 4-63(b)(3) has had a public dance hall permit denied or revoked by another jurisdiction within the past five years for violating any local, state or federal law or permitting disorderly, violent, obscene or other unlawful conduct.

d. The application or any statement made in support of the application contains a material misrepresentation or omission of fact.

e. The proposed dance hall does not conform to applicable local, state and federal laws.

f. The proposed dance hall is not permitted under the terms of an applicable lease or real property covenant.

(d) The chief of police may attach conditions to a permit that are reasonably related to the preservation of peace and good order.

(e) Permits issued under this section shall not be transferable.

(Code 1995, § 4-64; Ord. No. 1093, § 3, 3-13-2007)

Sec. 4-65. Revocation of permit or license.

The chief of police may revoke any permit issued pursuant to this article for any of the following reasons:

(1) The dance hall does not conform to the requirements of the fire prevention code of the county, the Virginia Statewide Fire Prevention Code, or any other law concerning fire prevention or safety.

(2) The dance hall does not conform to the requirements of the Virginia Uniform Statewide Building Code.

(3) The dance hall does not conform to the requirements of the zoning code of the county.

(4) The application or any statement made in support of the application has been discovered to contain a material misrepresentation or omission of fact.

(5) The permittee has allowed, or failed to take reasonable measures to prevent, repeated occurrences of disorderly, violent, obscene or other unlawful conduct on its premises.

(6) The permittee has violated any term or condition of its permit.

(7) The permittee has violated any provision of this article.

(8) The permittee has assigned or otherwise transferred its permit to another person or entity.

(9) The permittee is in violation of a local, state or federal law, and such violation prohibits the continued operation of the dance hall.

(Code 1980, § 3-8; Code 1995, § 4-65; Ord. No. 1093, § 2, 3-13-2007)

Sec. 4-66. Procedure upon denial of an application or revocation of a permit.

(a) If the chief of police denies an application or revokes a permit, he shall notify the applicant or permittee in writing of such action, the reasons therefor, and the right to request a hearing. To receive a hearing, the applicant or permittee must make a written hearing request which must be received by the chief of police within ten days of the date of the notice of denial or revocation. If a timely hearing request is not received by the chief of police, his decision shall be final. If a hearing is properly requested, it shall be held within ten days from receipt of the hearing request. The hearing shall be presided over by the chief of police. The applicant or permittee shall have the right to present evidence and argument or to have counsel do so. Within five days of the hearing, the chief of police shall render his decision, which shall be final. A permittee must discontinue operation of its dance hall when the decision to revoke the permit becomes final.

(b) Any person operating such a public dance hall whose permit has been revoked shall have the right of appeal to the circuit court of the county in accordance with law.

(Code 1995, § 4-66; Ord. No. 1093, § 3, 3-13-2007)

Sec. 4-67. Right of entry.

In addition to any existing legal authority, representatives of county departments shall have the authority to enter and inspect any dance hall permitted under this article for the purpose of determining compliance with the provisions of this article.

(Code 1995, § 4-67; Ord. No. 1093, § 3, 3-13-2007)

Sec. 4-68. Hours of operation; prohibited conduct.

(a) It shall be unlawful for any person operating or conducting a public dance hall to have such dance hall open on Sunday between the hours of 1:00 a.m. and 1:00 p.m. or open on any other day between the hours of 1:00 a.m. and 9:00 a.m. In addition to the provisions of this subsection, permittees shall conform to all zoning code requirements concerning their hours of operation.

(b) It shall be unlawful for any person operating or conducting a public dance hall to permit, or fail to take reasonable measures to prevent, disorderly, violent, obscene or other unlawful conduct on its premises.

(Code 1980, § 3-6; Code 1995, § 4-68; Ord. No. 1093, § 2, 3-13-2007)

Sec. 4-69. Illumination of exterior signs.

Any person operating or conducting a public dance hall shall not allow exterior signs to be illuminated after 1:00 a.m., or to be illuminated during any hours prohibited for the operation of such dance hall.

(Code 1980, § 3-7; Code 1995, § 4-69; Ord. No. 1093, § 2, 3-13-2007)

Secs. 4-70—4-90. Reserved.

ARTICLE IV. MUSICAL OR ENTERTAINMENT FESTIVALS

***Cross reference—** License tax, § 20-350 et seq.

DIVISION 1. GENERALLY

Sec. 4-91. Purpose.

This article is enacted for the purpose of providing necessary regulation for the conducting of commercial musical or entertainment festivals out-of-doors and not within an enclosed structure for the purpose of listening to or participating in entertainment which consists primarily of musical renditions conducted out-of-doors and not within an enclosed structure, in the interest of the public health, safety and welfare of the citizens and inhabitants of the county.

(Code 1980, § 3-19; Code 1995, § 4-91)

Sec. 4-92. 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:

Board means the board of county supervisors.

Musical or entertainment festival means any commercial gathering of groups or individuals for the purpose of listening to or participating in entertainment which consists primarily of musical renditions or other entertainment conducted out-of-doors and not within an enclosed structure. Such activities shall be deemed commercial when a business license is obtained or is required to be obtained, or, if a business license is not required, when a charge is imposed for admission to the activity.

(Code 1980, § 3-20; Code 1995, § 4-92)

Sec. 4-93. Penalty; forfeiture of permit.

Any person, and the officers of any corporation, violating any provision of this article shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished according to the provisions of section 1-13. Each violation shall constitute a separate offense. Conviction for violation of any provision of this article shall result in a forfeiture of the annual permit and the privilege to obtain a permit for a period of five years following the date of conviction.

(Code 1980, § 3-27; Code 1995, § 4-93)

Sec. 4-94. Misleading advertising.

Any advertisement of a musical or entertainment festival which is reasonably calculated to imply that persons attending the festival will not be subject to full and complete compliance with all applicable laws shall forthwith void the application and, if already granted, the permit.

(Code 1980, § 3-23; Code 1995, § 4-94)

Sec. 4-95. Time limits on entertainment.

Music or entertainment at a festival regulated under this article shall not be rendered for more than eight hours during any calendar day. All performances shall end no later than 11:00 p.m., and no performance shall begin prior to 12:30 p.m. on any Sunday.

(Code 1980, § 3-24; Code 1995, § 4-95)

Sec. 4-96. Admission of persons under 12 years of age.

No person under the age of 12 years shall be admitted to any festival regulated by this article, unless accompanied by a parent or guardian. The parent or guardian shall remain with such person at all times.

(Code 1980, § 3-25; Code 1995, § 4-96)

Secs. 4-97—4-110. Reserved.

DIVISION 2. PERMIT

Sec. 4-111. Required.

No person shall stage, promote, conduct or participate as an entertainer in any musical or entertainment festival in the county unless there shall have been first obtained from the director of public safety a special entertainment permit for such festival.

(Code 1980, § 3-21(a); Code 1995, § 4-111)

Sec. 4-112. Application.

Application for a special entertainment permit required by this division shall be in writing on forms provided for the purpose and filed in duplicate with the director of public safety at least 45 days before the date of such festival. Such application shall have attached thereto and made a part thereof the plans, statements, approvals and other documents required by this division. A nonrefundable fee of $200.00 shall accompany each application. The director of public safety may, at his discretion and upon an applicant's showing of good cause, consider an application submitted less than 45 days before the date of the festival.

(Code 1980, § 3-21(b); Code 1995, § 4-112)

Sec. 4-113. Annual permit.

(a) *Eligibility.* The director of public safety may issue an annual permit under this division for multiple festivals at a site which is the subject of an approved plan of development, has a structure previously used for outdoor concerts, and has previously satisfied the requirements of this article.

(b) *Application; fee.* Application for an annual permit shall be in writing on forms provided for the purpose and filed in duplicate with the director of public safety at least 45 days before the date of the first festival to be held under the permit. The director of public safety may, at his discretion and upon an applicant's showing of good cause, consider an application submitted less than 45 days before the date of the festival. Except as provided in this subsection, the application shall have attached thereto and made a part thereof the plans, statements, approvals and other documents required by this division. An application for an annual permit need not contain the information described in section 4-115(a)(1) and (2), provided such information is submitted to the chief of police at least 15 days prior to each festival or as soon thereafter as such information becomes available. If such information is not submitted, the annual permit shall be null and void as to that particular festival. A nonrefundable fee of $2,000.00 shall accompany each application for an annual permit.

(c) *Duration.* Annual permits shall be issued for the period January 1 to December 31 of the same calendar year, except that, when the application is filed after January 1, the permit shall be effective from the date issued until December 31 of that same year.

(Code 1980, § 3-21(b1)—(b3); Code 1995, § 4-113)

Sec. 4-114. Granting or denial.

The director of public safety shall act on applications for permits under this division within 30 days from the filing of the application. If granted, the permit shall be issued in writing on a form for the purpose and mailed by the director of public safety 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 director of public safety to the applicant at the address indicated.

(Code 1980, § 3-21(c); Code 1995, § 4-114)

Sec. 4-115. Conditions for issuance.

(a) *Required information.* Except as provided in section 4-113(b), a permit required by this division shall be issued when the following conditions have been met and the following plans, statements and other items requiring approval have been submitted to the director of public safety with the application:

(1) The 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 and time 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.

(2) The applicant shall submit 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.

(3) The applicant shall submit 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, the nature and interest of the applicant therein and documentation of the property owner's concurrence in the use of the facility.

(4) The applicant shall submit a plan for adequate sanitation facilities and garbage, trash and sewage disposal for persons at the festival. At a minimum, this plan shall meet the requirements of all pertinent state and local statutes, ordinances and regulations and shall be approved by the director of health of the county.

(5) The applicant shall submit a plan for providing food and water, if applicable, for the persons at the festival. At a minimum, this plan shall meet the requirements of all pertinent state and local statutes, ordinances and regulations and shall be approved by the director of health of the county. Lodging or overnight camping at the site shall not be permitted.

(6) The applicant shall submit a plan for emergency medical service, designating by name the rescue squad or commercial ambulance service to be made available for persons at the festival, approved by the fire chief of the county.

(7) The applicant shall submit a plan for adequate parking facilities, traffic control and crowd control in and around the festival area, approved by the chief of police and the traffic engineer of the county. Advance arrangements acceptable to the chief of police shall be made to ensure payment of all fees, salaries and charges incurred by the applicant in satisfying the provisions of this subsection.

(8) The applicant shall submit a plan for adequate fire protection. At a minimum, this plan shall meet the requirements of all pertinent state and local statutes, ordinances and regulations and shall be approved by the fire chief. Advance arrangements acceptable to the fire chief shall be made to ensure payment of all fees, salaries and charges incurred by the applicant in satisfying the provisions of this subsection.

(9) The applicant shall submit a statement specifying whether any outdoor lights or lighting is to be utilized and, if so, a plan shall be submitted showing the location of such lights and shielding devices or other equipment to prevent unreasonable flow beyond the property on which the festival is located, approved by the chief of building construction and inspections and the director of planning of the county.

(10) The applicant shall submit a statement from the director of planning of the county, specifying whether the festival may be lawfully held in the proposed location in accordance with applicable zoning restrictions.

(11) The applicant shall submit 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 exceed 65 decibels at the property lines of the property on which the festival is located.

(b) *Security personnel.* If the applicant intends to employ or does employ security forces to work at the site, such individuals must be licensed as security personnel by the state and, while on duty at the site, must wear uniforms identifying them as security personnel.

(c) *Inspection of structures and electrical system.* The office of building construction and inspections shall inspect and approve all temporary seating and stage facilities erected on the site and all electrical and lighting installations, power sources and electrical wiring.

(Code 1980, § 3-22; Code 1995, § 4-115; Ord. No. 936, 10-23-1996)

Sec. 4-116. Consent to inspections; revocation.

No permit shall be issued under this division unless the applicant shall furnish to the director of public safety written permission for the director of public safety, the county's lawful agents or duly constituted law enforcement officers to go upon the property at any time for the purpose of determining compliance with the provisions of this article. The director of public safety shall have the right to revoke any permit issued under this article upon noncompliance with any of its provisions and conditions.

(Code 1980, § 3-26; Code 1995, § 4-116)

Secs. 4-117—4-140. Reserved.

ARTICLE V. CONCESSION STANDS AT YOUTH ATHLETIC FACILITIES

***State law reference—**Hotels, restaurants, summer camps and campgrounds, Code of Virginia, § 35.1-1 et seq.; authority to exempt youth athletic activities from provisions of title 35.1, Code of Virginia, § 35.1-26(2).

Sec. 4-141. Exemption from state law.

The provisions of Code of Virginia, title 35.1 (Code of Virginia, § 35.1-1 et seq.), as amended, pertaining to the regulation of restaurants, shall not apply to concession stands at youth athletic activities, when such stands are promoted or sponsored by either a youth athletic association or by any charitable nonprofit organization or group thereof which has been recognized by an ordinance or resolution of the county as being part of its youth recreational program.

(Code 1980, § 3-28(a); Code 1995, § 4-141)

State law reference—Authority to exempt youth athletic activities from provisions of title 35.1, Code of Virginia, § 35.1-26(2).

Sec. 4-142. Supervision by director of health.

It shall be the duty of the county's director of health, or a qualified person designated by him, to provide education and consultation, establish advisory standards and exercise appropriate supervision regarding the safe preparation, handling, protection and preservation of food at concession stands at youth athletic activities, to protect the public health.

(Code 1980, § 3-28(b); Code 1995, § 4-142)

Chapter 5 - ANIMALS

***Cross reference—**Rat control, § 10-164 et seq.; protection of wildlife in parks, § 14-37; animals in parks, § 14-45.

***State law reference—**Animal welfare, Code of Virginia, § 3.2-6500 et seq.; authority of counties to adopt animal control ordinances parallel to numerous state law provisions, Code of Virginia, § 3.2-6543.

ARTICLE I. IN GENERAL

Sec. 5-1. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Adoption means the transfer of ownership of a dog or a cat, or any other companion animal, from a releasing agency to an individual.

At large means off the premises of the owner and not under the control of the owner or his agent, either by leash, cord or chain, or not under the owner's or custodian's immediate control.

Companion animal means any domestic or feral dog, domestic or feral cat, nonhuman primate, guinea pig, hamster, rabbit not raised for human food or fiber, exotic or native animal, reptile, exotic or native bird or any feral animal or any animal under the care, custody or ownership of a person, or any animal which is bought, sold, traded or bartered by any person. Agricultural animals, game species or any animal regulated under federal law as research animals shall not be considered companion animals for the purposes of this chapter.

Dangerous dog. The term "dangerous dog" means:

(1) A canine or canine crossbreed that has bitten, attacked, or inflicted injury on a companion animal that is a dog or cat or killed a companion animal that is a dog or cat. A canine or canine crossbreed is not a dangerous dog if, upon investigation, a law-enforcement officer or animal control officer finds that:

a. 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;

b. Both animals are owned by the same person; or

c. Such attack occurred on the property of the attacking or biting dog's owner or custodian.

(2) A canine or canine crossbreed that has bitten, attacked or inflicted injury on a person. A canine or canine crossbreed is not a dangerous dog if, upon investigation, a law-enforcement officer or animal control officer finds that the injury inflicted by the canine or canine crossbreed upon a person consists solely of a single nip or bite resulting only in a scratch, abrasion, or other minor injury.

(3) 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 shall be found to be a dangerous dog if the court determines, based on the totality of the evidence before it, or for other good cause, that the dog is not dangerous or a threat to the community.

Director of health means the health director of the county or his duly authorized representative.

Dog means an animal of the canine species, including every dog, regardless of age.

Humane society means any incorporated, nonprofit organization that is organized for the purposes of preventing cruelty to animals and promoting humane care and treatment or adoptions of animals.

Kennel means any establishment in which five or more canines, felines or hybrids of either are kept for the purpose of breeding, hunting, training, renting, buying, boarding, selling or showing.

Livestock means and includes all domestic or domesticated: bovine animals, equine animals, ovine animals, porcine animals, Cervidae animals, Capradae animals, animals of the genus Lama, ratites, fish or shellfish in aquaculture facilities, as defined in Code of Virginia, § 3.2-2600, enclosed domesticated rabbits or hares raised for human food or fiber, or any other individual animal specifically raised for food or fiber, except companion animals.

Owner means any person who has a right of property in an animal, keeps or harbors an animal, has an animal in his care, or acts as a custodian of an animal.

Poultry means all domestic fowl and game birds raised in captivity.

Releasing agency means a pound, humane society, animal welfare organization, society for the prevention of cruelty to animals, or other similar entity or home-based rescue that releases companion animals for adoption.

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.

Vaccinate, vaccinated and *vaccination* mean the immunization of a dog or cat against rabies, whether by inoculation, vaccination or any other method of treatment approved by the director of health.

Veterinarian means any licensed veterinarian authorized to practice veterinary medicine in the state.

Vicious dog means a canine or canine crossbreed which has:

(1) Killed a person;
(2) Inflicted serious injury to a person; or
(3) Continued to exhibit the behavior which resulted in a previous finding by a court or, on or before July 1, 2006, by an animal protection police officer, as authorized by ordinance, that it is a dangerous dog, provided that its owner has been given notice of that finding.

(Code 1980, § 4-1; Code 1995, § 5-1; Ord. No. 1039, § 1, 10-22-2002; Ord. No. 1048, § 1, 8-12-2003; Ord. No. 1050, § 1, 9-9-2003; Ord. No. 1088, § 1, 8-22-2006)

Cross reference—Definitions and rules of construction, § 1-2.

State law reference—Definitions, Code of Virginia, §§ 3.2-6500, 3.2-6540.

Sec. 5-2. Appointment of animal protection supervisor; powers and duties generally.

An animal protection police officer supervisor shall be appointed by the county manager. The animal protection police officer supervisor shall have all the powers and duties provided for in Code of Virginia, title 3.2, ch. 65 (Code of Virginia, § 3.2-6500 et seq.) in the enforcement of the provisions of this chapter and the animal laws of the county and state and such other duties as may be prescribed by this Code, the Code of Virginia, or other ordinances or laws of the county or State.

(Code 1980, § 4-3; Code 1995, § 5-2)

Cross reference—Officers and employees, § 2-48 et seq.

Sec. 5-3. Animal protection police officers.

The county manager shall appoint as many animal protection police officers as may be necessary in the enforcement of this chapter. Animal protection officers shall have all the powers and duties of the animal protection police officer supervisor.

(Code 1980, § 4-4; Code 1995, § 5-3)

Sec. 5-4. Disposal of dead companion animals.

The owner of any companion animal which has died from disease or other cause shall forthwith cremate, bury or sanitarily dispose of the animal. If, after notice, any owner fails to do so, the animal protection police officer supervisor or other officer shall bury or cremate the companion animal, and he may recover on behalf of the county from the owner his cost for this service. It shall be unlawful for any owner to fail to dispose of the body of his companion animal in violation of this section. Violation of this section shall be punishable as a class 4 misdemeanor.

(Code 1980, § 4-2; Code 1995, § 5-4)

State law reference—Similar provisions, Code of Virginia, § 3.2-6554; violation to be class 4 misdemeanor, Code of Virginia, § 3.2-6587(A)5; leaving dead or disabled animals in road or not burying dead animals, Code of Virginia, § 18.2-323; burial or cremation of dead animals, Code of Virginia, § 18.2-510; penalty for class 4 misdemeanor, Code of Virginia, § 18.2-11.

Secs. 5-5—5-26. Reserved.

ARTICLE II. DOGS AND CATS

***State law reference—**General authority to control dog dogs and cats, Code of Virginia, §, 3.2-6524 et seq.

DIVISION 1. GENERALLY

Sec. 5-27. Dogs killing or injuring livestock or poultry.

It shall be the duty of the animal protection police officer supervisor or other officer who may find a dog in the act of killing or injuring livestock or poultry to seize or kill such dog forthwith whether such dog bears a tag or not. Any person finding a dog committing any of the depredations mentioned in this section shall have the right to kill such dog on sight, as shall any owner of livestock or his agent finding a dog chasing livestock on land utilized by the livestock when the circumstances show that such chasing is harmful to the livestock. If the animal protection police officer supervisor has reason to believe that a dog is killing livestock or poultry, he is empowered to seize such dog solely for the purpose of examining such dog in order to determine whether it committed any of the depredations mentioned in this section. The animal protection police officer supervisor or any other person who has reason to believe that any dog is killing livestock or committing any of the depredations mentioned in this section shall apply to any magistrate of the county for a warrant requiring the owner or custodian, if known, to appear before the county general district court at a time and place named therein, at which time evidence shall be heard.

(Code 1980, § 4-19; Code 1995, § 5-31)

State law reference—Similar provisions, Code of Virginia, § 3.2-6652.

Sec. 5-28. Compensation for livestock and poultry killed by dogs; false claims.

(a) The county hereby waives the provisions of Code of Virginia, § 3.2-6553(ii) and (iii). The animal protection police officer shall conduct an investigation of claims under Code of Virginia, § 3.2-6553, and, in order for the claim to be paid, the investigation must support the claim.

(b) Claims filed pursuant to Code of Virginia, § 3.2-6553 shall be paid from the fund established under section 5-52 or such other funding as may be available.

(c) Any person who presents a claim or receives any money on a false claim under the provisions of this section shall be guilty of a misdemeanor.

(Code 1980, § 4-20; Code 1995, § 5-32)

State law reference—Compensation for livestock and poultry killed by dogs, Code of Virginia, § 3.2-6553.

Sec. 5-29. Unlawful acts; animals running at large.

The following shall be deemed unlawful acts and constitute a class 4 misdemeanor:

(1) *Diseased dogs or cats off of owner's premises.* It shall be unlawful for the owner of any dog or cat with a contagious or infectious disease to permit such dog or cat to stray from his premises if such disease is known to the owner.

(2) *Female dogs in season off of owner's premises.* It shall be unlawful for the owner of any female dog to permit such dog to stray from his premises while such dog is known to such owner to be in season.

(3) *Removing license tag.* It shall be unlawful for any person, except the owner or custodian, to remove a legally acquired license tag from a dog.

(4) *Concealing unlicensed or rabid dog.* It shall be unlawful for any person to conceal or harbor any dog on which the license tax has not been paid, or to conceal a mad dog to keep it from being destroyed.

(5) *Poisoning, injuring or killing dogs.* It shall be unlawful for any person, except the owner or his authorized agent, to administer poison to any dog under four months of age or any dog licensed pursuant to this article, or to expose poison where it may be taken by any such dog, or to injure, disfigure or kill any such dog except as otherwise provided in this article.

(6) *Dogs running at large.* It is prohibited for any dog, except dogs used for hunting, to run at large within the county at any time during any month of the year. For the purposes of this subsection, a dog shall be deemed to run at large while roaming or running off the property of its owner or custodian and not under its owner's or custodian's immediate control. A dog shall not be deemed to be running at large if it and its owner or custodian are within a county-designated off-leash, fenced dog exercise area. Any owner who permits his dog to run at large in the county shall be deemed to have violated the provisions of this subsection. The owner or custodian of any dog found running at large in a pack shall be subject to a civil penalty of $100 per dog so found, in addition to the criminal penalty. For purposes of this subsection, a dog shall be deemed to be running at large in a pack if it is running at large in the company of one or more other dogs that are also running at large. A civil penalty collected pursuant to this subsection shall be deposited by the director of finance pursuant to the provisions of Code of Virginia, § 3.2-6534.

(Code 1980, § 4-21; Code 1995, § 5-34; Ord. No. 1039, § 2, 10-22-2002)

State law reference—Authority to prohibit dogs from running at large, Code of Virginia, § 3.2-6539; violation to be class 4 misdemeanor, Code of Virginia, § 3.2-6587(A)3; penalty for class 4 misdemeanor, Code of Virginia, § 18.2-11.

Sec. 5-30. Control of dangerous or vicious dogs.

(a) Any law enforcement officer or animal protection police officer who has reason to believe that a canine or canine crossbreed is a dangerous dog may apply to a county magistrate for the issuance of a summons requiring the owner or custodian, if known, to appear before the general district court at a specified time. The summons shall advise the owner of the nature of the proceeding and the matters at issue. If a law enforcement officer successfully makes an application for the issuance of a summons, he shall contact an animal protection police officer and inform him of the location of the dog and the relevant facts pertaining to his belief that the dog is dangerous. The animal protection police officer shall confine the animal until a verdict is rendered on the summons. If the animal protection police officer determines that the owner or custodian can confine the animal in a manner that protects public safety, he may permit the owner or custodian to confine the animal until such time as evidence shall be heard and a verdict rendered.

(b) No canine or canine crossbreed shall be found to be a dangerous 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 if the threat, injury or damage was sustained by a person who was:

(1) Committing, at the time, a crime upon the premises occupied by the animal's owner or custodian;

(2) Committing, at the time, a willful trespass upon the premises occupied by the animal's owner or custodian; or

(3) 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 at the time of the acts complained of shall be found to be a dangerous dog. No animal that, at the time 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.

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

(d) Within 30 days of a finding that an animal is a dangerous dog, the owner of the animal shall obtain a dangerous dog registration certificate from the animal protection unit of the division of police or the director of finance for a fee of $150.00. This fee is in addition to other fees required by this chapter. The animal protection police officer or the director of finance shall 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 subsection shall be updated and renewed for a fee of $85.00 and in the same manner as the initial certificate was obtained. The animal protection police officer shall post registration information on the Virginia Dangerous Dog Registry.

(e) Certificates or renewals.

(1) All certificates or renewals thereof required to be obtained under this section shall be issued only to persons 18 years of age or older who present satisfactory evidence:

a. Of the animal's current rabies vaccination, if applicable;

b. 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;

c. That the animal has been spayed or neutered; and

d. That the owner has liability insurance, to the value of at least $100,000.00, that covers animal bites or has

obtained and will maintain a bond in surety, in lieu of liability insurance, to the value of at least $100,000.00.

(2) In addition, no owner shall be issued a certificate or renewal unless he presents satisfactory evidence that:

a. His 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

b. The animal has been permanently identified by means of electronic implantation.

(f) While on its owner's property, 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. While so confined within the structure, the animal shall be provided for according to §3.2-6503 of the Code of Virginia. When off its owner's property, an animal found to be a dangerous dog shall be kept on a leash and muzzled in such a manner as not to cause injury to the animal or interfere with the animal's vision or respiration, but so as to prevent it from biting a person or another animal.

(g) The owner of a dog found to be dangerous shall cause the animal protection unit of the division of police to be promptly notified of:

(1) The names, addresses, and telephone numbers of all owners;

(2) All of the means necessary to locate the owner and the dog at any time;

(3) Any complaints or incidents of attack by the dog upon any person or cat or dog;

(4) Any claims made or lawsuits brought as a result of any attack;

(5) Chip identification information;

(6) Proof of insurance or surety bond; and

(7) The death of the dog.

(h) If an animal has been found to be a dangerous dog, the owner shall immediately cause the animal protection unit to be notified upon learning that the animal:

(1) Is loose or unconfined;

(2) Bites a person or attacks another animal; or

(3) Is sold, is given away, or dies.

Any owner of a dangerous dog who relocates to a new address shall, within ten days of relocating, provide written notice to the appropriate local animal protection unit for the old address from which the animal has moved and the new address to which the animal has been moved.

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

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

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

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

(j) The owner of any animal that has been found to be a dangerous dog who willfully fails to comply with the requirements of this section is guilty of a 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 protection police officer shall confine the dog until such time as evidence shall be heard and a verdict rendered.

(k) All fees collected pursuant to this section, less the costs incurred by the animal protection unit of the division of police in producing and distributing the certificates and tags required by this ordinance, shall be

paid into a special fund dedicated to paying the expenses of any training courses required under Code of Virginia, § 3.2-6556.
(Code 1995, § 5-36; Ord. No. 1039, § 4, 10-22-2002; Ord. No. 1048, § 2, 8-12-2003; Ord. No. 1088, § 2, 8-22-2006)

State law reference—County may regulate dangerous and vicious dogs, § 3.2-6540(M); penalty for class 2 misdemeanor, Code of Virginia, § 18.2-11.

Sec. 5-31. Vicious dogs.

(a) Any law enforcement officer or animal protection police officer who has reason to believe that a canine or canine crossbreed in the county is a vicious dog shall apply to a county magistrate for the issuance of a summons requiring the owner or custodian, if known, to appear before the general district court at a specified time. The summons shall advise the owner of the nature of the proceeding and the matters at issue. If a law enforcement officer successfully makes an application for the issuance of a summons, he shall contact a local animal protection police officer and inform him of the location of the dog and the relevant facts pertaining to his belief that the dog is vicious. The animal protection police officer shall confine the animal until such time as evidence shall be heard and a verdict rendered.

(b) No canine or canine crossbreed shall be found to be a 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 vicious dog if the threat, injury, or damage was sustained by a person who was (i) committing, at the time, a crime upon the premises occupied by the animal's owner or custodian; (ii) committing, at the time, a willful trespass upon the premises occupied by the animal's owner or custodian; or (iii) provoking, tormenting, or physically abusing the animal, or can be shown to have repeatedly provoked, tormented, abused, or assaulted the animal at other times. No police dog that was engaged in the performance of its duties as such at the time of the acts complained of shall be found to be a vicious dog. No animal that, at the time of the acts complained of, was responding to pain or injury or was protecting itself, its kennel, its offspring, a person, or its owner's or custodian's property, shall be found to be a vicious dog.

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

Secs. 5-32—5-48. Reserved.

DIVISION 2. DOG LICENSES

***Cross reference—**Taxation, ch. 20.

***State law reference—**Dog licenses, Code of Virginia, § 3.2-6524 et seq.

Sec. 5-49. Required; tax year; amount of tax; exemptions from tax.

(a) It shall be unlawful for any person residing in the county, other than a releasing agency that has registered as such with the division of police, animal protection unit, to own a dog four months of age or

older unless such dog is licensed as required by this division. The licensing period for an individual dog license issued after November 14, 2017, shall be equal to the dog's lifetime, but the license shall remain valid only as long as the dog's owner resides in the county and the dog's rabies vaccination is kept current. The licensing period for a kennel shall be for the calendar year, from January 1 to December 31. A dog license issued under this division is nonrefundable, nontransferable, and will not be prorated. The license tax is in addition to any fee due under this chapter for a dangerous dog registration certificate. The license tax shall be payable to the office of the director of finance or at such substation as shall be designated by the director of finance, and shall be in the following amounts:

(1) For each dog, $10.00.

(2) For each duplicate tag, $1.00.

(3) For each kennel for up to 50 dogs, $50.00.

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

(Code 1980, § 4-6; Code 1995, § 5-51; Ord. No. 1108, § 1, 8-14-2007)

State law reference—License tax, Code of Virginia, § 3.2-6528.

Sec. 5-50. Due date for payment of tax.

(a) The license tax for an individual dog is due not later than 30 days after a dog has reached the age of four months, or not later than 30 days after an owner acquires a dog four months of age or older. Subsequently, the license tax for an individual dog is due within 30 days of the expiration date on the license receipt, if the license is not a lifetime license. No subsequent license tax is due for a dog with a valid lifetime license. If the owner of a dog with a lifetime license removes his residency from the county, no license tax is due and the lifetime license is considered to be valid if the owner subsequently resumes residency in the county. If the owner of a dog with a lifetime license fails to keep current the dog's rabies vaccination, the license tax is due within 30 days of the expiration of the dog's rabies vaccination and a renewal of rabies vaccination after expiration shall not relieve the dog's owner of the obligation to pay the license tax or cause the license to become valid.

(b) The license tax for a kennel shall be due on January 1 and not later than January 31 of each year.

(Code 1980, § 4-7; Code 1995, § 5-52)

State law reference—Due date for payment of license tax, Code of Virginia, § 3.2-6530.

Sec. 5-51. Failure to pay tax.

(a) Any person convicted of failure to pay the dog license tax as provided in this division on any dog owned by him shall be guilty of a class 4 misdemeanor. Such person shall be required to obtain the proper license forthwith. Unless the fine and license tax are paid immediately, the court shall order the proper disposition of such dog by the animal protection police officer supervisor or some other officer, but the disposition of such dog shall not relieve its owner of the payment of the fine and the license tax already due.

(b) Payment of the license tax provided for in this division subsequent to a summons to appear before the general district court or other court for failure to pay within the time required shall not operate to relieve such owner from the penalties provided in subsection (a) of this section.

(Code 1980, §§ 4-8, 4-10; Code 1995, § 5-53)

State law reference—Penalty to be class 4 misdemeanor, Code of Virginia, § 3.2-6587(A)(4); penalty for class 4 misdemeanor, Code of Virginia, § 18.2-11.

Sec. 5-52. Separate account for funds.

The funds collected for dog license taxes shall be paid into a separate account.

(Code 1980, § 4-9; Code 1995, § 5-54)

State law reference—Disposition of funds, Code of Virginia, § 3.2-6534.

Sec. 5-53. Application for license; issuance.

(a) Any person may obtain a dog license required by this division by making application to the director of finance of the county accompanied by the amount of license tax and certificate of vaccination as required in Code of Virginia, § 3.2-6521. The director of finance shall only have authority to license dogs of resident owners or custodians who reside within the boundary limits of the county, and may require information to this effect from any applicant. Upon receipt of proper application and the certificate of vaccination, the director of finance shall issue a license receipt for the amount of the license tax. The receipt shall state (i) the name and address of the owner or custodian of the dog, (ii) the date of payment, (iii) the serial number of the tag, and (iv) whether the license is for a male, unsexed female, female or kennel. The metal license tags or plates for kennels shall be delivered with the receipt to the owner. The metal license tag issued for an individual dog is a permanent tag. Once a permanent tag has been issued to an individual dog, additional metal license tags for that dog will be issued only pursuant to § 5-55. The information thus received shall be retained by the director of finance open to public inspection during the period for which such license is valid.

(b) The director of finance may establish agencies for the purpose of issuing county dog license tags subject to the restrictions and regulations provided by this division. The director of finance may designate agents to issue dog tags and shall prescribe the forms and methods of reporting for such agents.

(c) Any person who shall make a false statement in order to secure a dog license to which he is not entitled shall be guilty of a class 4 misdemeanor.

(Code 1980, § 4-11; Code 1995, § 5-55)

State law reference—Similar provisions, Code of Virginia, § 3.2-6587; evidence of rabies inoculation to be furnished, Code of Virginia, § 3.2-6526; false statement in order to secure license to be class 4 misdemeanor, Code of Virginia, § 3.2-6587(A)1; penalty for class for misdemeanor, Code of Virginia, § 18.2-11.

Sec. 5-54. License tags generally.

A dog license shall consist of a license receipt and a metal tag, as authorized pursuant to Code of Virginia, § 3.2-6526. The tag shall be stamped or otherwise permanently marked to show the county issuing the license and a serial number. The license tag for a kennel shall show the number of dogs authorized to be kept under such license and have attached thereto a metal identification plate for each of such dogs, numbered to correspond with the serial number of the license tag.

(Code 1980, § 4-13; Code 1995, § 5-57; Ord. No. 1089, § 1, 8-22-2006)

State law reference—Form of license, Code of Virginia, § 3.2-6526.

Sec. 5-55. Duplicate tags.

If a dog license shall become lost, destroyed or stolen, the owner or custodian shall at once apply to the director of finance or his agent who issued the license for a duplicate license tag, presenting the original license receipt. Upon affidavit of the owner or custodian before the director of finance or his agent that the original license tag has been lost, destroyed or stolen, he shall issue a duplicate license tag, which the owner or custodian shall immediately affix to the collar of the dog. The director of finance or his agent shall endorse the number of the duplicate license tag and the date issued on the face of the original license receipt.

(Code 1980, § 4-14; Code 1995, § 5-58)

State law reference—Similar provisions, Code of Virginia, § 3.2-6532.

Sec. 5-56. Display of receipt; wearing of collar and tag.

(a) Dog license receipts shall be carefully preserved by the licensees and exhibited promptly on request for inspection by any animal protection police officer or other law enforcement officer. Dog license tags shall be securely fastened to a substantial collar by the owner or custodian and worn by such dog. It shall be unlawful for any person to permit any licensed dog four months of age or over to be off the premises of the owner at any time without wearing the license tag, except that the owner of the dog may remove the collar and license tag required by this section when the dog:

(1) Is engaged in lawful hunting;

(2) Is competing in a dog show;

(3) Has a skin condition which would be exacerbated by the wearing of a collar;

(4) Is confined; or

(5) Is under the immediate control of the owner.

(b) Any violation of this section shall be punishable as a class 4 misdemeanor.

(Code 1980, § 4-15; Code 1995, § 5-59)

State law reference—Similar provisions, Code of Virginia, § 3.2-6531; violations to be class 4 misdemeanor, Code of Virginia, § 3.2-6587(A)(9); penalty for class 4 misdemeanor, Code of Virginia, § 18.2-11.

Sec. 5-57. Dogs not wearing tag presumed unlicensed.

Any dog not wearing a collar bearing a license tag shall, prima facie, be deemed to be unlicensed. In any proceedings under the provisions of this chapter, the burden of proof of the fact that such dog has been licensed or is otherwise not required to bear a tag at the time shall be on the owner of the dog.

(Code 1980, § 4-16; Code 1995, § 5-60)

State law reference—Similar provisions, Code of Virginia, § 3.2-6533.

Sec. 5-58. Display of kennel tags; allowing dogs out of kennel.

(a) The owner of a kennel in the county shall securely fasten the license tag to the kennel enclosure in full view and keep one of the identification plates provided therewith attached to the collar of each dog authorized to be kept enclosed in the kennel. Any identification plates not so in use must be kept by the owner or custodian and promptly shown to the animal protection police officer supervisor or other officer upon request. A kennel dog shall not be permitted to stray beyond the limits of the enclosure, but this shall not prohibit removing dogs therefrom temporarily while under the control of the owner or custodian for the purpose of exercising, hunting, breeding, trial or show. The animal protection police officer supervisor may, in his discretion, issue a permit allowing kennel dogs to run at large during such months as he may deem

proper; provided that such permit shall not authorize such dogs to run at large contrary to any other provisions of this Code or other ordinance of the county. Every permit shall state the months that such dogs may run at large and the rules and regulations that must be complied with, and the animal protection police officer supervisor may revoke any such permit at any time. Forms of application blanks and permits shall be supplied by the animal protection police officer supervisor. A kennel shall not be operated in such a manner as to defraud the county of the license tax applying to dogs which cannot be legally covered thereunder or to in any manner violate other provisions of this chapter.

(b) If a dog is found running and roaming at large at any time of the year in violation of the provisions of this section or section 5-56, such violation by its owner shall be punishable as a class 4 misdemeanor. If it is a kennel dog, the license may be revoked if the law appears to the court to have been violated by reason of carelessness or negligence on the part of the owner, who shall thereupon be required to secure an individual license for each dog.

(Code 1980, § 4-17; Code 1995, § 5-61)

State law reference—Violations to be class 4 misdemeanor, Code of Virginia, § 3.2-6587(A)9; penalty for class 4 misdemeanor, Code of Virginia, § 18.2-11.

Secs. 5-59—5-89. Reserved.

DIVISION 3. RABIES VACCINATION

Sec. 5-90. Required; certificate.

(a) It shall be unlawful for any person to own, keep or harbor any dog or cat four months of age or older within the county unless such dog or cat has been vaccinated with a species-appropriate vaccine approved by the United States Department of Agriculture and administered by a licensed veterinarian, and has received any required revaccination against rabies as specified in the certificate of vaccination.

(b) Upon vaccination or revaccination of a dog or cat as required by this section, a suitable and distinctive rabies tag and a certificate of vaccination, properly executed and signed by the licensed veterinarian performing the vaccination, shall be issued to the animal's owner by the veterinarian, who shall retain a copy of the certificate for his records.

(c) The certificate issued pursuant to subsection (b) of this section shall be NASPHV Form No. 50, or its equivalent, and shall certify that the dog or cat has been vaccinated in accordance with this division, and shall include the following information:

(1) The date of the vaccination;

(2) The date for required revaccination;

(3) The rabies tag number;

(4) A brief description of the dog or cat and its age, sex and breed; and

(5) The name and address of the animal's owner.

(d) The certificate issued pursuant to subsection (b) of this section shall be preserved by the owner of the dog or cat and exhibited promptly on request for inspection by any animal protection police officer or other law enforcement officer.

(e) Any person owning, keeping or harboring any dog or cat four months of age or older shall have the required vaccination performed within 30 days from the day on which the dog or cat is first owned, kept, harbored or moved into the county by the person.

(Code 1980, § 4-23; Code 1995, § 5-81)

State law reference—Rabies inoculation of dogs and cats, Code of Virginia, § 3.2-6521.

Sec. 5-91. Exemption for animals temporarily brought into county.

This division shall not apply to any dogs or cats temporarily brought into the county, for a period not to exceed 30 days, for showing or breeding purposes, if such dogs or cats remain confined at all times.

(Code 1980, § 4-23.1; Code 1995, § 5-82)

Sec. 5-92. Wearing of rabies tag.

The owner of any dog or the owner's agent shall attach to the collar of such dog the current rabies tag supplied by the veterinarian. Such collar and tag shall be worn by the dog at all times such dog is out-of-doors, whether on or off the premises of the owner. Cat owners are encouraged to tag their cats similarly, but are not required to do so.

(Code 1980, § 4-23.3; Code 1995, § 5-83)

Secs. 5-93—5-112. Reserved.

DIVISION 4. STERILIZATION OF ADOPTED DOGS AND CATS

***State law reference—**Sterilization of dogs and cats, Code of Virginia, § 3.2-6574.

Sec. 5-113. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

New owner means an individual who is legally competent to enter into a binding agreement pursuant to section 5-114 and who adopts or receives a dog or cat from a releasing agency.

Sterilize and *sterilization* mean a surgical or chemical procedure performed by a licensed veterinarian that renders a dog or cat permanently incapable of reproducing.

(Code 1980, § 4-22.4; Code 1995, § 5-101; Ord. No. 1050, § 2, 9-9-2003)

Cross reference—Definitions and rules of construction, § 1-2.

State law reference—Similar provisions, Code of Virginia, § 3.2-6500.

Sec. 5-114. Sterilization required.

(a) *Duty of new owner.* Every new owner of a dog or cat adopted from a releasing agency shall cause such dog or cat to be sterilized pursuant to the agreement required by subsection (b)(2) of this section.

(b) *Requirements for release of animal.* A dog or cat shall not be released for adoption from a releasing agency unless:

(1) The animal has already been sterilized; or

(2) The individual adopting the animal signs an agreement to have the animal sterilized by a licensed veterinarian within 30 days of the adoption if the animal is sexually mature, or within 30 days after the animal reaches six months of age if the animal is not sexually mature at the time of adoption.

(c) *Extension of time.* A releasing agency may extend for 30 days the date by which a dog or cat must be sterilized on presentation of a written report from a veterinarian stating that the life or health of the adopted animal may be jeopardized by sterilization. In cases involving extenuating circumstances, the veterinarian

and the releasing agency may negotiate the terms of an extension of the date by which the animal must be sterilized.

(d) *Sterilization of immature animals.* Nothing in this section shall preclude the sterilization of a sexually immature dog or cat upon the written agreement of the veterinarian, the releasing agency and the new owner.

(e) *Order to comply.* Upon the petition of the animal protection police officer supervisor, an investigator or the state veterinarian or his designee to the district court where a violation of this division occurs, the court may order the new owner to take any steps necessary to comply with the requirements of this division. This remedy shall be exclusive of and in addition to any civil penalty which may be imposed under this division.

(f) *Civil penalty.* Any person who violates subsection (a) or (b) of this section shall be subject to a civil penalty not to exceed $150.00.

(Code 1980, § 4-22.5; Code 1995, § 5-102; Ord. No. 987, § 1, 7-13-1999)

State law reference—Similar provisions, Code of Virginia, § 3.2-6574; civil penalty authorized, Code of Virginia, § 3.2-6543(B).

Sec. 5-115. Confirmation of sterilization.

(a) *Required; contents.* Each new owner who signs a sterilization agreement pursuant to this division shall, within seven days of the sterilization, cause to be delivered or mailed to the releasing agency written confirmation signed by the veterinarian who performed the sterilization. The confirmation shall briefly describe the dog or cat, include the new owner's name and address, certify that the sterilization was performed, and specify the date of the procedure.

(b) *Civil penalty.* Any person who violates this section shall be subject to a civil penalty not to exceed $50.00.

(Code 1980, § 4-22.6; Code 1995, § 5-103)

State law reference—Similar provisions, Code of Virginia, § 3.2-6576; civil penalty authorized, Code of Virginia, § 3.2-6543(B).

Sec. 5-116. Notification of releasing agency of death or disappearance of animal.

(a) *Required.* If an adopted dog or cat is lost or stolen or dies before the animal is sterilized and before the date by which the dog or cat is required to be sterilized, the new owner shall, within seven days of the animal's disappearance or death, notify the releasing agency of the animal's disappearance or death.

(b) *Civil penalty.* Any person who violates this section shall be subject to a civil penalty not to exceed $25.00.

(Code 1980, § 4-22.7; Code 1995, § 5-104)

State law reference—Similar provisions, Code of Virginia, § 3.2-6577; civil penalty authorized, Code of Virginia, § 3.2-6543(B).

Sec. 5-117. Exemptions from division.

This division shall not apply to:

(1) An owner reclaiming his dog or cat from a releasing agency;

(2) A local governing body which has disposed of an animal by sale or gift to a federal agency, state-sponsored institution, agency of the state, agency of another state, or licensed federal dealer having its principal place of business located within the state;

(3) A place or establishment which is operated under the immediate supervision of a duly licensed veterinarian as a hospital or boarding kennel where animals are harbored, boarded and cared for incident to

the treatment, prevention or alleviation of the disease processes during the routine practice of the profession of veterinary medicine; or

(4) Animals boarded under the immediate supervision of a duly licensed veterinarian.

(Code 1980, § 4-22.8; Code 1995, § 5-105)

State law reference—Exemptions, Code of Virginia, §§ 3.2-6578, 3.2-6506.

Secs. 5-118—5-147. Reserved.

ARTICLE III. IMPOUNDMENT

***State law reference—**Confinement and disposition of animals in county pound, Code of Virginia, § 3.2-6546.

Sec. 5-148. 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:

Animal does not include agricultural animals.

Rightful owner means a person with a right of property in the animal.

(Code 1980, § 4-22.1(l); Code 1995, § 5-131)

Cross reference—Definitions and rules of construction, § 1-2.

State law reference—Similar provisions, Code of Virginia, § 3.2-6546(A).

Sec. 5-149. Operation of pound.

There shall be constructed and maintained a pound or enclosure, which shall be of a type approved by the county health department in accordance with guidelines issued by the state department of agriculture and consumer services, for the confinement of impounded animals. The pound or enclosure shall be accessible to the public at reasonable hours during the week.

(Code 1980, § 4-22.1(a); Code 1995, § 5-132)

State law reference—Pound required, Code of Virginia, § 3.2-6546(B).

Sec. 5-150. Impoundment generally; holding period.

(a) The animal protection police officer supervisor or other officer who finds a dog without the tags required by this chapter, or a dog running at large in violation of section 5-29(6), or any other animal in violation of the provisions of this chapter shall impound such animal in the pound.

(b) Except as otherwise provided, all impounded animals shall be kept for a period of not less than five days. Such period shall commence on the day immediately following the day the animal is initially confined in the facility.

(c) Impounded animals may be released at any time and the five-day holding period shall not apply to:

(1) Any impounded animal claimed by its rightful owner;

(2) Any impounded animal, if the animal's rightful owner has surrendered all property rights in such animal and has read and signed a statement as required by section 5-156.

(Code 1980, § 4-22.1(b); Code 1995, § 5-133; Ord. No. 987, § 2, 7-13-1999)

State law reference—Similar provisions, Code of Virginia, § 3.2-6546(C), (F).

Sec. 5-151. Disposition of animals bearing tag or other identification; notification of owner.

(a) The custodian of the pound shall make a reasonable effort to ascertain if an impounded animal has a collar, tag, license, tattoo, or other form of identification. If such identification is found on the animal, a reasonable effort shall be made to return the animal to its owner or place the animal for adoption before humanely destroying the animal. Such identified animal shall be held for five days more than the holding period prescribed in section 5-150(b), unless sooner claimed by the rightful owner.

(b) If the rightful owner of any confined animal may be readily identified, the custodian of the pound shall make a reasonable effort to notify the owner of the animal's confinement within the next 48 hours following its confinement.

(Code 1980, §§ 4-22.1(f), (g), 4-22.2(a); Code 1995, § 5-135; Ord. No. 987, § 3, 7-13-1999)

State law reference—Similar provisions, Code of Virginia, § 3.2-6546(C).

Sec. 5-152. Redemption of animals.

Either a custodian of an animal or an individual who has found an animal may qualify as owner and may claim the animal by expressing his desire in writing to claim the animal at the expiration of the period set out in section 5-150(b) after payment of the required fees. The rightful owner may redeem any animal confined pursuant to this article by producing an authorized current valid vaccination certificate, if required by this chapter, and a current dog license receipt or tag, if required by this chapter, and by paying to the animal protection police officer supervisor the board and redemption fees set out in section 5-159. Payment of the charges provided for in this section shall not relieve any person from prosecution for a violation of this chapter.

(Code 1980, § 4-22.1(d); Code 1995, § 5-136; Ord. No. 987, § 4, 7-13-1999)

Sec. 5-153. Disposition of unclaimed animals.

(a) If an animal confined pursuant to this article has not been claimed upon expiration of the appropriate holding period, it shall be deemed abandoned and become the property of the pound. Such animal may be euthanized in accordance with the methods approved by the state veterinarian or disposed of by the methods set forth in subsections (a)(1) through (a)(5) of this section. No pound shall release more than two animals or a family of animals during any 30-day period to any one person under subsection (a)(2), (a)(3) or (a)(4) of this section. The methods of disposal include the following:

(1) Release to any humane society, animal shelter, or other releasing agency within the state, provided that each humane society, animal shelter, or other releasing agency obtains a signed statement from each of its directors, operators, staff, or animal caregivers specifying that each individual has never been convicted of animal cruelty, neglect, or abandonment and updates such statements as changes occur;

(2) Adoption by a resident of the county who will pay any required fees, if any, on such animal, provided that such resident has read and signed a statement specifying that he has never been convicted of animal cruelty, neglect, or abandonment;

(3) Adoption by a resident of an adjacent political subdivision of the state who will pay any required fees, provided the resident has read and signed a statement specifying that he has never been convicted of animal cruelty, neglect, or abandonment;

(4) Adoption by any other person who will pay any required fees, provided that such person has read and

signed a statement specifying that he has never been convicted of animal cruelty, neglect, or abandonment, and provided that no dog or cat may be adopted by any person who is not a resident of the county, or of an adjacent political subdivision, unless the dog or cat is first sterilized at the expense of the person adopting the dog or cat; or

(5) Release for the purposes of adoption or euthanasia only to an animal shelter, or any other releasing agency located in and lawfully operating under the laws of another state, provided that such animal shelter, or other releasing agency:

a. Maintains records that would comply with Code of Virginia, § 3.2-6557;

b. Requires that adopted dogs and cats be sterilized;

c. Obtains a signed statement from each of its directors, operators, staff, and animal caregivers specifying that each individual has never been convicted of animal cruelty, neglect, or abandonment, and updates such statement as changes occur; and

d. Has provided to the pound a statement signed by an authorized representative specifying the entity's compliance with subsections (a)(5)a through (a)(5)c of this section and the provisions of adequate care and performance of humane euthanasia, as necessary in accordance with the provisions of Code of Virginia, title 3.2, ch. 65.

(b) For purposes of recordkeeping, release of an animal by the pound to a pound, animal shelter or other releasing agency shall be considered a transfer and not an adoption. If the animal is not first sterilized, the responsibility for sterilizing the animal transfers to the receiving entity.

(c) Any proceeds deriving from the gift, sale, or delivery of such animals shall be paid directly to the director of finance. No part of the proceeds shall accrue to any individual.

(Code 1980, § 4-22.1(e), (k); Code 1995, §§ 5-137, 5-142; Ord. No. 987, § 5, 7-13-1999; Ord. No. 1050, § 3, 9-9-2003)

State law reference—Similar provisions, Code of Virginia, § 3.2-6546(C).

Sec. 5-154. Destruction of feral dogs or cats.

Any feral dog or feral cat not bearing a collar, tag, tattoo or other form of identification which, based on the written certification of a disinterested person, exhibits behavior that poses a risk of physical injury to any person confining the animal, may be euthanized after being kept for a period of not less than three days, at least one of which shall be a full business day, such period to commence on the day the animal is initially confined in the facility, unless sooner claimed by the rightful owner. The certification of the disinterested person shall be kept with the animal as required by Code of Virginia, § 3.2-6557. For purposes of this section, a disinterested person shall not include a person releasing or reporting the animal.

(Code 1980, § 4-22.1(c); Code 1995, § 5-138)

State law reference—Similar provisions, Code of Virginia, § 3.2-6546(G).

Sec. 5-155. Destruction of injured, diseased or unweaned animals.

No provision in this article shall prohibit the immediate destruction of a critically injured, or critically ill animal for humane purposes. No provision of this article shall prohibit the immediate destruction, for humane purposes, of any animal not weaned, whether or not the animal is critically injured or critically ill.

(Code 1980, § 4-22.1(h); Code 1995, § 5-139)

State law reference—Similar provisions, Code of Virginia, § 3.2-6546(E).

Sec. 5-156. Voluntary delivery of animal by owner; surrender of owner's rights in animal.

Nothing in this article shall prohibit the immediate euthanasia or disposal by the methods listed in section 5-153(a)(1) through (a)(5) of an animal that has been released to the pound or animal protection police officer supervisor by the animal's rightful owner after the rightful owner has read and signed a statement:

(1) Surrendering all property rights in such animal;
(2) Stating that no other person has a right of property in the animal; and
(3) Acknowledging that the animal may be immediately euthanized or disposed of in accordance with section 5-153(a)(1) through (a)(5).
(Code 1980, § 4-22.1(i); Code 1995, § 5-140; Ord. No. 1050, § 4, 9-9-2003)

State law reference—Similar provisions, Code of Virginia, § 3.2-6546(F).

Sec. 5-157. Seizure and impoundment of stolen or unlawfully held dogs or cats.

The animal protection police officer supervisor or other officer finding a stolen dog or cat or a dog or cat held or detained contrary to the law shall have the authority to seize and hold such animal pending court action. If no such action is instituted within seven days, the animal protection police officer supervisor or other officer shall deliver the animal to its owner. The presence of a dog or a cat on the premises of a person other than its legal owner shall raise no presumption of theft against the owner of the property, and the animal protection police officer supervisor may take such animal in charge and notify its legal owner to remove it. The legal owner shall pay to the animal protection police officer supervisor a fee in the amount of $10.00 for each day that such animal has been confined.

(Code 1980, § 4-22.1(j); Code 1995, § 5-141)

State law reference—Similar provisions, Code of Virginia, § 3.2-6585.

Sec. 5-158. Method of euthanization.

Any animal destroyed pursuant to the provisions of this chapter shall be euthanized by one of the methods prescribed or approved by the state veterinarian.

(Code 1980, § 4-22.1(k); Code 1995, § 5-142)

State law reference—Similar provisions, Code of Virginia, § 3.2-6562.

Sec. 5-159. Amount of fees.

(a) Service fees will be charged for services rendered by the county under this article as follows:
(1) Redemption fee: $25.00.
(2) Board after the first 24 hours: $10.00 per day.
(3) Adoption fee: $25.00 for a dog or cat requiring sterilization; $10.00 for all other animals.
(4) Voluntary surrender fee: $25.00.
(b) No service fee shall be charged for animals donated to an agency approved to perform medical research.
(Code 1980, § 4-22.3; Code 1995, § 5-143)

Sec. 5-160. Use of fees.

Any funds collected in the enforcement of this article shall be disposed of in the same manner as dog

license taxes.

(Code 1980, §§ 4-22.1(m), 4-22.2(b); Code 1995, § 5-144)

Secs. 5-161—5-188. Reserved.

ARTICLE IV. RABIES CONTROL

***State law reference—** Authority to provide for rabies control, Code of Virginia, § 3.2-6525.

Sec. 5-189. Penalty.

A violation of any provision of this article shall constitute a class 4 misdemeanor.

(Code 1980, § 4-32(a); Code 1995, § 5-171)

State law reference— Violations to be class 4 misdemeanor, Code of Virginia, § 3.2-6587(A)4; penalty for class 4 misdemeanor, Code of Virginia, § 18.2-11.

Sec. 5-190. Reporting of animal bites.

(a) All animal bites of human beings shall be reported to the county division of police within 24 hours after the occurrence.
(b) Such report shall include the name and address of the person bitten, the name and address of the owner of the biting animal, if obtainable, a reasonable description of the animal, the date and time of day of the injury, the part of the body on which the bite was inflicted, and, if possible, whether the biting animal has been vaccinated against rabies.
(c) The responsibility for so reporting is mutually charged to attending medical personnel, veterinarians, owners of the biting animals, persons bitten and any other person who may have knowledge of the occurrence.
(Code 1980, § 4-24; Code 1995, § 5-172)

Sec. 5-191. Reports of infected animals.

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

State law reference— Similar provisions, Code of Virginia, § 3.2-6522.

Sec. 5-192. Confinement or destruction of dogs and cats suspected of having rabies.

(a) Dogs or cats found within the county reasonably suspected of having rabies or exhibiting the common symptoms of such disease shall be taken into custody immediately by the animal protection police officer or any police officer and confined in the county pound or at a private veterinarian's establishment approved by the county health director in solitary confinement and kept under competent observation for such time as may be necessary to determine whether they are afflicted with rabies.
(b) At the time any such dog or cat is impounded, an attempt shall be made to discover whether the dog or cat has been vaccinated previously against rabies. If it is found that such dog or cat has not been vaccinated effectively, then such dog or cat shall be so vaccinated by a licensed veterinarian on the last day of the observation period described in subsection (a) of this section unless the animal is humanely destroyed pursuant to subsection (c) of this section.

(c) The animal protection police officer may cause to be euthanized by one of the methods approved by the state veterinarian any dog or cat which, in the opinion of a veterinarian, has rabies, or any dog or cat which is in need of confinement pursuant to subsection (a) of this section but for which such confinement is impossible or impracticable because there apparently is no owner or for other reasons. In such event the animal protection police officer shall arrange to have the head of such dog or cat examined for the purpose of confirming rabies. If the opinion of a veterinarian as to whether an animal has rabies is not reasonably obtainable, the animal protection police officer may act on his own opinion.

(d) All expenses in connection with the provisions of this section shall be borne by the owner of the dog or cat in question.

(Code 1980, § 4-25; Code 1995, § 5-173)

State law reference—Similar provisions, Code of Virginia, § 3.2-6522.

Sec. 5-193. Confinement or destruction of biting animals.

(a) Upon information to the county division of police or any animal protection police officer that a dog or cat has bitten a person, it shall be the duty of the animal protection police officer, upon ascertaining the identity of such dog or cat, to direct it to be confined for a period of ten days from the date the bite occurred unless the animal develops active symptoms of rabies or expires before that time, such confinement to be either with a veterinarian approved by the county health director or in a kennel or enclosure approved by the animal protection police officer as the person who owns or controls such dog or cat shall select, provided that the person who owns or controls such dog or cat shall bear the cost of such confinement. A seriously injured or sick animal may be euthanized by one of the methods approved by the state veterinarian, and its head sent to the state laboratory for evaluation. It shall further be the duty of the animal protection police officer to assume the responsibility of supervising such confinement and ordering the dog or cat to be released if it is safe to do so at the end of the confinement period required by this subsection.

(b) Any animal, other than a dog or cat, biting or otherwise injuring a human being, and suspected of being rabid by the county health director or animal protection police officer, shall be humanely destroyed and its head sent to the state laboratory for evaluation.

(Code 1980, § 4-26; Code 1995, § 5-174)

State law reference—Similar provisions, Code of Virginia, § 3.2-6522.

Sec. 5-194. Confinement or destruction of dogs or cats bitten by rabid animals.

(a) Any dog or cat for which no proof of current rabies vaccination is available which has been bitten by an animal believed to be afflicted with rabies shall be confined in a kennel or enclosure approved by the animal protection police officer for a period not to exceed six months at the expense of the owner. If this is not feasible, the dog or cat shall be euthanized by one of the methods approved by the state veterinarian. A rabies vaccination shall be administered to the dog or cat at the expense of the owner four weeks prior to release. Inactivated rabies vaccine may be administered at the expense of the owner at the beginning of confinement of the dog or cat.

(b) Any dog or cat for which there is proof of current rabies vaccination available which has been bitten by an animal believed to be afflicted with rabies shall be revaccinated at the expense of the owner immediately following the bite and shall be confined to the premises of the owner, or such other site as may be approved by the animal protection police officer, for a period of 45 days at the expense of the owner.

(Code 1980, § 4-27; Code 1995, § 5-175)

State law reference—Similar provisions, Code of Virginia, § 3.2-6522.

Sec. 5-195. Impoundment of unvaccinated dogs and cats.

(a) Any animal protection officer or police officer may impound in the county pound any dog or cat which has not been vaccinated as provided in section 5-90. Any dog or cat which is found off of its owner's premises and not under the control or supervision of its owner or his agent and which is not wearing a valid rabies tag shall be presumed to be unvaccinated until its owner or his agent presents evidence of vaccination required by section 5-90. Any dog or cat held in the pound shall be held for a period as provided in article III of this chapter, unless the dog or cat is rabid or suspected of being rabid, in which case the dog or cat shall be held for further observation or destroyed humanely, pursuant to section 5-192, upon authorization of the county health director or any person charged with the enforcement of this article.

(b) Any dog or cat impounded under this section which is not rabid or suspected of being rabid may be redeemed by the owner as provided in article III of this chapter.

(Code 1980, § 4-28; Code 1995, § 5-176)

Sec. 5-196. Humane destruction of animals.

Nothing in this article shall prohibit the humane destruction of a seriously injured or sick animal, provided that arrangements are made with the state laboratory for examination of the animal's head for rabies if the animal is suspected of being rabid.

(Code 1980, § 4-29; Code 1995, § 5-177)

Sec. 5-197. Unlawful concealment of animal.

It shall be unlawful for any person to conceal or withhold any dog, cat or other animal to keep it from being destroyed or confined in accordance with this article.

(Code 1980, § 4-29.1; Code 1995, § 5-178)

Sec. 5-198. Enforcement measures on noncompliance by owner of dog or cat.

If any person who owns or controls a dog or cat fails or refuses to comply with any of the provisions of this article or with any instructions given by an animal protection police officer, a veterinarian, a health department representative or other appropriate official pursuant to this article, the animal protection police officer may take such dog or cat immediately into custody and confine it in the county pound. The person owning or controlling such dog or cat shall then be summoned immediately by the animal protection police officer to appear in the general district court, where the matter shall be heard as all other matters are heard on criminal warrants. Upon finding that such person either owns or controls a dog or cat and has failed or refused to comply with any provision of this article or with instructions properly given pursuant to this article, the judge, in addition to any sentence which he may impose for conviction of a class 4 misdemeanor, shall order any confinement or destruction of the animal appropriate under the circumstances and pursuant to this article, and shall order the convicted person to pay for any required vaccination, license and confinement-related expenses.

(Code 1980, § 4-32(b); Code 1995, § 5-179)

State law reference—Penalty to be class 4 misdemeanor, Code of Virginia, § 3.2-6587(A)4; penalty for class 4 misdemeanors, Code of Virginia, § 18.2-11.

Sec. 5-199. Transportation, sale or keeping of foxes, skunks and raccoons.

The transportation or importation of foxes, skunks and raccoons from other jurisdictions into the

county, and the sale of foxes, skunks and raccoons in the county, is prohibited. It shall be unlawful for any person to confine or keep any fox, skunk or raccoon as a pet or otherwise.

(Code 1980, § 4-31; Code 1995, § 5-181)

Secs. 5-200—5-221. Reserved.

ARTICLE V. SWINE

Sec. 5-222. 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:

Hog means any pig over ten weeks old.

Pen means any enclosure of an acre or less in which pigs or hogs are kept.

(Code 1980, § 4-34; Code 1995, § 5-201)

Cross reference—Definitions and rules of construction, § 1-2.

Sec. 5-223. Applicability of article.

This article shall apply only to the raising of pigs and hogs in a pen as defined in section 5-222.

(Code 1980, § 4-33; Code 1995, § 5-202)

Sec. 5-224. Location of pens.

No hog pen shall be constructed or maintained within 400 feet of any lot in any residential district or within 200 feet of any other lot occupied by a dwelling other than the farm dwelling or by any school or church or any institution for human care not located on the same lot with such uses or buildings.

(Code 1980, § 4-35; Code 1995, § 5-203)

Sec. 5-225. Cleaning of pens.

All hog pens shall be clean and free of refuse matter, and refuse matter shall not be allowed to accumulate in and around such pens.

(Code 1980, § 4-36; Code 1995, § 5-204)

Sec. 5-226. Control of odors and flies.

Any person raising hogs shall use lime or other disinfectants in and around the pen in sufficient quantity to prevent obnoxious odors and to destroy fly larvae.

(Code 1980, § 4-37; Code 1995, § 5-205)

Sec. 5-227. Capacity of pens.

It shall be unlawful for any person to have more than 20 hogs in a pen at any one time, except for the purpose of feeding at regular periods, which shall not exceed one hour in length three times a day.

(Code 1980, § 4-38; Code 1995, § 5-206)

Sec. 5-228. Food containers.

All slop or food barrels and other containers of liquid and odorous foods used in and about a hog pen shall be covered with tops sufficiently tight to keep out flies and keep down odors.

(Code 1980, § 4-39; Code 1995, § 5-207)

Secs. 5-229—5-249. Reserved.

ARTICLE VI. FOWL

Sec. 5-250. Bird sanctuaries.

(a) The portion of the Lakeside Community included in the following described area is hereby designated as a bird sanctuary: Beginning at a point on the centerline of Lakeside Avenue (State Route 161) at the boundary dividing the county and the City of Richmond; thence northwardly along such centerline to its intersection with Hilliard Road (State Route 161); thence westwardly along the centerline of Hilliard Road to its intersection with Woodman Road; thence northwardly along the centerline of Woodman Road to its intersection with Parham Road; thence westwardly along the centerline of Parham Road to its intersection with Staples Mill Road (State Road 33); thence southwardly along the centerline of Staples Mill Road to its intersection with Interstate Route 64; thence eastwardly along the centerline of Interstate Route 64 to the boundary dividing the county and the City of Richmond near Bryan Park; thence northeastwardly along the boundary dividing the county and the City of Richmond to the point and place of beginning. The portion of the community designated as a bird sanctuary shall also include the following subdivisions: Ginter Gardens, Ginter Gardens Addition, Lakewood, Lakewood Estates, Valentine Hills, Rocky Branch Farm and Lydell Heights.

(b) The Three Chopt Elementary School and its grounds, including the outdoor class, located at 1600 Skipwith Road, is hereby designated as a bird sanctuary.

(c) The entire area embraced within the limits of Old Westham, bounded by River Road, Ridge Road, Forest Avenue, Lindsay Road, Lindsay Court, Little Westham Creek and College Road, is hereby designated as a bird sanctuary.

(d) It shall be unlawful in any areas designated in this section to willfully and maliciously trap, shoot, hunt, or attempt to shoot or molest in any manner any bird or wild fowl or to rob bird nests or wild fowl nests. However, if starlings or similar birds are found to the congregating in such bird sanctuaries so that they constitute a nuisance or menace to health or property, then such birds may be destroyed, provided that such action may not be taken on private property without the written approval of the owner of such property.

(e) Violation of the provisions of this section shall be a misdemeanor.

(Code 1980, § 4-40; Code 1995, § 5-231)

Chapter 6 - BUILDINGS

***Cross reference—** Erosion and sediment control, § 10-27 et seq.; noise regulations, § 10-67 et seq.; weeds and grass, § 10-135 et seq.; rat control, § 10-164 et seq.; stormwater management, § 10-196 et seq.; fire prevention and protection, ch. 11; approval of installation of culvert pipes for walkways, driveways or other purposes required, § 18-4; subdivisions, ch. 19; zoning, ch. 24.

***State law reference—** Authority to require removal, repairs, etc. of buildings and other structures, Code of Virginia, § 15.2-906; Virginia Uniform Statewide Building Code, Code of Virginia, § 36-97 et seq.

ARTICLE I. IN GENERAL

Sec. 6-1. Enforcement of building code.

(a) The building official shall administer and interpret the Virginia Uniform Statewide Building Code, which regulates the construction and maintenance of buildings and structures and provides procedures for its administration and enforcement.

(b) For the purposes of this Code and other ordinances and resolutions of the board of supervisors, the Virginia Uniform Statewide Building Code may be referred to as the "building code." A copy is on file in the office of the building construction and inspections.

(Code 1980, § 5-1; Code 1995, § 6-1; Ord. No. 914, § 1, 3-27-1996)

State law reference— Enforcement of building code by local official and authority of local governing bodies to levy fees, Code of Virginia, § 36-105.

Sec. 6-2. Appeals from decisions of building official.

Appeals from decisions of the building official applying the building code shall be heard by the county board of code appeals.

(Code 1980, § 5-15; Code 1995, § 6-2; Ord. No. 914, § 2, 3-27-1996)

State law reference— Appeals, Code of Virginia, § 36-105.

Sec. 6-3. Permit fees.

(a) *Payment required prior to issuance of permit.* No permit or permit amendment for new construction, alteration, removal, demolition or other building operations shall be issued until the required fees have been paid to the office of building construction and inspections.

(b) *Payment of other fees.* The payment of fees for a building permit or permit amendment shall not relieve any person from the payment of other fees that may be prescribed by law or ordinance, including fees for water connections, sewer connections, and erection of signs, display structures, marquees or other appurtenant structures.

(c) *Accounting.* The building official shall keep an accurate account of all fees collected for building permits and shall deposit all fees collected into the county treasury.

(d) *Refunds after permit is issued.* If an issued permit expires or is abandoned or revoked, or if a building project is discontinued, the estimated cost of the work completed shall be computed by the building official and the amount attributable to work not completed shall be returned to the permit holder, less plan review and administrative fees, if a written request for refund is received by the building official within six months of expiration, abandonment, revocation or discontinuance. For purposes of this chapter, plan review and

administrative fees shall be 25 percent of the permit fee.

(e) *Additional fee when work commenced prior to approval of permit.* Upon the building official's discovery and investigation of unauthorized work commenced before a permit application has been approved, a fee of ten percent of the permit fee, or $20.00, whichever is greater, shall be added to the permit fee to cover investigation costs.

(f) *Inspection surcharge fee.* There shall be a fee of $75.00 for each inspection of a new attached or detached one- or two-family dwelling that exceeds the average number of inspections performed for such structures. Any surcharge fee shall be paid prior to issuance of the certificate of occupancy.

(g) *Building permit fee schedule.*

(1) *One- and two-family dwellings.* The fee for building attached or detached one- or two-family dwellings shall be $680.00.

(2) *Appurtenances.* The fee for building attached or detached garages, utility buildings appurtenant to attached or detached one- or two-family dwellings, any demolition, moving, addition or alteration to existing attached or detached one- or two-family dwellings shall be $100.00 plus $6.00 per $1,000.00 or fraction thereof of value over $5,000.00, except that no such fee for any permit shall exceed that charged for a new one-family dwelling. The fee shall be based upon the cost of labor and material to the owner for the installation, alteration, replacement or repair.

(3) *Other permits.* The permit fee for all other building permits shall be $100.00 plus $7.00 per $1,000.00 or fraction thereof of value over $5,000.00. This rate shall also apply to permits for signs and the moving or demolition of buildings other than for one- or two-family dwellings. The fee shall be based upon the cost of labor and material to the owner for the installation, alteration, replacement or repair.

(4) *Basis of fee for moving of buildings.* The fee for a permit for the removal of a building or structure from one lot to another or to a new location on the same lot shall be based on the estimated cost of moving plus the cost of new foundations and all work necessary to place the building or structure in its completed condition in the new location.

(5) *Basis of fee for demolition.* The fee for a permit for the demolition of a building or structure shall be based on the estimated cost of demolition.

(6) *Basis of fee for signs.* The fee for signs, billboards and other display structures for which permits are required under the provisions of the building code shall be based on their estimated cost.

(h) *Annual certificate of compliance for elevators, escalators, dumbwaiters and manlifts.*

(1) Fees for annual certificates of compliance shall be paid to the county on or before December 31 of each year for the following year. For passenger elevators, freight elevators and manlifts, the fee is $40.00 for elevators of ten stories or less plus $4.00 for each additional ten stories or fraction thereof. For escalators, the fee is $40.00 per floor. For dumbwaiters, the fee is $25.00 for ten stories or less plus $4.00 for each additional ten stories or fraction thereof.

(2) If the initial certificate of compliance is issued between January 1 and June 30 of a year, the fee for that year is one-half the amount shown. If the initial certificate is issued after June 30 of a year, there is no charge for the initial certificate of compliance for that year.

(i) *Plumbing, mechanical, electrical, fire protection equipment and systems permit fee schedule.*

(1) Except for attached or detached one- or two-family dwellings, the permit fee for plumbing, mechanical, electrical and fire protection equipment and systems shall be $100.00 plus $7.00 per $1,000.00 or fraction thereof of value over $5,000.00, based upon the cost of labor and material to the owner for the installation, alteration, replacement or repair.

(2) The permit fee for the installation of plumbing, mechanical, electrical, and fire protection equipment and systems for new attached or detached one- or two-family dwellings shall be $100.00

(3) The permit fee for the installation, alteration, replacement or repair of any plumbing, mechanical, electrical, and fire protection equipment and systems for existing attached or detached one- or two-family dwellings shall be $100.00 plus $6.00 per $1,000.00 or fraction thereof of value over $5,000.00. The fee shall be based upon the cost of labor and material to the owner for the installation, alteration, replacement or repair.

(j) *Amusement Devices.* The permit fee for amusement devices shall be as prescribed by the Virginia Amusement Device Regulations.

(k) *Plan amendment and re-review fee.* There shall be a fee of $25.00 for each plan review after the office of building construction and inspections has reviewed the plan twice because of plan deficiencies or plan amendments.

(l) *Temporary certificate of occupancy fee.* There shall be a fee of $25.00 for each request for a temporary certificate of occupancy or extension of a temporary certificate of occupancy.

(m) *Waiver of fees in Virginia Enterprise Zones.* The fees in subsections (g)(3) through (g)(6), (i)(1), (k), and (l) of this section shall be waived for property located in areas in the county designated as Virginia Enterprise Zones for the life of the enterprise zone.

(Code 1980, § 5-2; Code 1995, § 6-3; Ord. No. 1001, § 1, 7-11-2000; Ord. No. 1045, § 1, 6-24-2003)

State law reference—Authority to adopt permit fees, Code of Virginia, § 36-105.

Secs. 6-4—6-24. Reserved.

ARTICLE II. UNSAFE BUILDINGS

***Cross reference—**Environment, ch. 10.

Sec. 6-25. Abatement of public nuisance.

(a) If a public nuisance presents an imminent and immediate threat to life or property, the building official may abate, raze, or remove such public nuisance, and the county attorney may bring an action against the responsible party to recover the necessary costs incurred for the provision of public emergency services reasonably required to abate the public nuisance. If a public nuisance does not present an imminent and immediate threat to life or property, the county attorney may bring an action to compel a responsible party to abate, raze or remove the public nuisance.

(b) The term "nuisance" shall include, but not be limited to, dangerous or unhealthy substances which have escaped, spilled, been released or which have been allowed to accumulate in or on any place and all unsafe, dangerous, or unsanitary public or private buildings, walls, or structures which constitute a menace to the health and safety of the occupants thereof or the public. The term "responsible party" shall include, but not be limited to, the owner, occupier, or possessor of the premises where the nuisance is located, the owner or agent of the owner of the material which escaped, spilled, or was released, and the owner or agent of the owner who was transporting or otherwise responsible for such material and whose acts or negligence caused such public nuisance.

(Code 1980, § 5-7; Code 1995, § 6-61; Ord. No. 914, § 3, 3-27-1996)

Sec. 6-26. Corrective action by county.

(a) *Authorized; procedure.* In addition to authority granted by the Virginia Uniform Statewide Building Code, the building official shall remove, repair or secure any building, wall or other structure which might

endanger the public health or safety of other residents of the county if the owner and lienholder of the property have failed to remove, repair or secure such building, wall or other structure after reasonable notice and a reasonable time to do so. The building official shall comply with the notice requirements set forth in state law.

(b) *Costs to constitute lien.* The cost or expenses of removal, repair or securing of such structure by the building official shall be charged to and paid by the owner of such property. Such charges may be collected by the county as taxes and levies are collected. Every charge authorized by this section which the owner of the property is assessed and which remains unpaid shall constitute a lien against the property.

(Code 1980, § 5-8; Code 1995, § 6-62)

State law reference—Authority to abate nuisances, Code of Virginia, § 15.2-906.

Secs. 6-27—6-55. Reserved.

ARTICLE III. SMOKE ALARMS

***Cross reference—**Fire prevention and protection, ch. 11.

***State law reference—**Smoke detectors, Code of Virginia, § 15.2-922.

Sec. 6-56. Required in certain buildings.

Smoke alarms shall be installed in the following structures or buildings if smoke alarms have not been installed in accordance with the building code:

(1) Any building containing one or more dwelling units;

(2) Any hotel or motel regularly used, offered for, or intended to be used to provide overnight sleeping accommodations for one or more persons; and

(3) Any rooming houses regularly used, offered for, or intended to be used to provide overnight sleeping accommodations.

(Code 1980, § 5-10(a); Code 1995, § 6-81)

State law reference—Authority to so provide, Code of Virginia, § 15.2-922.

Sec. 6-57. Installation standards.

Smoke alarms required by this article shall be installed only in conformance with the provisions of the building code. Smoke alarms may be either battery operated or powered by alternating current. Such installation shall not require new or additional wiring and shall be maintained in accordance with the Virginia Statewide Fire Prevention Code and Part III of the building code.

(Code 1980, § 5-10(b); Code 1995, § 6-82)

State law reference—Similar provisions, Code of Virginia, § 15.2-922.

Sec. 6-58. Inspections.

The owner of any building, hotel, motel or rooming house required to install smoke alarms under this article shall inspect each alarm annually to ensure it is operating properly and shall maintain a record of such inspection, which shall be available for inspection by the building official, the fire chief or the designee of either.

(Code 1980, § 5-10(c); Code 1995, § 6-83)

Sec. 6-59. Maintenance.

The owner of any rental unit shall provide the tenant a certificate that all smoke alarms are present, have been inspected by the owner, his employee, or an independent contractor, and are in good working order no more than once every 12 months. Except for smoke alarms located in public or common areas of multifamily buildings, interim testing, repair and maintenance of smoke alarms in rented or leased dwelling units shall be the responsibility of the tenant in accordance with Code of Virginia, §§ 55-225.4 or 55-248.16, as applicable.

(Code 1980, § 5-10(d); Code 1995, § 6-84)

State law reference—Similar provisions, Code of Virginia, § 15.2-922.

Secs. 6-60—6-76. Reserved.

ARTICLE IV. PROPERTY NUMBERING AND STREET NAMING SYSTEM

***Cross reference—**Streets, sidewalks and other public property, ch. 18.

***State law reference—**Authority to require building numbers, Code of Virginia, § 15.2-2024.

Sec. 6-77. Penalty; additional remedies.

Any person who fails to comply with section 6-80 and the regulations adopted under this article shall be guilty of a misdemeanor. In addition to the criminal penalties for misdemeanor violations, the director of planning may invoke any other lawful procedure available to correct such violation, including an action for injunctive relief.

(Code 1980, § 5-14; Code 1995, § 6-111)

Sec. 6-78. System established.

(a) *Purpose.* In order to provide for more efficient delivery of emergency and other services, uniformity in street naming and assignment of property numbers, elimination of inconsistencies and duplication of street names, a property numbering and street naming system for the county is hereby established.

(b) *Adoption of standards.* The county shall use the system of numbering properties and principal buildings and naming streets shown in the property numbering and street naming manual filed in the county planning office. The property numbering and street naming manual, including all numbering maps, plats, naming and numbering procedures and explanatory matters therein, is hereby adopted and made a part of this article.

(c) *Identification of properties.* All properties or parcels of land within the limits of the county shall be identified as provided by the adopted system.

(Code 1980, § 5-11; Code 1995, § 6-112)

Sec. 6-79. Responsibility for administration and enforcement; amendments.

The director of planning shall be responsible for enforcement and maintenance of the numbering ordinance and the manual adopted by this article and is authorized to promulgate amendments to the manual.

(Code 1980, § 5-12; Code 1995, § 6-113)

Sec. 6-80. Display of numbers.

It shall be unlawful for the owner of, or other person responsible for, each building in the county that fronts on a right-of-way to fail to display the assigned number on the primary or accompanying building or in a manner that is easily readable from the right-of-way on which the property is located.

(Code 1980, § 5-13; Code 1995, § 6-114; Ord. No. 950, § 1, 7-9-1997)

State law reference—Authority to require display of building numbers, Code of Virginia, § 15.2-2024.

Secs. 6-81—6-103. Reserved.

ARTICLE V. SPOT BLIGHT ABATEMENT

***Cross reference—**Environment, ch. 10.

***State law reference—**Spot blight abatement, Code of Virginia, § 36-49.1:1.

Sec. 6-104. Purpose.

The board of supervisors finds that deteriorating properties, including the improvements and the land on which they are built, have a deleterious effect on property values and the quality of life in the area surrounding them. This article is enacted to provide for the abatement of blight which threatens the health, safety, morals and welfare of the community.

(Code 1995, § 6-115; Ord. No. 1015, § 1, 8-14-2001)

Sec. 6-105. Blight abatement authorized.

The county may clear or repair any blighted property as defined in this article in order to abate blight. In addition, the county may recover the cost of any clearing or repair of such property from the owner.

(Code 1995, § 6-116; Ord. No. 1015, § 1, 8-14-2001)

Sec. 6-106. Blighted property defined.

The term "blighted property" means any individual commercial, industrial, or residential structure or improvement that endangers the public's health, safety, or welfare because the structure or improvement upon the property is dilapidated, deteriorated, or violates minimum health and safety standards, or any structure or improvement previously designated as blighted under the process for determination of "spot blight."

(Code 1995, § 6-117; Ord. No. 1015, § 1, 8-14-2001; Ord. No. 1135, § 1, 10-13-2009)

State law reference—Similar provisions, Code of Virginia, §§ 36-3, 36-49.1:1I(A).

Sec. 6-107. Procedures for declaring blight; notification of owner; public hearing.

(a) The county manager or his designee shall make a preliminary determination that a property is blighted in accordance with section 6-106. The county manager or his designee shall notify the owner by regular and certified mail sent to the last address shown on the county's assessment records, specifying the reasons why the property is blighted. The owner shall have 30 days within which to respond in writing with a plan to cure the blight within a reasonable time.

(b) If the owner fails to respond within the 30-day period with a plan that is acceptable to the county manager or his designee, the county manager or his designee may prepare a proposed plan to abate the spot blight, request the board of supervisors to declare the property is blighted by ordinance, and request the board of supervisors to approve the proposed plan to abate the spot blight. The county manager or his designee shall send written notice and the proposed plan to the owner before the board of supervisors acts on the ordinance and proposed plan.

(c) If the board of supervisors declares the property is blighted by ordinance and approves the proposed plan, the county may carry out the approved plan to clear or repair the property in accordance with the approved plan, the provisions of this section, and applicable law. The county shall have a lien on all property so cleared or repaired under an approved plan to recover the cost of demolition or improvements made by the county to bring the blighted property into compliance with applicable building codes. The lien on such property shall bear interest at the legal rate of interest established in Code of Virginia, § 6.1-330.53, beginning on the date the repairs are completed through the date on which the lien is paid. The lien shall be filed in the circuit court and shall be treated in all respects as a tax lien and enforceable in the same manner as provided by law. The county may recover its costs of clearing or repair from the owner of record of the property when the clearing or repairs were made at such time as the property is sold or disposed of by such owner. The costs of clearing or repair shall be recovered from the proceeds of any such sale.

(Code 1995, § 6-118; Ord. No. 1015, § 1, 8-14-2001; Ord. No. 1135, § 3, 10-13-2009)

State law reference—Similar provisions, Code of Virginia, § 36-49.1:1(B)—(H).

Sec. 6-108. Declaration of nuisance.

In lieu of the exercise of powers granted in sections 6-105 through 6-107, the board of supervisors, by ordinance, may declare any blighted property to constitute a nuisance, and thereupon abate the nuisance pursuant to state law. Such ordinance shall be adopted only after written notice by certified mail to the owner at the last known address of such owner as shown on the current real estate tax assessment books or current real estate tax assessment records. If the owner does not abate or remove the nuisance and the county abates or removes the nuisance at its expense, the costs of abatement or removal shall be a lien on the property and the lien shall bear interest at the legal rate of interest established in Code of Virginia, § 6.1-330.53, beginning on the date the abatement or removal is completed through the date on which the lien is paid.

(Code 1995, § 6-119; Ord. No. 1015, § 1, 8-14-2001; Ord. No. 1135, § 1, 10-13-2009)

State law reference—Similar provisions, Code of Virginia, § 36-49.1:1(I).

Sec. 6-109. Provisions cumulative.

The provisions of this article shall be cumulative and shall be in addition to any remedies for spot blight abatement that may be authorized by law.

(Code 1995, § 6-120; Ord. No. 1015, § 1, 8-14-2001)

State law reference—Similar provisions, Code of Virginia, § 36-49.1:1(J).

ARTICLE VI. - REPAIR OR REMOVAL OF DERELICT BUILDINGS

Sec. 6-135. Purpose.

The purpose of this article is to encourage the repair or removal of derelict buildings in the county by providing procedures and tax abatement for such activity.

Sec. 6-136. Definitions.

The following words and terms used in this article have the following meanings, unless the context clearly indicates otherwise:

Derelict building means a residential or nonresidential building or structure, whether or not construction has been completed, that might endanger the public's health, safety or welfare and for a continuous period in excess of six months has been:

(1) vacant;
(2) boarded up in accordance with the building code; and
(3) not lawfully connected to electric service from a utility service provider or not lawfully connected to any required water or sewer service from a utility service provider.

Plan means the plan submitted by the owner of a derelict building to the building official in accordance with section 6-138.

Sec. 6-137. Declaration of derelict property; notice.

(a) The building official may determine that a building qualifies as a derelict building or the owner of a building may apply to the building official and request that the building be declared a derelict building for the purposes of this article.

(b) If a building qualifies as a derelict building, the building official shall give written notice to the owner at the address listed on the county's assessment records. Such notice shall be delivered by first-class mail, and the building official shall obtain a U.S. Postal Service Certificate of Mailing, which shall constitute delivery for purposes of this section.

(c) The building official's written notice shall state that the owner of the derelict building is required to submit to the building official a plan, within 90 days, to demolish or renovate the building to address the items that endanger the public's health, safety or welfare as listed in the written notice.

Sec. 6-138. Submission of plan by property owner; approval by building official.

(a) Any owner of a derelict building to whom the building official has sent a written notice as provided in section 6-137 shall submit to the building official within 90 days a plan to demolish or renovate such building. The building official may require that such plan be submitted on forms provided by the building official. The plan filed by the owner shall include a proposed time within which the plan will be commenced and completed. The plan may include one or more adjacent properties of the owner, whether or not all of such properties have been declared derelict buildings.

(b) The plan shall be subject to approval by the building official. Upon receipt of the plan, the building official shall meet with the owner at the owner's request and provide information to the owner about the land use and permitting requirements for demolition or renovation.

Sec. 6-139. Plan completion; permit fees.

(a) If the owner's plan is to demolish the derelict building, the building permit application for demolition shall be expedited. The building official shall refund any building and demolition permit fees upon the owner's submission of proof of demolition within 90 days of the date of the building permit issuance.

(b) If the owner's plan is to renovate the derelict building and no rezoning is required for the owner's intended use of the property, the plan of development or subdivision application and the building permit application shall be expedited.

(c) The plan of development or subdivision application fees shall be the lesser of 50 percent of the standard fees established for plan of development or subdivision applications for the proposed use of the property, or $5,000 per property;

(d) The building permit application fees shall be the lesser of 50 percent of the standard fees established for building permit applications for the proposed use of the property, or $5,000 per property.

Sec. 6-140. Remedies for noncompliance.

(a) An owner's failure to submit a plan required under this article or failure to comply with an approved plan or the dates for commencement and completion of an approved plan shall be a violation of this Code as provided in section 1-13(a)(2) and shall be punishable as provided in that section.

(b) Notwithstanding the provisions of this article, the building official may proceed to make repairs and secure the derelict building under section 6-26, or to abate or remove a nuisance under section 6-25. In addition, the building official may exercise remedies that exist under the building code and may exercise such other remedies available under general and special law.

Chapter 7 - CABLE COMMUNICATIONS

***State law reference—** Regulation of open video systems, Code of Virginia, § 15.2-2108.1.

ARTICLE I. IN GENERAL

Sec. 7-1. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Access, PEG access, or *PEG use* refers to the availability of capacity on a cable system for public, education or government use (including institutional network use) by various agencies, institutions, organizations, groups, and individuals, including the county and its designated access providers, to acquire, create, and distribute programming not under a franchisee's editorial control.

Affiliate, in relation to any person, means another person who owns or controls, is owned or controlled by, or is under common ownership or control with, such person.

Cable operator means any person or group of persons that:

(1) Provides cable service over a cable system and directly or through one or more affiliates owns a significant interest in such cable system; or
(2) Otherwise controls or is responsible for, through any arrangement, the management and operation of a cable system.

Cable service.

(1) The term "cable service" means the one-way transmission to subscribers of:
a. Video programming; or
b. Other programming service, and subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service.
(2) The term "cable service" does not include any video programming provided by a commercial mobile service provider defined in 47 USC 332(d).

Cable system or *system* means any facility consisting of a set of closed transmission paths and associated signal generation, reception and control equipment that is designed to provide cable service that includes video programming and that is provided to multiple subscribers within the county, except that such definition shall not include:

(1) A system that serves fewer than 20 subscribers;
(2) A facility that serves only to retransmit the television signals of one or more television broadcast stations;
(3) A facility that serves only subscribers without using any public right-of-way;
(4) A facility of a common carrier that is subject, in whole or in part, to the provisions of Title II of the Communications Act of 1934 (47 USC 201 et seq.), except that such facility shall be considered a cable system to the extent such facility is used in the transmission of video programming directly to subscribers, unless the extent of such use is solely to provide interactive on-demand services;
(5) Any facilities of an electric utility used solely for operating its electric systems;
(6) Any portion of a system that serves fewer than 50 subscribers in any locality, where such portion is part

of a larger system franchised in an adjacent locality; or

(7) An open video system that complies with § 653 of Title VI of the Communications Act of 1934, as amended (47 USC 573).

Converter means an interface device which may be furnished to subscribers in order that nonstandard television channels carried on a cable system may be received on a conventional home television receiver or to prevent interference from strong broadcast signals. The device may be used on top of the television set ("set-top"), attached to the back of the television set or installed at a remote location.

County manager means the present or succeeding chief executive officer of the county who is appointed by the board of supervisors, or any person designated by the county manager to act in his behalf for the purpose of fulfilling the responsibilities imposed by this chapter.

Director of finance means the person designated as the director of finance by the county manager, or any person designated by the director of finance to act in his behalf for the purpose of fulfilling the responsibilities imposed by this chapter.

Fair market value means the price that a willing buyer would pay to a willing seller for a going concern based on the system valuation and sale multiples prevailing in the industry at the time at which the board of supervisors elects to exercise its option, but with no value allocated to the franchise itself.

Federal Communications Commission or *FCC* means that federal agency as presently constituted by the Communications Act of 1934 (47 USC 201 et seq.), as amended, or any successor agency.

Franchise means the nonexclusive right, whether an initial authorization or a renewal thereof, to construct and operate a cable system along the public rights-of-way in the county or within specified areas in the county. It is not intended to include any license or permit required for the privilege of transacting and carrying on a business within the county as may be required by other ordinances and laws of the county.

Franchisee means a natural person, partnership, domestic and foreign corporation, association, joint venture or organization of any kind granted a franchise by the board of supervisors under this chapter, and its lawful successor, transferee or assignee.

Gross revenue.

(1) The term "gross revenue" means all revenue, as determined in accordance with generally accepted accounting principles, that is actually received by a cable operator and derived from the operation of the cable system to provide cable service in the franchise area.

(2) The term "gross revenue" shall not include:

a. Refunds or rebates made to subscribers or other third parties;

b. Any revenue which is received from the sale of merchandise over home shopping channels carried on the cable system, but not including revenue received from home shopping channels for the use of the cable service to sell merchandise;

c. Any tax, fee, or charge collected by the cable operator and remitted to a governmental entity or its agent or designee, including without limitation a local public access or education group;

d. Program launch fees;

e. Directory or Internet advertising revenue including, but not limited to, yellow page, white page, banner advertisement, and electronic publishing;

f. A sale of cable service for resale or for use as a component part of or for the integration into cable service to be resold in the ordinary course of business, when the reseller is required to pay or collect franchise fees or

similar fees on the resale of the cable service;

g. Revenues received by any affiliate or any other person in exchange for supplying goods or services used by the cable operator to provide cable service; and

h. Revenue derived from services classified as noncable service under federal law, including, without limitation, revenue derived from telecommunications services and information services, and any other revenues attributed by the cable operator to noncable service in accordance with rules, regulations, standards, or orders of the Federal Communications Commission.

Net profit means the amount remaining after deducting from gross revenue all of the actual direct and indirect expenses associated with operating a cable system, including the franchise fee, interest, depreciation and federal or state income taxes.

Noncable service means all services offered over a cable system other than cable service.

PEG means public, educational, and governmental.

Public rights-of-way means the surface, the airspace above the surface and the area below the surface of any public street, highway, lane, path, alley, sidewalk, boulevard, or drive, including public utility easements or rights-of-way, and any temporary or permanent fixtures or improvements located thereon, now or hereafter held by the county which shall entitle the county and a franchisee to the use thereof for the purpose of installing and maintaining a franchisee's cable system.

Regular subscriber service means the distribution to subscribers of signals over a cable system on all channels except leased access channels, those services for which a per-program or per-channel charge is made, two-way services and those services intended for reception by equipment other than a television broadcast receiver.

School means any school operated by the school board of the county.

State of the art means production facilities, technical performance, capacity, equipment, components and service equal to those that are generally accepted and used in the cable industry for comparable areas of equivalent population.

Subscriber means the county or any person who is lawfully receiving, for any purpose or reason, any service via a cable system, whether or not a fee is paid for such service.

Transfer.

(1) The term "transfer" means any transaction in which:

a. An ownership or other interest in a cable operator is transferred, directly or indirectly, from one person or group of persons to another person or group of persons, so that majority control of the cable operator is transferred; or

b. The rights and obligations held by the cable operator under the cable franchise granted under this article are transferred or assigned to another person or group of persons.

(2) Notwithstanding subsection (1) of this definition, a transfer of the cable franchise shall not include:

a. Transfer of an ownership or other interest in the cable operator to the parent of the cable operator or to another affiliate of the cable operator;

b. Transfer of an interest in the cable franchise granted under this article or the rights held by the cable operator under the cable franchise granted under this article to the parent of the cable operator or to another affiliate of the cable operator;

c. Any action that is the result of a merger of the parent of the cable operator;

d. Any action that is the result of a merger of another affiliate of the cable operator; or

e. A transfer in trust, by mortgage, or by assignment of any rights, title, or interest of the cable operator in the cable franchise or the system used to provide cable in order to secure indebtedness.

(Code 1995, § 7-1; Ord. No. 1086, §§ 1—3, 5-9-2006)

Cross reference—Definitions and rules of construction, § 1-2.

State law reference—Cable television definitions, Code of Virginia, § 15.2-2108.2.

Sec. 7-2. Franchise required to operate cable system.

A nonexclusive franchise to construct, operate and maintain a cable system within all or any portion of the county is required of anyone desiring to provide cable service in the county. A franchise may be granted by the board of supervisors to any person, whether operating under an existing franchise or not, who offers to furnish and provide such cable system under and pursuant to the terms and provisions of this chapter and a franchise agreement acceptable to the board of supervisors.

(Code 1995, § 7-2; Ord. No. 1086, §§ 1—3, 5-9-2006)

Sec. 7-3. Limits on franchisee's recourse.

(a) Except as expressly provided in this chapter and a franchise, a franchisee shall have no financial recourse against the county for any loss, expense or damage resulting from the terms and conditions of this chapter or the franchise agreement or because of the county's enforcement thereof or for the county's failure to have the authority to grant the franchise. A franchisee shall agree that upon its acceptance of a franchise it does so relying upon its own investigation and understanding of the power and authority of the county to grant the franchise.

(b) A franchisee, by accepting a franchise, shall acknowledge that it has not been induced to accept the franchise by any promise, oral or written, by or on behalf of the county or by any third person regarding any term or condition of this chapter or the franchise agreement not expressed therein. A franchisee further shall pledge that no promise or inducement, oral or written, has been made to any county employee or official regarding receipt of a cable franchise.

(c) A franchisee shall further acknowledge by acceptance of a franchise that it has carefully read the terms and conditions of this chapter and the franchise agreement and accepts without reservation the obligations imposed by the terms and conditions in this chapter, regardless of whether these obligations are contained in the franchise documents. Such acceptance shall not prevent the franchisee from raising a later challenge to such an obligation based on a change in the law occurring after the effective date of the franchise agreement.

(d) A franchisee shall not apply for any waivers, exceptions or rulings from the Federal Communications Commission or any other federal or state regulatory agency affecting the county or the system in the county without promptly informing the county manager and providing, or making available online, copies of all documentation.

(Code 1995, § 7-3; Ord. No. 1086, §§ 1—3, 5-9-2006)

Sec. 7-4. Right of county to grant license or easement to traverse franchise area.

The county reserves the right to issue a license, easement or other permit to anyone other than a franchisee to permit that person to traverse any portion of a franchisee's franchise area within the county in order to provide service outside the county. Such license or easement, absent a grant of a franchise in

accordance with this chapter, shall not authorize or permit such person to provide cable service of any nature to any home or place of business within the county or to render any service or connect any subscriber within the county to a franchisee's cable system.

(Code 1995, § 7-4; Ord. No. 1086, §§ 1—3, 5-9-2006)

Sec. 7-5. Acceptance of terms and conditions by franchisee.

A franchisee agrees by the acceptance of a franchise to accept the validity of the terms and conditions of this chapter and the franchise agreement in their entirety and that it will not, at any time, proceed against the county in any claim or proceeding challenging any term or provision of this chapter or the franchise agreement as unreasonable, arbitrary or void, or claiming that the county did not have the authority to impose such term or condition, based on the law in effect as of the effective date of the franchise agreement.

(Code 1995, § 7-5; Ord. No. 1086, §§ 1—3, 5-9-2006)

Sec. 7-6. Failure of county to enforce compliance not to excuse noncompliance.

A franchisee shall not be excused from complying with any of the terms and conditions of this chapter or a franchise by any failure of the county, upon any one or more occasions, to insist upon the franchisee's performance or to seek the franchisee's compliance with any one or more of such terms or conditions.

(Code 1995, § 7-6; Ord. No. 1086, §§ 1—3, 5-9-2006)

Sec. 7-7. Rights reserved to county.

(a) The county hereby expressly reserves the right to:

(1) Exercise its governmental powers, now or hereafter, to the full extent that such powers may be vested in or granted to the county.

(2) Adopt, in addition to the provisions contained in this chapter and in a franchise and in any existing applicable ordinances, such additional regulations as it shall find necessary in the exercise of its police power. Such power shall include the absolute right of the county to maintain control over its streets and public rights-of-way, and to adopt such reasonable regulations relating to streets and public rights-of-way as the county or its departments shall hereafter provide.

(b) The powers of the county may be exercised through amendment of this chapter as well as through enactment of separate ordinances and regulations.

(Code 1995, § 7-7; Ord. No. 1086, §§ 1—3, 5-9-2006)

Sec. 7-8. Franchisee's employment practices.

A franchisee shall not refuse to hire any person, nor discharge any person from employment, nor discriminate against any person regarding compensation, terms, conditions or privileges of employment, because of age, sex, race, color, creed or national origin. A franchisee shall take affirmative action to ensure that employees are treated, during employment, without regard to their age, sex, race, color, creed or national origin. This condition includes but is not limited to recruitment advertising, employment interviews, employment, rates of pay, upgrading, transfer, demotion, layoff and termination.

(Code 1995, § 7-8; Ord. No. 1086, §§ 1—3, 5-9-2006)

Sec. 7-9. Time deemed essence of agreement.

Whenever this chapter or a franchise sets forth any time for any act to be performed by or on the behalf of a franchisee, such time shall be deemed of the essence, and the franchisee's failure to perform within the time allotted, in all cases, shall be sufficient grounds for the county to invoke the remedies available under the terms and conditions of this chapter and the franchise agreement.

(Code 1995, § 7-9; Ord. No. 1086, §§ 1—3, 5-9-2006)

Sec. 7-10. Unlawful acts.

(a) It shall be unlawful for any cable operator to provide cable service in the county unless a franchise therefor has first been obtained pursuant to the provisions of this chapter and unless such franchise is in full force and effect.

(b) It shall be unlawful for any person to construct, install or maintain within any public rights-of-way in the county, or within any other public property of the county, or within any privately owned area within the county which has not yet become a public right-of-way but is designated or delineated as a proposed public right-of-way on any tentative subdivision map approved by the county, any equipment or facilities for a cable system, unless a franchise authorizing such use of such street or property or area has first been obtained pursuant to the provisions of this chapter and unless such franchise is in full force and effect.

(c) It shall be unlawful for any person to make any unauthorized connection, whether physically, electrically, acoustically, inductively or otherwise, with any part of a franchised cable system within the county for the purpose of enabling himself or others to receive any television signal, radio signal, picture, program or sound without payment to the owner of the cable system.

(d) It shall be unlawful for any person, without the consent of the owner, to willfully tamper with, remove or injure any cables, wires or equipment used for distribution of television signals, radio signals, pictures, programs or sound.

(e) It shall be unlawful for any person, without the consent of the subscriber, to permit the transmission of any signal, aural, visual or digital, including polling the channel selection from any subscriber's premises, or to permit the installation of any special terminal equipment in any subscriber's premises that will permit transmission from the subscriber's premises of two-way services utilizing aural, visual or digital signals. This subsection is not intended to prohibit the use of transmission of signals useful only for the control or measurement of system performance by a franchisee.

(f) Any person violating any subsection of this section shall be punished as provided in section 1-13.

(Code 1995, § 7-10; Ord. No. 1086, §§ 1—3, 5-9-2006)

Secs. 7-11—7-30. Reserved.

ARTICLE II. APPLICATIONS AND REQUIRED SERVICES

Sec. 7-31. Authority to grant franchises; criteria for granting.

(a) The board of supervisors is authorized, after a full hearing affording due process, to grant nonexclusive franchises conveying the right to construct and operate a cable system within the public rights-of-way of the county.

(b) No provision in this chapter shall be deemed or construed to require the board of supervisors to grant a franchise following receipt of any franchise application.

(Code 1995, § 7-31; Ord. No. 1086, §§ 1—3, 5-9-2006)

Sec. 7-32. Application form and contents; application fee.

The application for an initial cable franchise shall be submitted to the board of supervisors, or its

designee. Applications shall be accompanied by a nonrefundable application fee of $5,000.00 to the order of the "County of Henrico," which amount shall be used by the county to offset direct expenses incurred in the franchising and evaluation procedures, including, but not limited to, staff time and consulting assistance.

(Code 1995, § 7-32; Ord. No. 1086, §§ 1—3, 5-9-2006)

Sec. 7-33. Required facilities.

A franchise application or proposal for renewal shall include a description of the applicant's or franchisee's cable system capabilities, a description of services and facilities proposed for local origination programming, and services and facilities offered or to be offered to various community institutions.

(Code 1995, § 7-33; Ord. No. 1086, §§ 1—3, 5-9-2006)

Secs. 7-34—7-50. Reserved.

ARTICLE III. FRANCHISE CONDITIONS

Sec. 7-51. Term.

The term of a franchise shall be not more than 15 years from the date the franchise is accepted by the franchisee by written agreement with the county except that the franchise term can be extended for a reasonable period of time to allow the county and the franchisee to complete applicable renewal procedures.

(Code 1995, § 7-51; Ord. No. 1086, §§ 1—3, 5-9-2006)

Sec. 7-52. Notice of meetings involving action on franchise.

The board of supervisors shall not hold any meeting involving the review, renewal, revocation or termination of a franchisee's franchise unless the county manager has provided notice to the franchisee in writing, at least 30 days prior to such meeting, unless otherwise provided, as to its time, place and purpose; provided, however, that the franchisee may waive the notice required by this section.

(Code 1995, § 7-52; Ord. No. 1086, §§ 1—3, 5-9-2006)

Sec. 7-53. Reserved.

Sec. 7-54. Renewal of franchise.

(a) The renewal of any cable franchise shall be conducted in a manner consistent with applicable federal and state law.

(b) If the county decides not to renew the franchise, it shall have the right, on the expiration date of the franchise, either to purchase the assets of the franchisee's cable system at its then fair market value or, consistent with the provisions of section 7-78, select a new franchisee, after a full public proceeding, and cause such new franchisee to take the assets at fair market value. The provisions of this subsection, however, shall apply only to the extent that a franchisee's use of the public rights-of-way is authorized by its cable franchise. To the extent that a franchisee can show that the maintenance and operation in the public rights-of-way of any portions of its cable system or associated plant not used for cable service are not authorized by its cable franchise, and that it has full legal authority independent of its cable franchise to use the county's public rights-of-way to maintain and operate such portions of its cable system or associated plant, such portions shall not be affected by the provisions of this paragraph, but shall instead be governed by any terms and conditions that may apply to such independent authority.

(Code 1995, § 7-54; Ord. No. 1086, §§ 1—3, 5-9-2006)

Sec. 7-55. Revocation procedures.

(a) Whenever a franchisee shall fail to construct, operate or maintain its cable system in accordance with the terms of this chapter and its franchise, or to comply with the conditions of occupancy of any public rights-of-way, or to make required extensions of service, or willfully or knowingly makes false statements on or in connection with its franchise application or proposal for renewal, or in any other way violates the terms and conditions of this chapter, its franchise, or any rule or regulation adopted thereunder, or substantially violates any provision of the Virginia Consumer Protection Act of 1977, as amended, then, as may otherwise be permitted by law, the franchise may be revoked.

(b) To apply the procedures of this section, the county manager shall notify a franchisee, in writing, setting forth the nature and extent of such noncompliance. If, within 30 days following such written notification by the county manager, the franchisee has not furnished proof that corrective action has been taken or is being actively and expeditiously pursued, or evidence that the alleged violations did not occur, or that the alleged violations were beyond the franchisee's control, the county manager may thereupon refer the matter to the board of supervisors.

(c) The board of supervisors may revoke a franchise pursuant to subsection (a) of this section by ordinance.

(d) The board of supervisors shall not adopt an ordinance pursuant to subsection (c) of this section until it has given written notice to the franchisee that the board of supervisors proposes to adopt such an ordinance and the grounds therefor. The board of supervisors shall not adopt such an ordinance until the franchisee has had a reasonable opportunity to be heard before the board of supervisors and show that the proposed grounds for revocation did not or do not exist, as the case may be.

(e) The franchisee shall not be subject to the sanctions of this section for any action or omission beyond the franchisee's control. An act or omission shall not be deemed to be beyond a franchisee's control if committed, omitted or caused by an affiliate of the franchisee, whether directly or indirectly. The inability of the franchisee to obtain financing, for whatever reason, shall not be an act or omission which is beyond the franchisee's control.

(f) If a franchise has been revoked by the board of supervisors, the board of supervisors may acquire the assets of the franchisee's cable system at an equitable price or permit a successor franchisee to do so, subject to the provisions of section 7-73(b). Before the board of supervisors exercises either of these options, the board of supervisors shall give the franchisee written notice of its intent to do so. A franchisee agrees by acceptance of a franchise to enter into good-faith negotiations within seven days of receipt of such notice with the county for the purpose of consummating the transaction at the earliest possible moment.

(g) The termination of a franchisee's rights under a franchise shall in no way affect any other rights the county may have under the franchise or under any provision of law.

(Code 1995, § 7-55; Ord. No. 1086, §§ 1—3, 5-9-2006)

Sec. 7-56. Effect of arbitrary and capricious discontinuation of service by franchisee.

If a franchisee arbitrarily or capriciously discontinues service to all of its subscribers, the franchisee shall forfeit its rights of notice and a hearing as provided for in this chapter, and the board of supervisors shall declare the franchisee's franchise immediately terminated and the county may forthwith seek appropriate judicial injunctive relief and shall proceed to exercise its rights and powers as provided for in this chapter.

(Code 1995, § 7-56; Ord. No. 1086, §§ 1—3, 5-9-2006)

Sec. 7-57. Determination of fair market price by court.

If the county elects to purchase a franchisee's cable system and its fair market value or equitable price cannot be agreed upon, the final price shall be determined by a court of competent jurisdiction.

(Code 1995, § 7-57; Ord. No. 1086, §§ 1—3, 5-9-2006)

Sec. 7-58. Transfer of ownership to county.

Upon payment of the purchase price, a franchisee shall immediately transfer to the county possession and title to all facilities and property, real and personal, related to its cable system, free from any and all liens and encumbrances that the county does not agree to assume in lieu of some portion of the purchase price.

(Code 1995, § 7-58; Ord. No. 1086, §§ 1—3, 5-9-2006)

Sec. 7-59. Right of county to assign purchase rights.

The county shall have the right and power to assign its purchase rights to a successor franchisee selected by the county in a manner not inconsistent with the provisions of this chapter.

(Code 1995, § 7-59; Ord. No. 1086, §§ 1—3, 5-9-2006)

Sec. 7-60. Operation of system pending transfer of assets to county or new franchisee.

Until such time as a franchisee transfers to the county or a new franchisee possession and title to all assets, real and personal, related to its cable system, the franchisee shall continue to operate the cable system under the terms and conditions of this chapter and its franchise and continue to provide the regular subscriber service and any and all of the services that may be provided at that time. During such interim period, the franchisee shall not sell any of the system assets, nor shall the franchisee make any physical, material, administrative or operational change that would tend to degrade the quality of service to the subscribers, decrease gross revenue or cable service other than through promotions, discounts or bundles ordinarily offered in the due course of business, or materially increase expenses without the express permission, in writing, of the county or its assignee. The county shall be permitted to seek legal and equitable relief to enforce the provisions of this section.

(Code 1995, § 7-60; Ord. No. 1086, §§ 1—3, 5-9-2006)

Sec. 7-61. Reserved.

Sec. 7-62. Franchise fees.

(a) A franchisee shall pay to the county director of finance, in consideration of the granting of a franchise to use the public rights-of-way for the operation of a cable system, five percent of its gross revenue during the period of its operation under the franchise.

(b) A franchisee shall file with the county, within 30 days after the expiration of each of the franchisee's fiscal quarters, a financial statement clearly showing by category of revenue the gross revenue received by the franchisee during the preceding quarter. The franchise fee for each fiscal quarter shall be payable to the county at the time such statement is filed. The franchisee also shall file within 120 days following the conclusion of the franchisee's fiscal year an annual report certified as to its accuracy by a certified public accountant acceptable to the county clearly showing the franchisee's total gross revenue and stating that the franchise fees paid were correctly calculated.

(c) The county shall have the right, consistent with the provisions of section 7-113(b), to inspect a franchisee's income records, and the right of audit and the recomputation of any amounts determined to be payable under this chapter; provided that such audit shall take place within three years following the payment of

those amounts. Any additional amount due the county as a result of the audit shall be paid within 30 days following written notice to the franchisee by the county, which notice shall include a copy of the audit report. The cost of such audit shall be borne by the franchisee if it is properly determined that the franchisee's annual payment to the county for the preceding year is increased thereby by more than five percent.

(d) If any franchise payment or recomputed amount is not made on or before the applicable dates specified in this section the franchisee shall pay three-tenths of one percent of the unpaid amount for each day the violation continues, in addition to any monetary payment due.

(e) If the franchise is terminated, the franchisee shall file with the county, within 30 days after such termination, a financial statement clearly showing the gross revenue received by the franchisee since the end of the previous fiscal quarter. The franchisee shall pay the franchise fee due at the time such statement is filed.

(f) If cable service subject to a franchise fee is provided to subscribers in conjunction with other services: the fee shall be applied only to the value of this cable service, as reflected on the books and records of the cable operator in accordance with rules, regulations, standards, or orders of the Federal Communications Commission or the state corporation commission, or generally accepted accounting principles. Any discounts resulting from purchasing the services as a bundle shall be reasonably allocated between the respective services that constitute the bundled transaction.

(g) If a franchisee proposes to change its methodology for calculating or paying the franchise fee, itemizing the fee, or passing any amounts through to subscribers (where applicable), the franchisee shall first provide written notice to the county manager explaining the nature of the change, the reason for the change, and the effect of the change on the franchise fee amounts paid to the county.

(Code 1995, § 7-62; Ord. No. 1086, §§ 1—3, 5-9-2006)

Sec. 7-63. Insurance; indemnification of county.

(a) Upon the granting of a franchise and at all times during the term of the franchise, including the time for removal of facilities as provided for in this article, a franchisee shall obtain, maintain, pay all premiums for and file with the county's risk manager written evidence in the form of a certificate of insurance, of the following insurance coverage:

Commercial general liability insurance and, if necessary, commercial umbrella insurance with a limit of not less than $5,000,000.00 per occurrence covering liability for injury to or death of persons and property damage occasioned by the operations of a franchisee under a franchise granted under this chapter or alleged to have been so caused or occurred. Insurance shall cover liability arising from premises, operation, independent contractors, products-completed operations, personal and advertising injury, and liability assumed under an insured contract. The county, its officers, boards, commissions, agents and employees shall be added as additional insureds under this insurance. This insurance shall apply as primary insurance with respect to any other insurance or self-insurance programs afforded to the county. There shall be no endorsement or modifications of the commercial general liability insurance to make it excess over other available insurance; alternatively, if the commercial general liability insurance states that it is excess or pro rata, the policy shall be endorsed to be primary with respect to the additional insured.

(b) The insurance policies called for in this section shall be in a form satisfactory to the county attorney and shall require 30 days' written notice of any reduction in coverage or cancellation to both the county and the franchisee. A franchisee shall, in the event of any such reduction or cancellation notice, obtain replacement coverage and pay all premiums for and file with the county's risk manager written evidence of any such replacement coverage, in the form of a certificate of insurance, within 30 days following receipt by the county or the franchisee of any notice of reduction or cancellation.

(c) A franchisee shall waive all rights against the county, its officers, boards, commissions, agents and employees for recovery of damages to the extent these damages are covered by the commercial general

liability or commercial umbrella liability insurance maintained pursuant to subsection (a) of this section.

(d) A franchisee shall, at its sole cost and expense, defend, indemnify and hold harmless the county, its officials, boards, commissions, agents and employees against any and all claims, suits, causes of action, proceedings and judgments for damage arising out of the construction, maintenance, or operation of its cable system; copyright infringements or a failure by the franchisee to secure consents from the owners or authorized distributors of programs to be delivered by the cable system; the conduct of the franchisee's business in the county; or in any way arising out of the franchisee's enjoyment or exercise of the franchise. These damages shall include but not be limited to penalties arising out of copyright infringements and damages arising out of any failure by the franchisee to secure consents from the owners, authorized distributors or licensees of programs to be delivered by the franchisee's cable system, whether or not any act or omission complained of is authorized, allowed or prohibited by the franchise. Indemnified expenses shall include but not be limited to all out-of-pocket expenses, such as attorneys' fees, and shall also include the reasonable value of any services rendered by the county attorney or his assistants or any employees of the county.

(e) The indemnity provided for in subsection (d) of this section is conditioned upon the county's giving a franchisee prompt notice of the commencement or making of any suit or action covered by the terms of this section. Nothing in this section shall be deemed to prevent the county from cooperating with a franchisee and participating in the defense of any litigation by its own counsel at its sole cost and expense. No recovery by the county of any sum by reason of the letter of credit required in section 7-82 shall be any limitation upon the liability of a franchisee to the county under the terms of this chapter, except that any sums so received by the county shall be deducted from any recovery which the county shall establish against the franchisee under the terms of this chapter.

(Code 1995, § 7-63; Ord. No. 1086, §§ 1—3, 5-9-2006)

Sec. 7-64. Letter of credit.

(a) Within 30 days after the award or renewal of a franchise, a franchisee shall deposit with the county an irrevocable letter of credit in a form satisfactory to the county attorney in the amount specified in its franchise agreement issued by a federally insured commercial lending institution acceptable to the county. The letter of credit shall be used:

(1) To ensure the franchisee's compliance with the terms and conditions of this chapter and its franchise; and

(2) To ensure the franchisee's payment of any liabilities arising out of the construction, operation or maintenance of the cable system, including the cost of removal or abandonment of any property of the franchisee.

(b) The letter of credit shall contain the following endorsement:

"At least 60 days' prior written notice shall be given to the county by the financial institution of any intention to cancel, replace, fail to renew, or materially alter this letter of credit. Such notice shall be given by certified or registered mail to the county attorney."

(c) The letter of credit may be drawn upon by the county by presentation of a draft at sight on the lending institution, accompanied by a written certificate signed by the county manager certifying that a franchisee has failed to comply with this chapter, its franchise or any other order, permit or direction of the county relating to this chapter or the franchise agreement, stating the specific reasons therefor and stating the basis for the amount being drawn. Examples of a basis for drawing upon the letter of credit include but are not limited to the following:

(1) Failure of a franchisee to pay to the county any fees and taxes after ten days' written notice of delinquency.

(2) Failure of a franchisee to pay to the county, after ten days' written notice, any amounts due and owing to the county by reason of the indemnity provisions of section 7-81.

(3) Failure of a franchisee to pay to the county any liquidated damages due and owing to the county pursuant to section 7-83.

(d) A franchisee shall agree to structure the letter of credit in such a manner so that, if the county draws upon the letter of credit, the franchisee shall restore the letter of credit to the total amount specified no later than 30 days after notification to the franchisee of the withdrawal from the letter of credit.

(e) The rights reserved to the county with respect to the letter of credit are in addition to all other rights of the county, whether reserved by this chapter or a franchise agreement, or otherwise authorized by law, and no action, proceeding or right with respect to the letter of credit shall affect any other right the county has or may have.

(Code 1995, § 7-64; Ord. No. 1086, §§ 1—3, 5-9-2006)

Sec. 7-65. Remedies and procedures.

(a) Notwithstanding any other remedy provided for in this chapter or the franchise agreement or otherwise available under law, the county shall have the power to recover monetary amounts from a franchisee under certain conditions, such monetary amounts being in the nature of liquidated damages, provided the county first complies with the notice requirements of subsection (c) of this section.

(b) By acceptance of a franchise, a franchisee understands and agrees that failure to comply with any time and performance requirements as stipulated in this chapter and the franchise agreement will result in damage to the county, and that it is and will be impracticable to determine the actual amount of such damage in the event of delay or nonperformance. The franchisee further agrees to enter into a franchise agreement which shall include provisions for liquidated damages to be paid by the franchisee in amounts set forth in that agreement and chargeable to the letter of credit.

(c) If the county manager, determines that a franchisee has failed to perform any obligation under the franchise or applicable law or has failed to perform in a timely manner, the county may make a written demand on the franchisee that it remedy the violation. If the violation is not remedied or in the process of being remedied to the satisfaction of the county within a reasonable time period specified in the written demand, the county may:

(1) Assess against the franchisee liquidated damages as provided in the franchise agreement;

(2) Request revocation of the franchise as provided herein; or

(3) Pursue any legal or equitable remedy available under the franchise or any applicable law.

(d) To assess liquidated damages, the county shall inform the franchisee that liquidated damages will be assessed from the date of the notice unless the assessment notice is appealed for hearing before the board of supervisors and the board of supervisors rules that the violation has been corrected or that an extension of time or other relief should be granted. A franchisee desiring a hearing before the board of supervisors shall send a written notice of appeal by registered or certified mail to the county manager within ten days of the date of the notice of assessment of liquidated damages. The board shall hear the franchisee's appeal within 30 days of the date of the notice of assessment of liquidated damages. After the hearing, if the board of supervisors sustains in whole or in part the county manager's assessment of liquidated damages, the county manager may at any time thereafter draw upon the letter of credit required by section 7-82. Unless the board of supervisors indicates to the contrary, the liquidated damages shall be assessed beginning on the date of the notice of assessment and continuing thereafter until such time as the violation ceases, as determined by the county manager in his sole discretion.

(Code 1995, § 7-65; Ord. No. 1086, §§ 1—3, 5-9-2006)

Sec. 7-66. Transfer of franchise.

(a) A franchise granted under this chapter shall be a privilege to be held in personal trust by a franchisee. It

shall not be transferred, in whole or in part, as that term is defined in section 7-1, by voluntary sale, merger, consolidation or otherwise or by forced or involuntary sale without prior consent of the board of supervisors expressed by ordinance, and then only on such conditions as may therein be prescribed. The county is hereby empowered to take legal or equitable action to set aside, annul, revoke or cancel the franchise or the transfer of the franchise, if such transfer is not made according to the procedures set forth in this chapter.

(b) The board of supervisors shall not withhold, delay or condition its consent to a transfer unreasonably; provided that the proposed assignee agrees to comply with all provisions of this chapter, the franchise agreement and the transfer ordinance, and is able to provide proof that it is legally, technically and financially qualified to operate the cable system and satisfy all franchise obligations.

(c) At least 120 calendar days prior to the contemplated effective date of a transfer, a franchisee shall submit to the county a written application for approval of a transfer. Such an application shall provide complete information on the proposed transaction, including details on the legal, financial, technical, and other qualifications of the transferee. At a minimum, the following information must be included in the application, unless these requirements are waived, reduced, or modified in writing by the county:

(1) All information and forms required under federal law;

(2) Any shareholder reports or filings with the Securities and Exchange Commission that pertain to the transfer;

(3) Other information necessary to provide a complete and accurate understanding of the financial position of the franchisee's cable system before and after the proposed transfer;

(4) Complete information regarding any potential impact of the proposed transaction on subscriber rates and service;

(5) Any contracts that relate to the proposed transaction and, upon request by the county, all documents and information that are related or referred to therein and which are necessary to understand the proposed transaction. Should the franchisee believe that the requested information is confidential, then it must provide the following documentation to the county:

a. Specific identification of the information;

b. A statement attesting the reasons the franchisee believes the information is confidential; and

c. A statement that the documents are available at the franchisee's offices for inspection by the county.

(d) The consent of the board of supervisors to any transfer shall not constitute a waiver or release of any of the rights of the county under this chapter or any franchise.

(Code 1995, § 7-66; Ord. No. 1086, §§ 1—3, 5-9-2006)

Secs. 7-67—7-90. Reserved.

ARTICLE IV. SUBSCRIBER FEES; RECORDS AND REPORTS

Sec. 7-91. Subscriber fees.

(a) *Rights of county.* By accepting a franchise granted pursuant to the terms and conditions imposed by this chapter a franchisee agrees that the board of supervisors shall have the authority and right to regulate the franchisee's subscriber rates to the maximum extent consistent with federal and state law.

(b) *Notification of fees.* A franchisee shall be required to explain adequately to each potential subscriber all applicable fees and charges for the cable service that the potential subscriber orders. Such oral notification shall be in addition to a schedule of fees and charges which the franchisee shall set forth in a written subscriber contract.

(c) *Discrimination prohibited; special agreements.* A franchisee shall not, with regard to fees, discriminate or grant any preference or advantage to any person, except as provided in federal law, 47 USC 543. Fees may be negotiated between the franchisee and the owners, or a committee acting on their behalf, for regular

subscriber service provided to ten or more dwelling units within an apartment building, condominium, garden apartment or townhouse complex under common ownership, or to ten or more room units within hotels, motels, hospitals or convalescent or extended care facilities, or to any commercial establishments.

(d) *Special promotions.* A franchisee may, at its own discretion, waive, reduce or suspend connection or monthly service fees for specified periods for promotional purposes.

(Code 1995, § 7-91; Ord. No. 1086, §§ 1—3, 5-9-2006)

Sec. 7-92. Records to be furnished to county; inspection of records.

(a) The books and records of a franchisee's operation within the county shall be made available, during normal business hours, at the franchisee's place of business in the county, for inspection and audit by the county manager within such time as the county manager may reasonably specify.

(b) Access to records under subsection (a) of this section shall not be denied by the franchisee on the basis that they contain proprietary or confidential information, unless such access would violate 47 USC 551. Any confidential information received by the county shall remain confidential insofar as permitted by state and federal law.

(Code 1995, § 7-92; Ord. No. 1086, §§ 1—3, 5-9-2006)

Sec. 7-93. Financial reports.

A franchisee shall file annually with the office of the county manager, no later than 120 days after the end of the franchisee's fiscal year, a copy of a financial report applicable to the cable system serving the county, including a detailed income and expense statement applicable to its operation during the preceding 12-month period. Included in this report shall be the following information specific to the county: number of homes passed, number of cable plant miles, number of subscribers for each type of cable service offered and the gross revenue from each revenue source attributable to the operations of the franchisee from within the county. These reports shall be certified as being correct and prepared by a responsible officer of the company and there shall be submitted along with them such other information as the board of supervisors shall reasonably request. All proprietary information submitted pursuant to this section shall be treated as confidential to the extent permitted by law.

(Code 1995, § 7-93; Ord. No. 1086, §§ 1—3, 5-9-2006)

Sec. 7-94. Customer service reports.

Unless this requirement is waived in whole or in part by the county no later than 45 days after the end of each calendar quarter, a franchisee shall submit a written report to the county, in a form subject to the county's approval, which shall include statistics showing the franchisee's actual performance during that quarter with respect to each of the customer service requirements specified in article VI, with an explanation briefly indicating how each figure was obtained and what events were and were not included in that figure.

(Code 1995, § 7-94; Ord. No. 1086, §§ 1—3, 5-9-2006)

Sec. 7-95. Reports generally.

(a) The county may, at its discretion, waive in writing the requirement of any particular report specified in this article.

(b) No franchisee shall, in any written or oral statement of fact, intentionally provide material factual information that is incorrect or intentionally omit material information that is necessary to prevent any material factual statement that is made from being incorrect or misleading.

(c) No franchisee shall, in any written statement of fact, provide material factual information that is incorrect or omit material information that is necessary to prevent any material factual statement that is made from being incorrect or misleading without a reasonable basis for believing that any such material factual statement is correct and not misleading.
(Code 1995, § 7-95; Ord. No. 1086, §§ 1—3, 5-9-2006)

Secs. 7-96—7-120. Reserved.

ARTICLE V. SYSTEM OPERATIONS

Sec. 7-121. Initial franchise area; amendments to franchise area.

(a) A franchisee shall furnish to the county as a part of its initial franchise application a map of suitable scale showing all streets and public buildings indicating the initial franchise area to be served. The map also shall list the names of all neighborhoods, developments and communities served.
(b) The initial franchise area shall be subject to approval by the county and may be amended at any time, either by the county on its own motion or upon petition to the franchisee by 50 percent of the residents within the area to which the proposed amendment applies. Amendments shall encompass only areas in which the total number of occupied dwelling units divided by the total number of miles of paved and unpaved public streets and roads (exclusive of limited access highways) within the extended area exceeds 30.
(c) A franchisee and the public shall be afforded a reasonable opportunity to be heard and to submit documented comments or evidence either supporting or opposing the initial franchise area delineated by the franchisee, or amendments thereto, prior to consideration and adoption or rejection by the board of supervisors.
(Code 1995, § 7-121; Ord. No. 1086, §§ 1—3, 5-9-2006)

Sec. 7-122. Extension of service outside initial franchise area.

(a) A franchisee shall extend its full service outside the initial franchise area to any location within the county boundaries upon written request by five or more applicants living within 1,000 yards of each other.
(b) A franchisee shall be entitled to recover from the applicants requesting such service extensions the actual direct cost of that portion of the combined trunk and feeder line extension which exceeds an average of 150 feet per subscriber, measured along the most practicable route from the nearest technically feasible point on the franchisee's system, not including the length of service drops.
(c) A franchisee shall make every reasonable effort to cooperate with cable franchise holders in contiguous communities in order to provide cable service in areas within the county but outside the franchisee's initial franchise area.
(d) The county shall make every reasonable effort to cooperate with the franchising authorities in contiguous communities and with a franchisee in order to provide cable service in areas outside the county.
(Code 1995, § 7-122; Ord. No. 1086, §§ 1—3, 5-9-2006)

Sec. 7-123. Interconnections.

A franchisee may be required to interconnect its cable system with other cable systems or other broadband communications facilities located in the county or in contiguous communities. The franchisee shall cause required interconnections to be made within 180 days of a request made by the county. If cable operators do not agree to an interconnection agreement within 180 days of a request to interconnect, then the county shall have the authority to determine an interconnection point.

(Code 1995, § 7-123; Ord. No. 1086, §§ 1—3, 5-9-2006)

Sec. 7-124. Compliance with FCC rules.

The cable system to be installed by a franchisee shall comply in all respects with the capacity, capability and technical performance requirements set forth in the FCC's rules for cable television.

(Code 1995, § 7-124; Ord. No. 1086, §§ 1—3, 5-9-2006)

Sec. 7-125. General operating requirements.

(a) *Compliance with applicable regulations.* A franchisee shall construct, operate and maintain its cable system subject to the supervision of the county and in full compliance with the rules and regulations, including applicable amendments, of the Federal Communications Commission and all other applicable federal, state or county laws and regulations, including the latest editions of the National Electrical Safety Code and the National Electrical Code of the National Fire Protection Association. The cable system and all its parts shall be subject to inspection by the county, provided that electrical tests shall be limited to those set forth in section 7-151.

(b) *Quality of signals.* A franchisee shall exercise its best effort to design, construct, operate and maintain its system at all times so that signals carried are delivered to subscribers without material degradation in quality, within the limitations imposed by the technical state of the art of the system.

(c) *Emergency use of system.* In the case of any emergency or disaster, a franchisee, upon request of the county manager, shall make available its facilities to the county for emergency use during the emergency or disaster period.

(Code 1995, § 7-125; Ord. No. 1086, §§ 1—3, 5-9-2006)

Sec. 7-126. Tests and performance monitoring.

(a) Not later than 90 days after any new or substantially rebuilt portion of the system is made available for service to subscribers, and at least annually thereafter, technical performance tests shall be conducted by a franchisee to demonstrate full compliance with the technical standards of the Federal Communications Commission and section 7-150(b). Such tests shall be performed by or under the supervision of a qualified registered professional engineer or an engineer with proper training and experience. A copy of the report shall be submitted to the county, describing test results, instrumentation, calibration, test procedures and the qualifications of the engineer responsible for the tests.

(b) System monitor test points shall be established at or near the output of the last amplifier in the longest feeder line, at or near trunk line extremities, at not fewer than eight widely scattered locations. At least once each month, the following data shall be obtained and recorded for each monitor test point, made available for county inspection and retained in a franchisee's files until the relevant portion of the system has been either substantially rebuilt or replaced:

(1) Visual and aural carrier level on each active channel.

(2) Carrier-to-noise ratio on at least four frequencies distributed across the pass band. To avoid interrupting service, these measurements may be approximate and will be used only to detect significant changes.

(3) Visual inspection of picture quality on all active channels to detect degradation in quality attributable to the system.

(c) At any time after commencement of service to subscribers, the county may require additional tests, full or partial repeat tests, different test procedures or tests involving a specific subscriber's terminal. Requests for such additional tests will be made on the basis of complaints received or other evidence indicating an unresolved controversy or significant noncompliance, and such tests will be limited to the particular matter in controversy. The county will endeavor to so arrange its requests for such special tests so as to minimize hardship or inconvenience to a franchisee or subscribers.

(d) A franchisee shall continue, through the term of its franchise, to maintain the applicable technical, operational and maintenance standards. Should the county find, by resolution, that the franchisee has failed to maintain these standards, and should it, by resolution, specifically enumerate improvements to be made, the franchisee shall make such improvements. Failure to make such improvements within 90 days of adoption of such resolution will constitute a breach of the franchise agreement and a violation of this chapter, for which the remedies of sections 7-83 and 7-74 are applicable.

(e) The county shall have the right to employ qualified consultants if necessary or desirable to assist in the administration of this or any other section of this chapter, and, by acceptance of a franchise, a franchisee agrees to pay one-half of all reasonably incurred costs associated therewith.

(Code 1995, § 7-126; Ord. No. 1086, §§ 1—3, 5-9-2006)

Sec. 7-127. Performance evaluation sessions.

(a) The county and a franchisee may, at the county's discretion, hold scheduled performance evaluation sessions every three years from the anniversary date of a franchisee's award of a franchise and as may be required by federal and state law.

(b) Special evaluation sessions may be held at any time during the term of a franchise at the request of the county or a franchisee and upon 90 days' written notice.

(c) All evaluation sessions shall be open to the public and shall be advertised in a newspaper of general circulation at least ten days prior to each session. A franchisee shall notify its subscribers of all evaluation sessions by announcement displayed prominently on its cable system during prime time for five consecutive days preceding each session.

(d) Topics which may be discussed at any scheduled or special evaluation session may include but shall not be limited to service rate structures, franchise fee, liquidated damages, free or discounted services, application of new technologies, system performance, services provided, programming offered, customer complaints, privacy, amendments to this chapter, judicial and FCC rulings, line extension policies, and county or franchisee rules.

(Code 1995, § 7-127; Ord. No. 1086, §§ 1—3, 5-9-2006)

Sec. 7-128. Service, adjustment and complaint procedures.

(a) Except for circumstances beyond a franchisee's control, such as acts of God, weather, wars, riots and civil disturbances, a franchisee shall establish a maintenance service capable of locating and correcting system malfunctions promptly.

(b) If a subscriber does not obtain a satisfactory response or resolution to a request for service or an adjustment within a reasonable period of time, he may advise the county manager or other designated employee in writing of his dissatisfaction, and the county manager or other designated employee shall investigate the matter and keep records with respect to all such complaints for the remaining life of the franchise or three years, whichever amount of time is of longer duration.

(c) A franchisee shall interrupt system service after 7:00 a.m. and before 1:00 a.m. only with good cause and for the shortest time possible and, except in emergency situations, only after publishing notice of service interruption at least 24 hours in advance of the service interruption. Service may be interrupted between 1:00 a.m. and 7:00 a.m. for routine testing, maintenance and repair without notification any night except Friday, Saturday, Sunday or the night preceding a holiday.

(Code 1995, § 7-128; Ord. No. 1086, §§ 1—3, 5-9-2006)

Sec. 7-129. Street occupancy.

(a) A franchisee shall utilize existing poles, conduits and other facilities whenever possible and shall not

construct or install any new, different or additional poles, conduits or other facilities, whether on public property or on privately owned property, until the written approval of the county is obtained. Such approval shall not be unreasonably withheld. However, no location of any pole or wire-holding structure of the franchisee shall be a vested interest, and such poles or structures shall be removed or modified by the franchisee at its own expense whenever the board of supervisors determines that the public convenience would be enhanced thereby.

(b) Where the county or a public utility serving the county desires to make use of the poles or other wire-holding structures of a franchisee but agreement therefor with the franchisee cannot be reached, the board of supervisors may require the franchisee to permit such use for such consideration and upon such terms as the board of supervisors shall determine to be just and reasonable if the board of supervisors determines that the use would enhance the public convenience and would not unduly interfere with the franchisee's operation. The board of supervisors shall consider in its determination of just and reasonable terms and consideration any amount charged the franchisee for similar use of facilities.

(c) All transmission lines, equipment and structures shall be so installed and located as to cause minimum interference with the rights and appearance and reasonable convenience of property owners who adjoin on any street, and at all times shall be kept and maintained in a safe, adequate and substantial condition and in good order and repair. A franchisee shall at all times employ ordinary care and shall install and maintain in use commonly accepted methods and devices for preventing failures and accidents which are likely to cause damage, injuries or nuisances to the public. Suitable barricades, flags, lights, flares or other devices shall be used at such times and places as are reasonably required for the safety of all members of the public. Any poles or other fixtures placed in any public right-of-way by a franchisee shall be placed in such a manner as not to interfere with the usual travel on such public way.

(d) A franchisee shall remove, replace or modify, at its own expense, the installation of any of its facilities as may be deemed necessary by the county to meet its proper responsibilities.

(e) Wherever all electrical and telephone utility distribution wiring is located underground, either at the time of initial construction or subsequently, at the direction of the county, the television cable shall also be located underground, at a franchisee's own expense. If the distribution facilities of either the electric or the telephone utility are aerial, the cable facilities may be located underground at the request of a property owner, provided that the excess cost of the installation, labor and materials of underground over aerial location shall be paid by the property owner making the request to a franchisee.

(f) A franchisee shall, at its own expense and in a manner approved by the county, restore to county standards and specifications any damage or disturbance caused to the public right-of-way as a result of its operations or construction on its behalf. A franchisee shall guarantee and maintain such restoration for a period of one year against defective materials or workmanship except in instances involving acts of God.

(g) Whenever, in case of fire or other disaster, it becomes necessary in the judgment of the county manager, the director of public safety, the fire chief or the chief of police to remove or damage any of a franchisee's facilities, no charge shall be made by the franchisee against the county for restoration and repair.

(h) At the request of any person holding a valid building moving permit issued by the county and upon at least 48 hours' notice, a franchisee shall temporarily raise, lower or cut its wires as may be necessary to facilitate such move. The direct expense of such temporary changes, including standby time, shall be paid by the permit holder, and a franchisee shall have the authority to require payment in advance.

(i) A franchisee shall have the authority to trim trees on public property at its own expense as may be necessary to protect its wires and facilities, subject to the supervision and direction of the county. Trimming trees on private property shall require the consent of the property owner.

(Code 1995, § 7-129; Ord. No. 1086, §§ 1—3, 5-9-2006)

Sec. 7-130. Construction schedule and reports.

(a) Upon accepting an initial franchise, a franchisee shall within 60 days file the documents required to obtain all necessary federal, state and local licenses, permits and authorizations required for the conduct of its business and shall submit monthly reports to the county manager on progress in this respect until all such documents are in hand.

(b) Within three months after accepting a franchise, a franchisee shall furnish the county a construction schedule and map setting forth target dates by areas for commencement of service to subscribers. The map shall be updated whenever substantial changes become necessary.

(c) A franchisee shall complete construction of the system in the initial franchise area and offer and deliver cable service, in full accordance with this chapter and any franchise granted under this chapter, to subscribers in not less than 25 percent of the occupied dwelling units within the initial franchise area within one year after receiving all necessary permits, authorizations and licenses, and to 100 percent within four years.

(d) Every three months after the start of construction, a franchisee shall furnish the county a report on progress of construction, until complete. The report shall include a map that clearly defines the areas wherein regular subscriber service is available.

(Code 1995, § 7-130; Ord. No. 1086, §§ 1—3, 5-9-2006)

Sec. 7-131. Protection of subscriber privacy.

A franchisee shall comply with all applicable federal and state privacy laws, including 47 USC 551 and regulations adopted pursuant thereto.

(Code 1995, § 7-131; Ord. No. 1086, §§ 1—3, 5-9-2006)

Secs. 7-132—7-140. Reserved.

ARTICLE VI. CUSTOMER SERVICE

Sec. 7-141. Purpose.

(a) This article sets forth minimum customer service standards that a franchisee must satisfy. In addition, the franchisee shall at all times satisfy any additional or stricter requirements established by FCC regulations, or other applicable federal, state, or local law or regulation, as the same may be adopted or amended from time to time.

(b) The provisions of this article shall apply to all services provided by a franchisee over a cable system. For example, the requirement of clear and concise billing shall apply to billing for cable modem service, whether or not such service is considered a cable service under applicable law.

(c) Each franchisee shall maintain an office at a convenient location in the county that shall be open during normal business hours to allow subscribers to request service, pay bills, and conduct other business.

(Code 1995, § 7-141; Ord. No. 1086, §§ 1—3, 5-9-2006)

Sec. 7-142. Telephone answering.

(a) A listed local telephone number connecting to a live customer service representative (not a recording) shall be made available to subscribers for service calls at any time of the day or night.

(b) A franchisee shall use its best efforts to comply with the following standards. A franchisee shall not be subject to liquidated damages for noncompliance with these standards if, under normal operating conditions, the standards are met at least 90 percent of the time, measured quarterly. For purposes of this calculation and all pertinent reports, a franchisee may not omit data for conditions other then normal operating conditions unless the franchisee has explained to the county the time period and the conditions involved, and the

county has approved that classification.

(1) Telephone answering time shall not exceed 30 seconds, and the time to transfer the call to a customer service representative (including hold time) shall not exceed an additional 30 seconds.

(2) A customer will receive a busy signal less than three percent of the time.

(c) A franchisee shall obtain and maintain sufficient telephone lines and staffing to meet the requirements of this article. A franchisee shall not block incoming calls or otherwise use equipment or procedures that would result in an inaccurate account of all calls made to the franchisee; any such practice shall constitute fraud and shall be an independent violation of the customer service standards.

(d) At least one person in responsible charge of a franchisee's operations in the county shall be available by local telephone during such hours as the business office is closed, and the telephone number of such person shall be supplied in advance to the county manager and to the county police and fire divisions.

(e) Any consolidation of customer service or call center functions shall not in any way interfere with a franchisee's compliance with applicable customer service requirements. A franchisee shall ensure that at all times, 24 hours a day, seven days a week, the call center or centers receiving calls from the county will be able if necessary to refer a subscriber call regarding technical service problems in the county to local personnel responsible for the system in the county, who will contact such subscriber within two hours from the time of the subscriber's call.

(Code 1995, § 7-142; Ord. No. 1086, §§ 1—3, 5-9-2006)

Sec. 7-143. Installations and service calls.

(a) A franchisee shall respond to service calls and complaints promptly. A franchisee shall use its best efforts to comply with the following standards. A franchisee shall not be subject to liquidated damages for noncompliance with these standards if, under normal operating conditions, the standards are met at least 95 percent of the time, measured quarterly.

(1) A franchisee shall complete all installations located up to 200 feet from the franchisee's existing distribution system within seven business days after the order is placed.

(2) A franchisee shall complete all installations not located within 200 feet from the franchisee's existing distribution system within 30 calendar days after the order is placed.

(3) A franchisee shall commence repairs for service interruptions affecting more than 100 subscribers within two hours after the franchisee becomes aware of the interruption, including Saturdays, Sundays, and legal holidays.

(4) A franchisee shall commence repairs for all other service interruptions within 24 hours after the franchisee becomes aware of the interruption, including Saturdays, Sundays, and legal holidays.

(5) A franchisee shall commence work on all requests for service other than service interruptions by the next business day after it receives the request for service or otherwise becomes aware of the need for service.

(b) All service for which a completion time is not otherwise specified in subsection (a) of this section must be completed within three days from the date of the initial request, unless, for reasons beyond the franchisee's control, the work could not be completed in those time periods even with the exercise of all due diligence, in which case the franchisee shall complete the work in the shortest time possible. The failure of a franchisee to hire sufficient staff or to properly train its staff shall not justify a franchisee's failure to comply with this provision.

(c) Appropriate records shall be made of service calls, showing when and what corrective action was completed. Such records shall be available to the county during normal business hours and retained for not less than three years.

(d) A franchisee shall perform service calls, installations, and disconnects at least from 8:00 a.m. to 6:00 p.m. Monday through Friday and 8:00 a.m. to 5:00 p.m. Saturday. In addition, maintenance service capability

enabling the prompt location and correction of major system malfunctions shall be available seven days a week, 24 hours a day, including Saturdays, Sundays, and holidays.

(e) The appointment window for installations, service calls, and other installation activities shall be either a specific time or, at maximum, a four-hour time block during the time from 8:00 a.m. to 6:00 p.m. Monday through Friday and 8:00 a.m. to 5:00 p.m. Saturday. Where a subscriber is unable to arrange for a service call or installation during that period, a franchisee shall also schedule service and installation calls at reasonable times outside that period.

(f) A franchisee may not cancel an appointment with a subscriber after 6:00 p.m. on the business day preceding the appointment, unless the appointment is for a Monday, in which case the franchisee may not cancel after 5:00 p.m. on Saturday. If a franchisee's representative is running late for an appointment with a subscriber and will not be able to keep the appointment as scheduled, the subscriber will be contacted, and the appointment rescheduled, as necessary, at a time which is reasonably convenient for the subscriber.

(g) A franchisee shall afford subscribers a three-day right of rescission for ordering service over the cable system, except that such right of rescission shall end upon initiation of installation, whether physically or electronically, on the subscriber's premises or upon provision of service to the subscriber.

(h) Under normal operating conditions, billing inquiries and requests for service, repair, and maintenance not involving service interruptions must be acknowledged by a trained customer service representative within 24 hours, or prior to the end of the next business day, whichever is earlier. A franchisee shall respond to all other inquiries within five business days of the inquiry.

(i) Except as federal law may specifically require, no charge shall be made to the subscriber for repairs or maintenance of franchisee-owned equipment or facilities, except for the cost of repairs to the franchisee's equipment or facilities where it can be shown that the equipment or facility was damaged by a subscriber.

(j) With regard to mobility-limited subscribers, upon subscriber request, a franchisee shall arrange for pickup and/or replacement of converters or other franchisee equipment at the subscriber's address or by a satisfactory equivalent (such as the provision of a postage-prepaid mailer).

(k) All personnel, agents and representatives of a franchisee, including subcontractors, that have occasion to deal directly with subscribers in the field shall carry photo identification badges, to be displayed upon request, when acting on behalf of the franchisee.

(l) A franchisee shall provide advance notice, in light of the circumstances, prior to entry whenever desiring to enter any private property within the county. Work performed in easements and rights-of-way during system outage periods is exempted.

(Code 1995, § 7-143; Ord. No. 1086, §§ 1—3, 5-9-2006)

Sec. 7-144. Notice.

(a) When a subscriber is connected or reconnected to a cable system and at least once annually afterwards, and at any time upon request, the franchisee shall provide each subscriber with written information concerning the following. Copies of all such materials provided to subscribers shall also be provided to the county.

(1) A written description of products and services offered, including a schedule of rates and charges, a list of channel positions, and a description of programming services, options, and conditions;

(2) A written description of the franchisee's installation and service maintenance policies, delinquent subscriber disconnect and reconnect procedures, and any other of its policies applicable to its subscribers;

(3) Written instructions that clearly set forth procedures for placing a service call or requesting an adjustment, including the name, address and telephone number of the county manager or another designated county employee that the subscriber can call or write for information regarding terms and

conditions of the franchisee's franchise;

(4) A written description of the franchisee's billing and complaint procedures, including the address and telephone number of the county office responsible for receiving subscriber complaints;

(5) Notice regarding subscribers' privacy rights pursuant to 47 USC 551;

(6) Notice regarding subscribers' rights relating to home wiring.

(b) The franchisee shall provide to all subscribers and to the county at least 30 days' written notice before the implementation of any change in rates, services, channel positions, business hours, or legal holidays. Such notice shall state the precise amount of any rate change and briefly explain in accurate and readily understandable fashion the cause of the rate change (e.g., inflation, changes in external costs or the addition/deletion of channels). When the change involves the addition or deletion of channels, each channel added or deleted must be separately identified.

(c) All franchisee promotional materials, announcements, and advertising of residential cable service to subscribers and the general public, where price information is listed in any manner, shall clearly and accurately disclose price terms. In the case of pay-per-view or pay-per-event programming, all promotional materials must clearly and accurately disclose price terms and in the case of telephone orders, a franchisee shall take appropriate steps to ensure that price terms are clearly and accurately disclosed to potential customers before the order is accepted.

(Code 1995, § 7-144; Ord. No. 1086, §§ 1—3, 5-9-2006)

Sec. 7-145. Billing.

(a) Bills shall be clear, concise, and understandable, and shall not be such as to mislead a reasonable subscriber as to any matter reflected on the bill. Bills must be fully itemized with itemizations including, but not limited to, basic and premium service charges and equipment charges. Bills shall clearly delineate all activity during the billing period, including optional charges, rebates, and credits.

(b) If a franchisee chooses to itemize, as a separate line item on bills, franchise fees or other government-imposed fees, such fees must be shown in accordance with any applicable law. Amounts itemized pursuant to 47 USC 542(c) shall not be identified as separate costs over and above the amount the franchisee charges a subscriber for service. In specifying the portion of the bill attributable to franchise fees or other government-imposed fees, the description used in the bill to indicate such elements shall be correct, truthful, and not misleading. No franchisee may designate the franchise fee as a tax in any communication to a subscriber.

(c) Refund checks or credits to subscribers shall be issued promptly, but no later than the later of:

(1) The subscriber's next billing cycle, or 30 days, following resolution of the refund request, whichever is earlier; or

(2) The return of all equipment supplied by the franchisee, if service is terminated.

(d) A franchisee's first billing statement after a new installation or service change shall be prorated as appropriate and shall reflect any security deposit.

(e) Credits.

(1) The account of any subscriber shall be credited a prorated share of the monthly charge for service, upon the subscriber's reasonably prompt request, whenever:

a. The subscriber is without service for a period that exceeds 12 hours during any 24-hour period; or

b. Service is substantially impaired for any reason for a period that exceeds 12 hours during any 24-hour period.

(2) The credits required under subsection (e)(1) of this section shall not apply if:

a. It can be documented that a subscriber seeks a refund for an outage or impairment that the subscriber caused; or

b. A planned outage occurred between the hours of 12:00 midnight and 6:00 a.m.

(3) Credits for service shall be issued no later than the subscriber's next billing cycle following the determination that a credit is warranted.

(f) No charge may be made for any service or product that the subscriber has not affirmatively indicated it wishes to receive. Payment of the regular monthly bill does not in and of itself constitute such an affirmative indication.

(Code 1995, § 7-145; Ord. No. 1086, §§ 1—3, 5-9-2006)

Sec. 7-146. Disconnection.

(a) A franchisee shall promptly disconnect or downgrade any subscriber upon the subscriber's request. No period of notice prior to voluntary termination or downgrade of service may be required of subscribers by any franchisee. So long as the subscriber returns, or permits the franchisee to retrieve, any equipment necessary to receive a service within five business days of the disconnection, no charge may be imposed by any franchisee for any cable service delivered after the date of the disconnect request.

(b) Any security deposit and/or other funds due the subscriber shall be refunded on disconnected accounts after any customer premises equipment provided by the franchisee has been recovered by the franchisee. The refund must be made within 30 days or by the end of the next billing cycle, whichever is earlier, from the date disconnection was requested (or, if later, the date on which any customer premises equipment provided by the franchisee is returned).

(c) A franchisee shall provide at least five days' written notice prior to discontinuance of service due to nonpayment and shall not terminate for nonpayment where the payment relates to service not yet provided. Where a franchisee has improperly discontinued service, it shall provide free reconnection.

(d) A franchisee may immediately disconnect a subscriber if the subscriber is damaging or destroying the franchisee's cable system or equipment. After disconnection, the franchisee shall restore service after the subscriber provides adequate assurance that it has ceased the practices that led to disconnection, and paid all proper fees and charges, including any reconnect fees and amounts owed the franchisee for damage to its cable system or equipment.

(e) A franchisee may also disconnect a subscriber that causes signal leakage in excess of federal limits. Disconnection may be effected after five days' written notice to the subscriber, if the subscriber fails to take steps to correct the problem. Alternatively, a franchisee may disconnect a subscriber without notice where signal leakage is detected originating from the subscriber's premises in excess of federal limits, provided that the franchisee shall immediately notify the subscriber of the problem and, once the problem is corrected, reconnect the subscriber.

(Code 1995, § 7-146; Ord. No. 1086, §§ 1—3, 5-9-2006)

Sec. 7-147. Blocking of channels.

(a) A franchisee shall make available to any subscribers, upon request, the option of blocking the video or audio portion of any channel or channels of programming entering the subscriber's home. The control option described herein shall be made available to all subscribers requesting it when any cable service is provided, or reasonably soon thereafter.

(b) A franchisee shall keep such records as are necessary to show compliance with these customer service standards and FCC customer service standards.

(Code 1995, § 7-147; Ord. No. 1086, §§ 1—3, 5-9-2006)

Secs. 7-148—7-150. Reserved.

ARTICLE VII. ACCESS CHANNELS

Sec. 7-151. Required; use.

(a) Each cable system franchised by the county shall provide at least one government access channel dedicated to the county, one education access channel dedicated to all schools (public and private nonprofit) within the county, and one community access channel to be utilized by the public.

(b) Whenever any access channel, other than the basic access channels required in subsection (a) of this section, is utilized less than four hours per day for six days per week for a continuous period of not less than 12 consecutive weeks, the county may permit different or additional interim uses for such channels. A franchisee may be permitted to utilize unused access channel capacity under rules and procedures established by the county.

(Code 1995, § 7-151; Ord. No. 1086, §§ 1—3, 5-9-2006)

Chapter 8 - CLOSING OUT AND SIMILAR SALES

***Cross reference—**Special license for closing out business, §§ 20-656, 20-696.

***State law reference—**Counties and cities to issue permits for "going out of business" sales, Code of Virginia, § 18.2-224; permit required, Code of Virginia, § 18.2-223.

Sec. 8-1. Purpose of chapter.

This chapter is adopted to promote and preserve public morals and welfare, economic integrity and fair dealing between sellers and buyers, and to prevent fraud, deceit and dishonesty in business dealings and transactions, by regulating the conduct of certain sales of goods, wares and merchandise.

(Code 1980, § 6-2; Code 1995, § 8-1)

Sec. 8-2. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Sale means an event or a series of events during which goods, wares and merchandise are offered for sale to the public, called an insurance sale, bankruptcy or bankrupt sale, mortgage sale, removal sale, closing-out sale, going out of business sale, quitting business sale, assignee's sale, fire sale, smoke sale or water sale, and sales bearing similar names or names of similar import.

(Code 1980, § 6-1; Code 1995, § 8-2)

Cross reference—Definitions and rules of construction, § 1-2.

Sec. 8-3. Permit; filing of inventory.

(a) *Permit required; application.* It shall be unlawful for any person to conduct a sale regulated by this chapter in the county unless the director of public safety shall have issued a permit. Every person proposing to conduct any such sale shall apply in writing to the director for such permit, in form approved by him. In such application, the applicant shall state under oath:

(1) The kind of sale to be conducted and its purpose;

(2) The place at which the sale is to be conducted;

(3) The name of the person who is to conduct the sale;

(4) The source from which the goods, wares and merchandise were obtained;

(5) The date on which the sale is to commence and the date on which it will terminate; and

(6) The total of the prices at which the goods, wares and merchandise will be offered for sale.

(b) *Filing of inventory.* There shall also be filed with the application and as a part thereof a complete and itemized inventory of the kind and quantities of the goods, wares and merchandise to be sold or offered for sale and a statement fully identifying the goods, wares and merchandise and indicating how and in what manner such goods, wares and merchandise can be identified. Only those goods, wares or merchandise specified on the list may be advertised or sold during the sale. Goods, wares and merchandise not included on the inventory list shall not be commingled with or added to the sale items. It shall be unlawful for any person to make any false statement or representation as an inducement to obtain such permit. The director shall not issue the permit when he finds that a false statement or representation has been made with respect thereto; and, if the permit has been issued, he shall revoke it and shall not thereafter issue a permit for the

sale of such goods, wares and merchandise at a sale. It shall be unlawful for any person conducting a sale or intending to conduct a sale to publish or advertise the sale in a newspaper, magazine, book, notice, handbill, poster, circular, pamphlet, letter, billboard, sign, or radio or television broadcast, or in any other manner, before the permit required by this article has been issued.

(c) *Issuance of permit; duration; extensions.* When the application for a permit has been filed, the director of public safety, when he is satisfied that the provisions of this article have been complied with in making such application, shall issue a permit for conducting the sale described in the application and for the purpose stated therein, commencing on the date specified by the applicant and terminating on a day not exceeding 60 days from the date of the issuance of the permit. Any extension of that time shall constitute a new sale and shall require an additional permit and inventory. If the purpose of the sale is not accomplished at the termination thereof, the director shall extend the time a maximum of one additional permit beyond the initial permit, solely for the purpose of liquidating only those goods contained in the initial inventory list and which remain unsold. It shall be unlawful for any person to conduct such sale after the day for the termination of the permit has expired or before an extension of the time for the sale has been granted. Any person who advertises such sale shall conspicuously include in the advertisement the permit number assigned for the sale and the effective dates of the sale as authorized in the permit.

(d) *Permit fee.* There shall be paid to the county, at the time an initial or extended application is filed for the conduct of a sale, a fee of $25.00, to aid in defraying the cost of administering and enforcing the provisions of this chapter. No permit shall be issued by the director until the prescribed fee has been paid to the county, which fee shall not be refunded.

(Code 1980, §§ 6-7, 6-8; Code 1995, § 8-3)

State law reference—Permit, Code of Virginia, § 18.2-224.

Sec. 8-4. Deceptive advertising.

It shall be unlawful for any person proposing to conduct or conducting a sale to induce or to attempt to induce the public to purchase or otherwise acquire title to or an interest in goods, wares and merchandise at a special sale by means of any publication or advertisement in a newspaper, magazine, book, notice, handbill, poster, circular, pamphlet, letter, billboard, sign, or radio or television broadcast, or in any other manner, which advertisement or publication contains any promise, assertion, representation or statement of fact that is untrue, deceptive or misleading, or which uses any other method, device or practice which is fraudulent, deceptive or misleading or which induces the public to enter into any obligation. The term "untrue, deceptive and misleading," as used in this section, shall mean:

(1) In the case of an insurance sale, the goods, wares and merchandise are not or were not in fact the subject of or insured or covered by an insurance contract.

(2) In the case of a bankruptcy sale or bankrupt sale, the goods, wares and merchandise are not or were not in fact the estate or assets or part of the estate or assets of a bankrupt or other insolvent.

(3) In the case of a mortgage sale, the goods, wares and merchandise are not or were not in fact subject to a lien, mortgage or other claim to secure the payment of money or performance of some other act.

(4) In the case of a removal sale, the seller did not in fact and in good faith intend to move his place of business to another location.

(5) In the case of a closing-out sale, the seller did not in fact and in good faith intend to abandon the continued sale of the goods, wares and merchandise or go out of business.

(6) In the case of a going out of business sale or a quitting business sale, the seller did not in fact and in good faith intend to go out of business.

(7) In the case of an assignee's sale, the goods, wares and merchandise are not or were not in fact subject to

an assignment for the benefit of creditors or other persons.

(8) In the case of a fire sale, smoke sale or water sale or any combination thereof, the goods, wares and merchandise have not been subject to damage by fire, smoke or water.

(9) In the case of a sale bearing a similar name or name of similar import, the representations made with respect thereto or to the goods, wares and merchandise are not in fact true.

(Code 1980, § 6-4; Code 1995, § 8-4)

State law reference—Deceptive, untrue, misleading advertising, Code of Virginia, § 18.2-216.

Sec. 8-5. Merchandise to be same as advertised.

It shall be unlawful for any person to sell or offer for sale at or during a sale goods, wares and merchandise unless such goods, wares and merchandise or the circumstances under which they are sold or offered for sale are in fact and in good faith the same as those set forth in any advertisement for such special sale.

(Code 1980, § 6-5; Code 1995, § 8-5)

Sec. 8-6. Separation of merchandise.

It shall be unlawful for any person to add to or commingle with the goods, wares and merchandise offered for sale at or during a sale any other goods, wares or merchandise. The goods, wares and merchandise offered for sale shall, before they are sold or offered for sale, be separated from other goods, wares and merchandise on the premises being offered for sale, and marked with symbols distinguishing them from such other goods, wares and merchandise.

(Code 1980, § 6-6; Code 1995, § 8-6)

State law reference—Similar provisions, Code of Virginia, § 18.2-224.

Chapter 9 - ELECTIONS

***State law reference—** Elections, Code of Virginia, § 24.2-100 et seq.; election of board of supervisors in county having county manager form of government, Code of Virginia, § 15.2-602.

Sec. 9-1. Magisterial districts.

The county is divided into five magisterial districts, described as follows:

(1) *Brookland Magisterial District.* Beginning at the centerline of Winfrey Road at its intersection with the centerline of Greenwood Road; thence westwardly along the centerline of Greenwood Road to its intersection with the centerline of Woodman Road; thence southwestwardly along the centerline of Woodman Road to its intersection with the centerline of Interstate Route 295; thence northwestwardly along the centerline of Interstate Route 295 to a point approximately 800 feet southeast of the intersection of Old Washington Highway and Interstate Route 295; thence southwardly along the centerline of North Run Creek to its intersection with the centerline of Mountain Road; thence westwardly along the centerline of Mountain Road to its intersection with the centerline of Purcell Road; thence southwardly along the centerline of Purcell Road to its intersection with the centerline of Indale Avenue; thence eastwardly along the centerline of Indale Avenue to its intersection with the centerline of Winston Boulevard; thence southwardly along the centerline of Winston Boulevard to its intersection with the centerline of Blackburn Road; thence eastwardly along the centerline of Blackburn Road to its intersection with the centerline of Woodman Road; thence southwardly along the centerline of Woodman Road to its intersection with the centerline of Hungary Road; thence westwardly along the centerline of Hungary Road to its intersection with the centerline of CSX Railroad; thence southwardly along the centerline of CSX Railroad to its intersection with the centerline of E. Parham Road; thence northeastwardly along the centerline of E. Parham Road to its intersection with the centerline of Woodman Road; thence southeastwardly along the centerline of Woodman Road to its intersection with the centerline of Hermitage Road; thence southwardly along the centerline of Hermitage Road to its intersection with the centerline of Westlake Avenue; thence southwardly along the centerline of Westlake Avenue to its intersection with the boundary line of the City of Richmond and Henrico County; thence southwardly and westwardly along the boundary line of the City of Richmond and Henrico County to its intersection with the centerline of Three Chopt Road; thence northwardly along the centerline of Three Chopt Road to its intersection with the centerline of Glenside Drive; thence northeasterly along the center line of Glenside Drive to its intersection with the centerline of Monument Avenue; thence southeastwardly along the center line of Monument Avenue to its intersection with the centerline of Orchard Road; thence northeastwardly along the centerline of Orchard Road to its intersection with the centerline of Fitzhugh Avenue; thence westwardly along the centerline of Fitzhugh Avenue to its intersection with the centerline of Betty Lane; thence northwestwardly along the centerline of Betty Lane to its intersection with the centerline of Horsepen Road; thence eastwardly along the centerline of Horsepen Road to its intersection with the centerline of West Broad Street; thence northwestwardly along the centerline of West Broad Street to its intersection with the centerline of Springfield Road; thence northwardly along the centerline of Springfield Road to its intersection with the centerline of Jones Road; thence northwardly along and extending the centerline of Jones Road to an intersection with Interstate Route 295; thence northeastwardly along the centerline of Interstate Route 295 to its intersection with the centerline of Staples Mill Road; thence northwardly along the centerline of Staples Mill Road to its intersection with the boundary line of Hanover County and Henrico County; thence northeastwardly along the boundary line of Hanover County and Henrico County to its intersection with the centerline of the Dominion Virginia Power powerline; thence southeastwardly along the centerline of the Dominion Virginia Power powerline to its intersection with the centerline of Winfrey Road; thence southwardly along the centerline of Winfrey Road to the point of beginning.

(2) *Fairfield Magisterial District.* Beginning at the centerline of Winfrey Road at its intersection with the centerline of Greenwood Road; thence northwardly along the centerline of Winfrey Road to its intersection with the centerline of the Dominion Virginia Power powerline; thence northwestwardly along the centerline of the Dominion Virginia Power powerline to its intersection with the boundary line of Hanover County and Henrico County; thence eastwardly along the boundary line of Hanover County and Henrico County to its intersection with the centerline of Creighton Road; thence southwestwardly along the centerline of Creighton Road to its intersection with the centerline of Cedar Fork Road; thence southwardly along the centerline of Cedar Fork Road to its intersection with the centerline of Tiffanywoods Lane; thence eastwardly along the centerline of Tiffanywoods Lane to its intersection with the centerline of Cloverfield Lane; thence southeastwardly along the centerline of Cloverfield Lane to its intersection with the centerline of Buffalo Road; thence southwardly along the centerline of Buffalo Road to its intersection with the centerline of Natchez Road; thence westwardly along the centerline of Natchez Road to its intersection with the centerline of Biloxi Road; thence southeastwardly along the centerline of Biloxi Road to its intersection with the centerline of Bayard Road; thence southwardly along the centerline of Bayard Road to its intersection with the centerline of Nine Mile Road; thence northeastwardly along the centerline of Nine Mile Road to its intersection with the centerline of Pleasant Street; thence southwardly along the centerline of Pleasant Street to its intersection with the centerline of Yates Lane; thence westwardly along the centerline of Yates Lane to its intersection with the centerline of Oakleys Lane; thence southeastwardly along the centerline of Oakleys Lane to its intersection with the centerline of Gillies Creek; thence southwestwardly along the centerline of Gillies Creek to its intersection with the centerline of the Norfolk Southern Railway right-of-way (approximately 1,600 feet east of the intersection of the Norfolk Southern Railway right-of-way and S. Laburnum Avenue); thence southwestwardly along the centerline of the Norfolk Southern Railway right-of-way to its intersection with the centerline of Interstate Route 64; thence westwardly along the centerline of Interstate Route 64 to its intersection with the centerline of Masonic Lane; thence northwardly along the centerline of Masonic Lane to its intersection with Nine Mile Road; thence northeastwardly along the centerline of Nine Mile Road to its intersection with the centerline of N. Laburnum Avenue; thence northwardly along the centerline of N. Laburnum Avenue to its intersection with the centerline of Creighton Road; thence southwardly along the centerline of Creighton Road to its intersection with the boundary line of the City of Richmond and Henrico County; thence westwardly along the boundary line of the City of Richmond and Henrico County to its intersection with the centerline of Westlake Avenue; thence northwardly along the centerline of Westlake Avenue to its intersection with the centerline of Hermitage Road; thence northwardly along the centerline of Hermitage Road to its intersection with the centerline of Woodman Road; thence northwestwardly along the centerline of Woodman Road to its intersection with the centerline of E. Parham Road; thence southwestwardly along the centerline of E. Parham Road to its intersection with the centerline of the CSX Railroad tracks; thence northwardly along the centerline of the CSX Railroad tracks to its intersection with the centerline of Hungary Road; thence eastwardly along the centerline of Hungary Road to its intersection with the centerline of Woodman Road; thence northwardly along the centerline of Woodman Road to its intersection with the centerline of Blackburn Road; thence westwardly along the centerline of Blackburn Road to its intersection with the centerline of Winston Boulevard; thence northwardly along the centerline of Winston Boulevard to its intersection with the centerline of Indale Avenue; thence westwardly along the centerline of Indale Avenue to its intersection with the centerline of Purcell Road; thence northwardly along the centerline of Purcell Road to its intersection with the centerline of Mountain Road; thence eastwardly along the centerline of Mountain Road to its intersection with the centerline of North Run Creek; thence northwardly along the centerline of North Run Creek to a point approximately 800 feet southeast of the intersection of Old Washington Highway and Interstate Route 295; thence southeastwardly along the centerline of Interstate Route 295 to its intersection with the centerline of Woodman Road; thence northeastwardly along the centerline of Woodman Road to its intersection with the centerline of Greenwood Road; thence eastwardly along the centerline of Greenwood Road to the point of beginning.

(3) *Three Chopt Magisterial District.* Beginning at the centerline of Staples Mill Road at its intersection with the boundary line of Hanover County and Henrico County; thence southwardly along the centerline of Staples Mill Road to its intersection with the centerline of Interstate Route 295; thence southwestwardly along the centerline of Interstate Route 295 to its intersection with the extension of the centerline of Jones Road; thence southwardly along the extended centerline of Jones Road to its intersection with the centerline of Springfield Road; thence southwardly along the centerline of Springfield Road to its intersection with the centerline of West Broad Street; thence southeastwardly along the centerline of West Broad Street to its intersection with the centerline of Old Parham Road; thence westwardly along the centerline of Old Parham Road to its intersection with the centerline of N. Parham Road; thence westwardly along the centerline of N. Parham Road to its intersection with the centerline of Skipwith Road; thence southwardly along the centerline of Skipwith Road to its intersection with the centerline of Three Chopt Road; thence northwestwardly along the centerline of Three Chopt Road to its intersection with the centerline of Eastridge Road; thence southwestwardly along the centerline of Eastridge Road to its intersection with the centerline of N. Parham Road; thence northwardly along the centerline of N. Parham Road to its intersection with the centerline of Three Chopt Road; thence northwestwardly along the centerline of Three Chopt Road to its intersection with the centerline of Pemberton Road; thence northeastwardly along the centerline of Pemberton Road to its intersection with the centerline of Interstate Route 64; thence westwardly along the centerline of Interstate Route 64 to its intersection with the centerline of Deep Run Creek; thence southwardly along the centerline of Deep Run Creek to its intersection with the centerline of Ridgefield Parkway; thence westwardly along the centerline of Ridgefield Parkway to its intersection with the centerline of Stony Run Creek; thence northwardly along the centerline of Stony Run Creek to its intersection with the centerline of Church Road; thence westwardly along the centerline of Church Road to its intersection with the centerline of Wilde Lake Drive; thence southwestwardly along the centerline of Wilde Lake Drive to its intersection with the centerline of a graveled lake access drive for the Wilde Lake Association (approximately 360 feet southwestwardly of the intersection of the centerline of Wilde Lake Drive with the centerline of Berkeley Pointe Drive); thence southeastwardly along the centerline of a graveled lake access drive for the Wilde Lake Association to its intersection with the western shore of Wilde Lake; thence southwardly along the western shore of Wilde Lake to the intersection with the centerline of Harding Branch; thence southwestwardly along the centerline of Harding Branch to its intersection with the centerline of Tuckahoe Creek; thence northwardly along the centerline of Tuckahoe Creek to its intersection with the boundary line of Goochland County and Henrico County; thence northwardly along the boundary line of Goochland County and Henrico County to its intersection with the boundary line of Hanover County, Goochland County and Henrico County; thence eastwardly along the boundary line of Hanover County and Henrico County to the point of beginning.

(4) *Tuckahoe Magisterial District.* Beginning at the centerline of Tuckahoe Creek and its intersection with the centerline of Harding Branch; thence northeastwardly along the centerline of Harding Branch to its intersection with the western shore of Wilde Lake; thence northwardly along the western shore of Wilde Lake to the intersection with the centerline of a graveled lake access drive for the Wilde Lake Association (approximately 360 feet southwestwardly of the intersection of the centerline of Wilde Lake Drive with the centerline of Berkeley Pointe Drive); thence northwestwardly along the centerline of a graveled lake access drive for the Wilde Lake Association to its intersection with the centerline of Wilde Lake Drive; thence northeastwardly along the centerline of Wilde Lake Drive to its intersection with the centerline of Church Road; thence eastwardly along the centerline of Church Road to its intersection with the centerline of Stony Run Creek; thence southwardly along the centerline of Stony Run Creek to its intersection with the centerline of Ridgefield Parkway; thence eastwardly along the centerline of Ridgefield Parkway to its intersection with the centerline of Deep Run Creek; thence northwardly along the centerline of Deep Run Creek to its intersection with the centerline of Interstate Route 64; thence eastwardly along the centerline of Interstate

Route 64 to its intersection with the centerline of Pemberton Road; thence southwestwardly along the centerline of Pemberton Road to its intersection with the centerline of Three Chopt Road; thence southeastwardly along the centerline of Three Chopt Road to its intersection with the centerline of N. Parham Road; thence southwardly along the centerline of N. Parham Road to its intersection with the centerline of Eastridge Road; thence northeastwardly along the centerline of Eastridge Road to its intersection with the centerline of Three Chopt Road; thence southeastwardly along the centerline of Three Chopt Road to its intersection with the centerline of Skipwith Road; thence northwardly along the centerline of Skipwith Road to its intersection with the centerline of N. Parham Road; thence eastwardly along the centerline of N. Parham Road to its intersection with the centerline of Old Parham Road; thence eastwardly along the centerline of Old Parham Road to its intersection with the centerline of West Broad Street; thence southeastwardly along the centerline of West Broad Street to its intersection with the centerline of Horsepen Road; thence westwardly along the centerline of Horsepen Road to its intersection with the centerline of Betty Lane; thence southeastwardly along the centerline of Betty Lane to its intersection with the centerline of Fitzhugh Avenue; thence eastwardly along the centerline of Fitzhugh Avenue to its intersection with the centerline of Orchard Road; thence southwestwardly along the centerline of Orchard Road to its intersection with the centerline of Monument Avenue; thence northwestwardly along the centerline of Monument Avenue to its intersection with the centerline of Glenside Drive; thence southwestwardly along the centerline of Glenside Drive to its intersection with the centerline of Three Chopt Road; thence southwardly along the centerline of Three Chopt Road to its intersection with the boundary line of the City of Richmond and Henrico County; thence southwardly along the boundary line of the City of Richmond and Henrico County to its intersection with the boundary line of the City of Richmond, Chesterfield County and Henrico County; thence westwardly along the boundary line of Chesterfield County and Henrico County to its intersection with the boundary line of Chesterfield County, Powhatan County and Henrico County; thence northwardly along the boundary line of Powhatan County and Henrico County to its intersection with the boundary line of Powhatan County, Goochland County and Henrico County; thence northwardly along the boundary line of Goochland County and Henrico County following the centerline of Tuckahoe Creek to the point of beginning.

(5) *Varina Magisterial District.* Beginning at the boundary line of Hanover County and Henrico County at its intersection with Creighton Road; thence eastwardly along the boundary line of Hanover County and Henrico County to its intersection with the boundary line of New Kent County, Hanover County and Henrico County; thence eastwardly along the boundary line of New Kent County and Henrico County to its intersection with the boundary line of Charles City County, New Kent County and Henrico County; thence southwardly along the boundary line of Charles City County and Henrico County to its intersection with the boundary line of Chesterfield County, Charles City County and Henrico County; thence westwardly along the boundary line of Chesterfield County and Henrico County to its intersection with the boundary line of the City of Richmond, Chesterfield County and Henrico County; thence northwardly along the boundary line of the City of Richmond and Henrico County to its intersection with the centerline of Creighton Road; thence eastwardly along the centerline of Creighton Road to its intersection with the centerline of N. Laburnum Avenue; thence southwardly along the centerline of N. Laburnum Avenue to its intersection with the centerline of Nine Mile Road; thence southwestwardly along the centerline of Nine Mile Road to its intersection with the centerline of Masonic Lane; thence southwardly along the centerline of Masonic Lane to its intersection with the centerline of Interstate Route 64; thence eastwardly along the centerline of Interstate Route 64 to its intersection with the centerline of the Norfolk Southern Railway right-of-way; thence eastwardly along the centerline of the Norfolk Southern Railway right-of-way to its intersection with the centerline of its intersection with Gillies Creek (approximately 1,600 feet east of the intersection of the Norfolk Southern Railway right-of-way and S. Laburnum Avenue); thence northeastwardly along the centerline of Gillies Creek to its intersection with the centerline of Oakleys Lane; thence northwestwardly along the centerline of Oakleys Lane to its intersection with the centerline of Yates Lane; thence eastwardly

along the centerline of Yates Lane to its intersection with the centerline of Pleasant Street; thence northwardly along the centerline of Pleasant Street to its intersection with the centerline of Nine Mile Road; thence southwestwardly along the centerline of Nine Mile Road to its intersection with the centerline of Bayard Road; thence northwardly along the centerline of Bayard Road to its intersection with the centerline of Biloxi Road; thence northwestwardly along the centerline of Biloxi Road to its intersection with the centerline of Natchez Road; thence eastwardly along the centerline of Natchez Road to its intersection with the centerline of Buffalo Road; thence northwardly along the centerline of Buffalo Road to its intersection with the centerline of Cloverfield Lane; thence northwestwardly along the centerline of Cloverfield Lane to its intersection with the centerline of Tiffanywoods Lane; thence westwardly along the centerline of Tiffanywoods Lane to its intersection with the centerline of Cedar Fork Road; thence northwardly along the centerline of Cedar Fork Road to its intersection with the centerline of Creighton Road; thence northeastwardly along the centerline of Creighton Road to the point of beginning.

(Code 1980, § 8-1; Code 1995, § 9-1; Ord. No. 1011, § 1, 6-12-2001)

State law reference—Magisterial districts, Code of Virginia, § 15.2-602; election districts, Code of Virginia, § 24.2-304.1; boundaries of magisterial and election districts, Code of Virginia, § 15.2-1211.

Sec. 9-2. Precincts and polling places.

The following shall be the precinct boundaries and polling places for the magisterial districts in the county.

(1) *Brookland Magisterial District.*

a. *Coalpit Precinct.* Beginning at the intersection of Interstate Route 295 and Staples Mill Road; thence southwestwardly along Interstate Route 295 to its intersection with Jones Road extended approximately 250 feet; thence southwardly along Jones Road extended (approximately 250 feet) to its intersection with Jones Road, thence southwardly along Jones Road to its intersection with Springfield Road; thence southwestwardly along Springfield Road to its intersection with Gaskins Road and Hungary Road; thence eastwardly along Hungary Road to its intersection with Fairlake Lane; thence northeastwardly along Fairlake Lane to its intersection with Nuckols Road; thence eastwardly along Nuckols Road to its intersection with Francistown Road; thence northeastwardly along Francistown Road to its intersection with Springfield Road; thence northeastwardly along Springfield Road to its intersection with Staples Mill Road (U.S. Route 33) and Mountain Road; thence northwestwardly along Staples Mill Road (U.S. Route 33) to its intersection with Interstate Route 295 and the point of beginning. The polling place for Coalpit Precinct shall be Echo Lake Elementary School, 5200 Francistown Road.

b. *Dumbarton Precinct.* Beginning at the intersection of Hungary Spring Road and Hungary Road; thence northwestwardly along Hungary Road to its intersection with the Dominion Virginia Power easement; thence southwestwardly along the Dominion Virginia Power easement to its intersection with Mapleview Avenue; thence southeastwardly along Mapleview Avenue and Mapleview Avenue extended to its intersection with Green Run Court; thence eastwardly along Green Run Court to its intersection with Green Run Drive; thence eastwardly along Green Run Drive to its intersection with Shrader Road; thence southeastwardly along Shrader Road to its intersection with East Parham Road; thence eastwardly along East Parham Road to its intersection with Hungary Spring Road; thence northeastwardly along Hungary Spring Road to its intersection with Hungary Road and the point of beginning. The polling place for Dumbarton Precinct shall be Dumbarton Elementary School, 9000 Hungary Spring Road.

c. *Glen Allen Precinct.* Beginning at the intersection of the R.F.& P. Railroad and the boundary line between Hanover County and Henrico County; thence southwestwardly along the boundary line between Hanover County and Henrico County to its intersection with Staples Mill Road (U.S. Route 33); thence southeastwardly along Staples Mill Road (U.S. Route 33) to its intersection with the Virginia Power easement; thence northeastwardly along the Virginia Power easement to its intersection with Mountain Road; thence southeastwardly along Mountain Road to its intersection with the R.F.& P. Railroad; thence northwardly along the R.F.& P. Railroad to its intersection with the boundary line between Hanover County and Henrico County and the point of beginning. The polling place for Glen Allen Precinct shall be Glen Allen Elementary School, 11101 Mill Road.

d. *Greendale Precinct.* Beginning at the intersection of the R.F.& P. Railroad and Hilliard Road (State Route 356); thence westwardly along Hilliard Road (State Route 356) to its intersection with Staples Mill Road (U.S. Route 33) and Glenside Drive; thence westwardly along Glenside Drive to its intersection with Bethlehem Road; thence southeastwardly along Bethlehem Road to its intersection with Interstate Route 64; thence southeastwardly along Interstate Route 64 to its intersection with Staples Mill Road (U.S. Route 33); thence southwardly along Staples Mill Road (U.S. Route 33) to its intersection with the boundary line of the City of Richmond and Henrico County; thence southeastwardly along the boundary line of the City of Richmond and Henrico County to its intersection with Stoneleigh Road; thence northwardly along Stoneleigh Road to its intersection with Dumbarton Road and Cedar Croft Street; thence northwardly along Cedar Croft Street to its intersection with Kenwood Avenue; thence westwardly along Kenwood Avenue to its intersection with Kenwood Avenue extended; thence westwardly along Kenwood Avenue extended to its intersection with R.F.& P. Railroad; thence northwardly along the R.F.& P. Railroad to its intersection with Hilliard Road (State Route 356) and the point of beginning. The polling place for Greendale Precinct shall be Recreation and Parks Main Office, 6800 Staples Mill Road.

e. *Hermitage Precinct.* Beginning at the intersection of the R.F.& P. Railroad and Hungary Road; thence eastwardly along Hungary Road to its intersection with Woodman Road; thence northwardly along Woodman Road to its intersection with Blackburn Road; thence westwardly on Blackburn Road to its intersection with Winston Boulevard; thence northwardly on Winston Boulevard to its intersection with Indale Road; thence westwardly along Indale Road to its intersection with Purcell Road; thence northwardly along Purcell Road to its intersection with Mountain Road; thence westwardly along Mountain Road to its intersection with the R.F.& P. Railroad; thence southwardly along the R.F.& P. Railroad to its intersection with Hungary Creek; thence southwestwardly along Hungary Creek to its intersection with Hungary Road; thence westwardly along Hungary Road to its intersection with Hungary Spring Road; thence southwardly along Hungary Spring Road to its intersection with East Parham Road; thence westwardly along East Parham Road to its intersection with Shrader Road; thence northwestwardly along Shrader Road to its intersection with Green Run Drive; thence westwardly along Green Run Drive to its intersection with Green Run Court; thence southwestwardly along Green Run Court to its intersection with Mapleview Avenue extended; thence northwestwardly along Mapleview Avenue extended and Maplewood Avenue to its intersection with the Dominion Virginia Power easement; thence southwestwardly along the Dominion Virginia Power easement to its intersection with West Broad Street (U.S. Route 250); thence southeastwardly along West Broad Street (U.S. Route 250) to its intersection with Wistar Road; thence eastwardly along Wistar Road to its intersection with Staples Mill Road (U.S. Route 33); thence northwestwardly along Staples Mill Road (U.S. Route 33) to its intersection with East Parham Road; thence northeastwardly along East Parham Road to its intersection with the R.F.& P. Railroad; thence northwardly along the R.F.& P. Railroad to its intersection with Hungary Road and the point of beginning. The polling place for Hermitage Precinct shall be Hermitage High School, 8301 Hungary Spring Road.

f. *Hungary Creek Precinct.* Beginning at the intersection of Staples Mill Road (U.S. Route 33) and Springfield Road; thence southwestwardly along Springfield Road to its intersection with Francistown Road; thence southwestwardly along Francistown Road to its intersection with Nuckols Road; thence westwardly along Nuckols Road to its intersection with Fairlake Lane; thence southwestwardly along Fairlake Lane to its intersection with Hungary Road; thence eastwardly along Hungary Road to its intersection with the Virginia Power easement; thence northeastwardly along the Virginia Power easement to its intersection with Staples Mill Road (U.S. Route 33); thence northeastwardly along Staples Mill Road to its intersection with Springfield Road and the point of beginning. The polling place for Hungary Creek Precinct shall be Hungary Creek Middle School, 4909 Francistown Road.

g. *Hunton Precinct.* Beginning at the intersection of the Richmond and Ashland Electric right-of-way and the boundary line of Hanover County and Henrico County; thence northwestwardly along the boundary line of Hanover County and Henrico County to its intersection with the R.F.& P. Railroad; thence southwardly along the R.F.& P. Railroad to its intersection with Mountain Road; thence northeastwardly along Mountain Road to its intersection with North Run Creek; thence northwestwardly along North Run Creek to its intersection with Interstate Route 295; thence southeastwardly along Interstate Route 295 to its intersection with Woodman Road; thence northeastwardly along Woodman Road to its intersection with Greenwood Road; thence southeastwardly along Greenwood Road to its intersection with Winfrey Road; thence northwardly along Winfrey Road to its intersection with the Richmond and Ashland Electric right-of-way; thence northwestwardly along the Richmond and Ashland Electric right-of-way to its intersection with the boundary line of Hanover County and Henrico County and the point of beginning. The polling place for Hunton Precinct shall be Hunton Community Center, 11690 Old Washington Highway.

h. *Johnson Precinct.* Beginning at the intersection of Staples Mill Road (U.S. Route 33) and Wistar Road; thence westwardly along Wistar Road to its intersection with West Broad Street (U.S. Route 250); thence southeastwardly along West Broad Street (U.S. Route 250) to its intersection with the boundary line of the City of Richmond and Henrico County; thence southeastwardly along the boundary line of the City of Richmond and Henrico County to its intersection with Staples Mill Road (U.S. Route 33); thence northwardly along Staples Mill Road (U.S. Route 33) to its intersection with Interstate Route 64; thence westwardly along Interstate Route 64 to its intersection with Bethlehem Road; thence northwestwardly along Bethlehem Road to its intersection with Glenside Drive; thence eastwardly along Glenside Drive to its intersection with Staples Mill Road (U.S. Route 33) and Hilliard Road (State Route 356); thence eastwardly along Hilliard Road (State Route 356) to its intersection with the R.F.& P. Railroad; thence northwestwardly along the R.F.& P. Railroad to its intersection with Rocky Branch Creek; thence westwardly along Rocky Branch Creek to its intersection with an unnamed stream (approximately ten feet west of the intersection of Rocky Branch Creek and the R.F.& P. Railroad); thence southwestwardly along the unnamed stream to its intersection with Staples Mill Road (U.S. Route 33); thence northwestwardly along Staples Mill Road (U.S. Route 33) to its intersection with Wistar Road and the point of beginning. The polling place for Johnson Precinct shall be Johnson Elementary School, 5600 Bethlehem Road.

i. *Lakeside Precinct.* Beginning at the intersection of Woodman Road and Rocky Branch Creek; thence southwestwardly along Rocky Branch Creek to its intersection with R.F.& P. Railroad; thence southwardly along R.F.& P. Railroad to its intersection with Kenwood Avenue extended; thence northeastwardly along Kenwood Avenue extended to its intersection with Kenwood Avenue; thence northeastwardly along Kenwood Avenue to its intersection with Cedar Croft Street; thence southwardly along Cedar Croft Street to its intersection with Dumbarton Road and Stoneleigh Road; thence southwardly along Stoneleigh Road to its intersection with the boundary line of the City of Richmond and Henrico County; thence eastwardly along the boundary line of the City of Richmond and Henrico County to its intersection with Westlake Avenue;

thence northwardly along Westlake Avenue to its intersection with Dumbarton Road and Hermitage Road; thence northwestwardly along Hermitage Road to its intersection with Woodman Road; thence northwestwardly along Woodman Road to its intersection with Rocky Branch Creek and the point of beginning. The polling place for Lakeside Precinct shall be Lakeside Elementary School, 6700 Cedar Croft Street.

j. *Longan Precinct.* Beginning at the intersection of Hungary Road and Springfield Road (State Route 157); thence eastwardly along Hungary Road to its intersection with the Virginia Power easement; thence southwardly along the Virginia Power easement to its intersection with West Broad Street (U.S. Route 250); thence northwestwardly along West Broad Street (U.S. Route 250) to its intersection with Springfield Road (State Route 157); thence northwardly along Springfield Road (State Route 157) to its intersection with Hungary Road and the point of beginning. The polling place for Longan Precinct shall be Longan Elementary School, 9200 Mapleview Avenue.

k. *Maude Trevvett Precinct.* Beginning at the intersection of Staples Mill Road and an unnamed stream (approximately 100 feet northwest of the intersection of Staples Mill Road and Sprenkle Lane); thence northeastwardly along the unnamed stream to its intersection with Rocky Branch Creek; thence eastwardly along Rocky Branch Creek to its intersection with Woodman Road; thence northwardly along Woodman Road to its intersection with E. Parham Road; thence southwestwardly along E. Parham Road to its intersection with Staples Mill Road; thence southeastwardly along Staples Mill Road to its intersection with an unnamed stream (approximately 100 feet northwest of the intersection of Staples Mill Road and Sprenkle Lane) and the point of beginning. The polling place for Maude Trevvett Precinct shall be Maude Trevvett Elementary School, 2300 Trevvett Drive.

l. *Monument Hills Precinct.* Beginning at the intersection of Libbie Avenue and Monument Avenue; thence northwestwardly along Monument Avenue to its intersection with Horsepen Road; thence southwestwardly along Horsepen Road to its intersection with Three Chopt Road; thence southwardly along Three Chopt Road to its intersection with the boundary line of the City of Richmond and Henrico County; thence southeastwardly along the boundary line of the City of Richmond and Henrico County to its intersection with Libbie Avenue; thence northeastwardly along Libbie Avenue to its intersection with Monument Avenue and the point of beginning. The polling place for Monument Hills Precinct shall be Tuckahoe Presbyterian Church, 7000 Park Avenue.

m. *Staples Mill Precinct.* Beginning at the intersection of the R.F.& P. Railroad and Mountain Road; thence northwestwardly along Mountain Road to its intersection with the Dominion Virginia Power easement; thence southwardly along the Dominion Virginia Power easement to its intersection with Hungary Road; thence southeastwardly along Hungary Road to its intersection with Hungary Creek; thence northeastwardly along Hungary Creek to its intersection with the R.F.& P. Railroad; thence northwardly along the R.F.& P. Railroad to its intersection with Mountain Road and the point of beginning. The polling place for Staples Mill Precinct shall be Glen Allen High School, 10700 Staples Mill Road.

n. *Westwood Precinct.* Beginning at the intersection of the boundary line of the City of Richmond and Henrico County and West Broad Street; thence northwestwardly along West Broad Street to its intersection with Horsepen Road; thence westwardly along Horsepen Road to its intersection with Betty Lane; thence southwardly along Betty Lane to its intersection with Fitzhugh Avenue; thence eastwardly along Fitzhugh Avenue to its intersection with Orchard Road; thence southwestwardly along Orchard Road to its intersection with Monument Avenue; thence southeastwardly along Monument Avenue to its intersection

with Libbie Avenue; thence southwestwardly along Libbie Avenue to its intersection with the boundary line of the City of Richmond and Henrico County; thence eastwardly and northwardly along the boundary line of the City of Richmond and Henrico County to its intersection with West Broad Street and the point of beginning. The polling place for Westwood Precinct shall be the Jewish Community Center, 5403 Monument Avenue.

(2) *Fairfield Magisterial District.*

a. *Adams Precinct.* Beginning at the intersection of Pleasant Street and Nine Mile Road (State Route 33); thence southwestwardly along Nine Mile Road to its intersection with Masonic Lane; thence southwardly along Masonic Lane to its intersection with Interstate Route 64; thence eastwardly along Interstate Route 64 to its intersection with the Norfolk Southern Railway right-of-way; thence eastwardly along the Norfolk Southern Railway right-of-way to its intersection with Gillies Creek (approximately 1,600 feet east of the intersection of the Norfolk Southern Railway right-of-way and S. Laburnum Avenue); thence northeastwardly along Gillies Creek to its intersection with Oakleys Lane; thence northwestwardly along Oakleys Lane to its intersection with Yates Lane; thence eastwardly along Yates Lane to its intersection with Pleasant Street; thence northwardly along Pleasant Street to its intersection with Nine Mile Road and the point of beginning. The polling place for Adams Precinct shall be Adams Elementary School, 600 South Laburnum Road.

b. *Azalea Precinct.* Beginning at the intersection of Dumbarton Road and Interstate Route 95; thence northwardly along Interstate Route 95 to its intersection with Upham Brook; thence eastwardly along Upham Brook to its intersection with Wilkinson Road; thence southwardly along Wilkinson Road to its intersection with Azalea Avenue; thence eastwardly along Azalea Avenue to its intersection with Carolina Avenue; thence southeastwardly along Carolina Avenue to its intersection with Horse Swamp Creek; thence westwardly along Horse Swamp Creek to its intersection with the boundary line of the City of Richmond and Henrico County; thence northwestwardly along the boundary line of the City of Richmond and Henrico County to Dumbarton Road; thence northwardly along Dumbarton Road to its intersection with Interstate Route 95 and the point of beginning. The polling place for Azalea Precinct shall be Henrico High School, 302 Azalea Avenue.

c. *Belmont Precinct.* Beginning at the intersection of Brook Road (U.S. Route 1) and East Parham Road (State Route 73); thence southwardly along Brook Road (U.S. Route 1) to its intersection with Hilliard Road (State Route 161); thence westwardly along Hilliard Road (State Route 161) to its intersection with Lakeside Avenue (State Route 161); thence southwardly along Lakeside Avenue (State Route 161) to its intersection with Dumbarton Road; thence westwardly along Dumbarton Road to its intersection with Hermitage Road and Westlake Avenue; thence southwardly along Westlake Avenue to its intersection with the boundary line of the City of Richmond and Henrico County; thence eastwardly along the boundary line of the City of Richmond and Henrico County to its intersection with Interstate Route 95; thence northwardly along Interstate Route 95 to its intersection with East Parham Road (State Route 73); thence westwardly along East Parham Road (State Route 73) to its intersection with Brook Road (U.S. Route 1) and the point of beginning. The polling place for Belmont Precinct shall be Belmont Recreation Center, 1600 Hilliard Road.

d. *Brookland Precinct.* Beginning at the intersection of North Run Creek and Hungary Road; thence southwestwardly along Hungary Road to its intersection with Nadina Drive; thence northwardly along Nadina Drive to its intersection with Bandera Drive; thence northeastwardly along Bandera Drive to its intersection with Electra Lane; thence northwestwardly along Electra Lane to its intersection with Aeronca Avenue; thence southwestwardly along Aeronca Avenue to its intersection with Durango Road; thence

northwardly along Durango Road to its intersection with Navion Street; thence southwestwardly along Navion Street to its intersection with Woodman Road; thence southeastwardly along Woodman Road to its intersection with E. Parham Road; thence southeastwardly along E. Parham Road to its intersection with North Run Creek; thence northwardly along North Run Creek to its intersection with Hungary Road and the point of beginning. The polling place for Brookland Precinct shall be Brookland Middle School, 9200 North Lydell Drive.

e. *Canterbury Precinct.* Beginning at the intersection of Interstate Route 95 and Dumbarton Road; thence southeastwardly along Dumbarton Road to its intersection with the boundary line of the City of Richmond and Henrico County; thence southwestwardly along the boundary line of the City of Richmond and Henrico County to its intersection with Interstate Route 95; thence northeastwardly along Interstate Route 95 to its intersection with Dumbarton Road and the point of beginning. The polling place for Canterbury Precinct shall be Westminster Canterbury House, 1600 Westbrook Avenue.

f. *Central Gardens Precinct.* Beginning at the intersection of Sandy Lane and Watts Lane; thence southwestwardly along Watts Lane to its intersection with Mechanicsville Turnpike; thence southwestwardly along Mechanicsville Turnpike to its intersection with the boundary line of the City of Richmond and Henrico County; thence eastwardly along the boundary line of the City of Richmond and Henrico County to its intersection with Creighton Road; thence northeastwardly along Creighton Road to its intersection with Sandy Lane; thence northwardly along Sandy Lane to its intersection with Watts Lane and the point of beginning. The polling place for Central Gardens Precinct shall be Central Gardens Math-Science Center, 2401 Hartman Street.

g. *Chamberlayne Precinct.* Beginning at the intersection of Interstate Route 95 and East Parham Road (State Route 73); thence northeastwardly along East Parham Road (State Route 73) to its intersection with Chamberlayne Road (U.S. Route 301); thence southwestwardly along Chamberlayne Road (U.S. Route 301) to its intersection with Upham Brook (approximately 600 feet north of the intersection of the Dominion Virginia Power transmission line and Wilkinson Road); thence westwardly along Upham Brook to its intersection with Interstate Route 95; thence northwardly along Interstate Route 95 to its intersection with East Parham Road (State Route 73) and the point of beginning. The polling place for Chamberlayne Precinct shall be Chamberlayne Elementary School, 8200 St. Charles Road.

h. *Essex Village Precinct.* Beginning at the intersection of Oronoco Avenue and Richmond-Henrico Turnpike; thence southwardly along Richmond-Henrico Turnpike to its intersection with the boundary line of the City of Richmond and Henrico County; thence westwardly along the boundary line of the City of Richmond and Henrico County to its intersection with Conway Street; thence northwardly along Conway Street to its intersection with East Laburnum Avenue; thence westwardly along East Laburnum Avenue to its intersection with Alma Avenue; thence northwardly along Alma Avenue to its intersection with Oronoco Avenue; thence eastwardly along Oronoco Avenue to its intersection with Richmond-Henrico Turnpike and the point of beginning. The polling place for Essex Village Precinct shall be Essex Village Community Center, 117 Engleside Drive.

i. *Fairfield Precinct.* Beginning at the intersection of Cedar Fork Road and Creighton Road; thence southwestwardly along Creighton Road to its intersection with N. Laburnum Avenue; thence southeastwardly along N. Laburnum Avenue to its intersection with Nine Mile Road; thence northeastwardly along Nine Mile Road to its intersection with Bayard Road; thence northwardly along Bayard Road to its intersection with Biloxi Road; thence northwestwardly along Biloxi Road to its intersection with Natchez Road; thence eastwardly along Natchez Road to its intersection with Buffalo Road;

thence northwardly along Buffalo Road to its intersection with Cloverfield Lane; thence northwestwardly along Cloverfield Lane to its intersection with Tiffanywoods Lane; thence westwardly along Tiffanywoods Lane to its intersection with Cedar Fork Road; thence northwardly along Cedar Fork Road to its intersection with Creighton Road and the point of beginning. The polling place for Fairfield Precinct shall be Fairfield Library, 1401 N. Laburnum Avenue.

j. *Glen Lea Precinct.* Beginning at the intersection of the Chessie System Railway and the boundary line of Hanover County and Henrico County; thence southeastwardly along the boundary line of Hanover County and Henrico County to its intersection with Creighton Road; thence southwestwardly along Creighton Road to its intersection with the Virginia Power easement (approximately 400 feet northeast of the intersection of Carolee Drive and Creighton Road); thence northwestwardly along the Virginia Power easement to its intersection with Mechanicsville Turnpike (U.S. Route 360) (approximately 1,800 feet northeast of the intersection of Mechanicsville Turnpike (U.S. Route 360) and Springdale Road); thence southwestwardly along Mechanicsville Turnpike (U.S. Route 360) to its intersection with East Laburnum Avenue; thence northwestwardly along East Laburnum Avenue to its intersection with Carolina Avenue; thence northwardly along Carolina Avenue to its intersection with Horse Swamp Creek; thence eastwardly along Horse Swamp Creek to its intersection with the Chessie System Railway; thence northwardly along the Chessie System Railway to its intersection with the boundary line of Hanover County and Henrico County and the point of beginning. The polling place for Glen Lea Precinct shall be Glen Lea Elementary School, 3909 Austin Avenue.

k. *Greenwood Precinct.* Beginning at the intersection of Interstate Route 295 and Woodman Road; thence eastwardly along Interstate Route 295 to its intersection with Greenwood Road; thence southwardly along Greenwood Road to its intersection with Mountain Road; thence southeastwardly along Mountain Road to its intersection with North Run Road; thence southwestwardly along North Run Road to its intersection with Hungary Road; thence northwestwardly along Hungary Road to its intersection with Old Hungary Road; thence northwardly along Old Hungary Road to its intersection with North Run Creek; thence northwestwardly along North Run Creek to its intersection with Woodman Road (approximately 1,600 feet south of the intersection of Woodman Road and Mountain Road); thence northeastwardly along Woodman Road to its intersection with Interstate Route 295 and the point of beginning. The polling place for Greenwood Precinct shall be St. Peter Baptist Church, 2040 Mountain Road.

l. *Highland Gardens Precinct.* Beginning at a point on East Laburnum Avenue and the boundary line of the City of Richmond and Henrico County; thence northwardly along the boundary line of the City of Richmond and Henrico County to its intersection with Horse Swamp Creek; thence eastwardly along Horse Swamp Creek to its intersection with Carolina Avenue; thence southwardly along Carolina Avenue to its intersection with East Laburnum Avenue; thence eastwardly along East Laburnum Avenue to its intersection with the Chessie System Railway; thence southwardly along the Chessie System Railway to its intersection with the boundary line of the City of Richmond and Henrico County; thence northwestwardly along the boundary line of the City of Richmond and Henrico County to its intersection with Richmond-Henrico Turnpike; thence northwardly along Richmond-Henrico Turnpike to its intersection with Oronoco Avenue; thence southwestwardly along Oronoco Avenue to its intersection with Alma Avenue; thence southwardly along Alma Avenue to its intersection with East Laburnum Avenue; thence eastwardly along East Laburnum Avenue to its intersection with Conway Street; thence southwardly along Conway Street to its intersection with the boundary line of the City of Richmond and Henrico County; thence northwestwardly along the boundary line of the City of Richmond and Henrico County to its intersection with East Laburnum Avenue and the point of beginning. The polling place for Highland Gardens Precinct shall be Laburnum Elementary School, 500 Meriwether Avenue.

m. *Hollybrook Precinct.* Beginning at the intersection of E. Parham Road and Brook Road (U.S. Route 1); thence southwardly along Brook Road (U.S. Route 1) to its intersection with Lakeside Avenue; thence southwestwardly along Lakeside Avenue to its intersection with North Run Creek; thence northwestwardly along North Run Creek to its fork into two branches (approximately 3,880 feet west of the intersection of E. Parham Road and Villa Park Drive); thence eastwardly along the east/west branch of North Run Creek to its intersection with E. Parham Road; thence southeastwardly along E. Parham Road to its intersection with Brook Road (U.S. Route 1) and the point of beginning. The polling place for Hollybrook Precinct shall be Hollybrook Apartments, 7700 Brook Road.

n. *Hungary Precinct.* Beginning at the intersection of North Run Creek and Woodman Road (approximately 1,600 feet south of the intersection of Woodman Road and Mountain Road); thence southwestwardly along Woodman Road to its intersection with Navion Street; thence eastwardly along Navion Street to its intersection with Durango Road; thence southwardly along Durango Road to its intersection with Aeronca Avenue; thence eastwardly along Aeronca Avenue to its intersection with Electra Lane; thence southwardly along Electra Lane to its intersection with Bandera Drive; thence southwestwardly along Bandera Drive to its intersection with Nadina Drive; thence southwardly along Nadina Drive to its intersection with Hungary Road; thence eastwardly along Hungary Road to its intersection with North Run Creek; thence southwardly along North Run Creek to its intersection with East Parham Road; thence eastwardly along East Parham Road to its intersection with Brook Road (U.S. Route 1) and East Parham Road (State Route 73); thence eastwardly along East Parham Road (State Route 73) to its intersection with Interstate Route 95; thence northwardly on Interstate Route 95 to its intersection with Scott Road; thence southwestwardly along Scott Road to its intersection with Athens Avenue; thence westwardly along Athens Avenue to its intersection with Brook Road (U.S. Route 1); thence northwardly along Brook Road (U.S. Route 1) to its intersection with Telegraph Road; thence northeastwardly along Telegraph Road to its intersection with Mountain Road; thence northwestwardly along Mountain Road to its intersection with North Run Road; thence southwestwardly along North Run Road to its intersection with Hungary Road; thence northwestwardly along Hungary Road to its intersection with Old Hungary Road; thence northwardly along Old Hungary Road to its intersection with North Run Creek; thence northwestwardly along North Run Creek to its intersection with Woodman Road (approximately 1,600 feet south of the intersection of Woodman Road and Mountain Road) and the point of beginning. The polling place for Hungary Precinct shall be Mt. Olive Baptist Church, 8775 Mt. Olive Avenue.

o. *Longdale Precinct.* Beginning at the intersection of Interstate Route 95 and Interstate Route 295; thence northwestwardly along Interstate Route 295 to its intersection with Longdale Avenue extended; thence southeastwardly along Longdale Avenue extended to its intersection with Davis Avenue and Longdale Avenue; thence southeastwardly along Longdale Avenue to its intersection with Lee Avenue; thence southwestwardly along Lee Avenue to its intersection with Richmond Road; thence southeastwardly along Richmond Road to its intersection with Cole Boulevard; thence southwestwardly along Cole Boulevard to its intersection with Greenwood Road; thence southwardly along Greenwood Road to its intersection with Mountain Road; thence southeastwardly along Mountain Road to its intersection with Telegraph Road; thence southwestwardly along Telegraph Road to its intersection with Brook Road (U.S. Route 1); thence southwardly along Brook Road (U.S. Route 1) to its intersection with Athens Avenue; thence eastwardly along Athens Avenue to its intersection with Scott Road; thence northeastwardly along Scott Road to its intersection with Interstate Route 95; thence northwardly along Interstate Route 95 to its intersection with Interstate Route 295 and the point of beginning. The polling place for Longdale Precinct shall be Longdale Elementary School, 9500 Norfolk Street.

p. *Maplewood Precinct.* Beginning at the intersection of Mechanicsville Turnpike (U.S. Route 360) and the

Virginia Power easement (approximately 1,800 feet northeast of the intersection of Mechanicsville Turnpike (U.S. Route 360) and Springdale Road); thence southeastwardly along the Virginia Power easement to its intersection with Creighton Road (approximately 400 feet northeast of the intersection of Carolee Drive and Creighton Road); thence southwestwardly along Creighton Road to its intersection with North Laburnum Avenue; thence northwestwardly along North Laburnum Avenue to its intersection with Harvie Road and East Laburnum Avenue; thence northwestwardly along East Laburnum Avenue to its intersection with Mechanicsville Turnpike (U.S. Route 360); thence northeastwardly along Mechanicsville Turnpike (U.S. Route 360) to its intersection with the Virginia Power easement (approximately 1,800 feet northeast of the intersection of Mechanicsville Turnpike (U.S. Route 360) and Springdale Road) and the point of beginning. The polling place for Maplewood Precinct shall be Abundant Life Church of Christ, 3700 Goodell Road.

q. *Moody Precinct.* Beginning at the intersection of Hilliard Road (State Route 356) and Hermitage Road; thence northwestwardly along Hermitage Road to its intersection with Woodman Road; thence northwestwardly along Woodman Road to its intersection with E. Parham Road; thence eastwardly along E. Parham Road to its intersection with the east/west branch of North Run Creek (approximately 1,280 feet northwest of the intersection of E. Parham Road and Villa Park Drive); thence westwardly along the east/west branch of North Run Creek to its intersection with the north/south branch of North Run Creek; thence southwardly along North Run Creek to its intersection with Lakeside Avenue; thence northeastwardly along Lakeside Avenue to its intersection with Brook Road (U.S. Route 1); thence southwardly along Brook Road (U.S. Route 1) to its intersection with Hilliard Road (State Route 161); thence westwardly along Hilliard Road to its intersection with Hermitage Road and the point of beginning. The polling place for Moody Precinct shall be Moody Middle School, 7800 Woodman Road.

r. *Mountain Precinct.* Beginning at the intersection of Woodman Road and Mountain Road; thence westwardly along Mountain Road to its intersection with Purcell Road; thence southwardly along Purcell Road to its intersection with Indale Road; thence eastwardly along Indale Road to its intersection with Winston Boulevard; thence southwardly along Winston Boulevard to its intersection with Blackburn Road; thence eastwardly along Blackburn Road to its intersection with Woodman Road; thence northwardly along Woodman Road to its intersection with Mountain Road and the point of beginning. The polling place for Mountain Precinct shall be Public Utilities Operations and Maintenance Center, 10401 Woodman Road.

s. *Oakview Precinct.* Beginning at the intersection of Woodman Road and Hungary Road; thence westwardly along Hungary Road to its intersection with CSX Railroad; thence southwardly along CSX Railroad to its intersection with E. Parham Road; thence northeastwardly along E. Parham Road to its intersection with Woodman Road; thence northwestwardly along Woodman Road to its intersection with Hungary Road and the point of beginning. The polling place for Oakview Precinct shall be Chestnut Grove Assisted Living Facility, 9010 Woodman Road.

t. *Randolph Precinct.* Beginning at the intersection of Woodman Road and Interstate Route 295; thence northwestwardly along Interstate Route 295 to its intersection with North Run Creek; thence southeastwardly along North Run Creek to its intersection with Mountain Road; thence eastwardly along Mountain Road to its intersection with Woodman Road; thence northeastwardly along Woodman Road to its intersection with Interstate Route 295 and the point of beginning. The polling place for Randolph Precinct shall be Virginia Randolph, 2206 Mountain Road.

u. *Ratcliffe Precinct.* Beginning at the intersection of Watts Lane and Mechanicsville Turnpike (U.S. Route 360); thence southeastwardly along Watts Lane to its intersection with Sandy Lane; thence southwardly along Sandy Lane to its intersection with Creighton Road; thence northeastwardly along Creighton Road to its

intersection with North Laburnum Avenue; thence northwestwardly along North Laburnum Avenue to its intersection with Harvie Road and East Laburnum Avenue; thence northwestwardly along East Laburnum Avenue to its intersection with the Chessie System Railway; thence southwardly along the Chessie System Railway to its intersection with the boundary line of the City of Richmond and Henrico County; thence southeastwardly along the boundary line of the City of Richmond and Henrico County to its intersection with Mechanicsville Turnpike (U.S. Route 360); thence northeastwardly along Mechanicsville Turnpike (U.S. Route 360) to its intersection with Watts Lane and the point of beginning. The polling place for Ratcliffe Precinct shall be Ratcliffe Elementary School, 2901 Thalen Street.

v. *Stratford Hall Precinct.* Beginning at the intersection of Hilliard Road (State Route 161/356) and Lakeside Avenue (State Route 161); thence southwardly along Lakeside Avenue (State Route 161) to its intersection with Dumbarton Road; thence westwardly along Dumbarton Road to its intersection with Westlake Avenue and Hermitage Road; thence northwardly along Hermitage Road to its intersection with Hilliard Road; thence eastwardly along Hilliard Road (State Route 356) to its intersection with Lakeside Avenue (State Route 161) and the point of beginning. The polling place for Stratford Hall Precinct shall be ManorCare Stratford Hall, 2125 Hilliard Road.

w. *Wilder Precinct.* Beginning at the intersection of Chamberlayne Road (U.S. Route 301) and the boundary line of Hanover County and Henrico County; thence southeastwardly along the boundary line of Hanover County and Henrico County to its intersection with the Chessie System Railway; thence southwardly along the Chessie System Railway to its intersection with Horse Swamp Creek; thence southwestwardly along Horse Swamp Creek to its intersection with Carolina Avenue; thence northwestwardly along Carolina Avenue to its intersection with Azalea Avenue; thence northwestwardly along Azalea Avenue to its intersection with Wilkinson Road; thence northwardly along Wilkinson Road to its intersection with Upham Brook; thence northwestwardly along Upham Brook to its intersection with Chamberlayne Road (U.S. Route 301); thence northeastwardly along Chamberlayne Road (U.S. Route 301) to its intersection with the boundary line of Hanover County and Henrico County and the point of beginning. The polling place for Wilder Precinct shall be Wilder Middle School, 6900 Wilkinson Road.

x. *Yellow Tavern Precinct.* Beginning at the intersection of the Richmond and Ashland Electric right-of-way and the boundary line of Hanover County and Henrico County; thence eastwardly along the boundary line of Hanover County and Henrico County to its intersection with Chamberlayne Road (U.S. Route 301); thence southwestwardly along Chamberlayne Road (U.S. Route 301) to its intersection with East Parham Road; thence southwestwardly along East Parham Road to its intersection with Interstate Route 95; thence northwardly along Interstate Route 95 to its intersection with Interstate Route 295; thence northwestwardly along Interstate Route 295 to its intersection with Longdale Avenue extended; thence southeastwardly along Longdale Avenue extended to its intersection with Davis Avenue and Longdale Avenue; thence southeastwardly along Longdale Avenue to its intersection with Lee Avenue; thence southwestwardly along Lee Avenue to its intersection with Richmond Road; thence southeastwardly along Richmond Road to its intersection with Cole Boulevard; thence southwestwardly along Cole Boulevard to its intersection with Greenwood Road; thence northwardly along Greenwood Road to its intersection with Interstate Route 295; thence northwestwardly along Interstate Route 295 to its intersection with Woodman Road; thence northeastwardly along Woodman Road to its intersection with Greenwood Road; thence southeastwardly along Greenwood Road to its intersection with Winfrey Road; thence northwardly along Winfrey Road to its intersection with the Richmond and Ashland Electric right-of-way; thence northwestwardly along the Richmond and Ashland Electric right-of-way to its intersection with the boundary line of Hanover County and Henrico County and the point of beginning. The polling place for Yellow Tavern Precinct shall be North Park Library, 8508 Franconia Road.

(3) *Three Chopt Magisterial District.*

a. *Causeway Precinct.* Beginning at the intersection of Interstate Route 295 and Interstate Route 64; thence northwestwardly along Interstate Route 64 to its intersection with the boundary line of Goochland County and Henrico County; thence southwardly along the boundary line of Goochland County and Henrico County to its intersection with West Broad Street (U.S. Route 250); thence southeastwardly along West Broad Street (U.S. Route 250) to its intersection with North Gayton Road; thence southwardly on North Gayton Road to its intersection with Parchment Circle; thence westwardly along the northern loop of Parchment Circle to its intersection with Sage Drive; thence southeastwardly along Sage Drive to its intersection with Hardings Trace Lane; thence southwestwardly along Hardings Trace Lane to its intersection with Wilde Lake Drive; thence southeastwardly along Wilde Lake Drive to its intersection with Church Road; thence eastwardly along Church Road to its intersection with Lauderdale Drive; thence northeastwardly along Lauderdale Drive to its intersection with West Broad Street (U.S. Route 250); thence southeastwardly along West Broad Street (U.S. Route 250) to its intersection with Interstate Route 64; thence northwestwardly along Interstate Route 64 to its intersection with Interstate Route 295 and the point of beginning. The polling place for Causeway Precinct shall be Gayton Baptist Church, 13501 North Gayton Road.

b. *Cedarfield Precinct.* Beginning at the intersection of Deep Run Creek and Interstate Route 64; thence southeastwardly along Interstate Route 64 to its intersection with Gaskins Road; thence northeastwardly along Gaskins Road to its intersection with West Broad Street (U.S. Route 250); thence westwardly along West Broad Street (U.S. Route 250) to its intersection with Cox Road; thence southwestwardly along Cox Road to its intersection with Three Chopt Road and Church Road; thence southwestwardly along Church Road to its intersection with Stoney Run Creek; thence southeastwardly along Stoney Run Creek to its intersection with Ridgefield Parkway; thence southeastwardly along Ridgefield Parkway to its intersection with Deep Run Creek; thence northwardly along Deep Run Creek to its intersection with Interstate Route 64 and the point of beginning. The polling place for Cedarfield Precinct shall be The Hermitage at Cedarfield, 2300 Cedarfield Parkway.

c. *Colonial Trail Precinct*. Beginning at the intersection of Interstate Route 64 with North Gayton Road; thence southeastwardly along Interstate Route 64 to its intersection with Interstate Route 295; thence northeastwardly along Interstate Route 295 to its intersection with Rooty Branch; thence northwardly along Rooty Branch to its intersection with Fords Country Lane; thence southwestwardly along Fords Country Lane to its intersection with Nuckols Road; thence northwestwardly along Nuckols Road to its intersection with Twin Hickory Road; thence southwestwardly along Twin Hickory Road to its intersection with Twin Hickory Lake Drive; thence southwestwardly along Twin Hickory Lake Drive to its intersection with Pouncey Tract Road (State Route 271); thence northwestwardly along Liesfeld Farm Drive to its intersection with North Gayton Road; thence southeastwardly along North Gayton Road to its intersection with Interstate Route 64 and the point of beginning. The polling place for Colonial Trail Precinct shall be Colonial Trail Elementary School, 12101 Liesfeld Farm Drive.

d. *Innsbrook Precinct.* Beginning at the intersection of Springfield Road and Jones Road; thence northwardly along Jones Road and Jones Road extended approximately 250 feet to its intersection with Interstate Route 295; thence southwestwardly along Interstate Route 295 to its intersection with Interstate Route 64; thence southeastwardly along Interstate Route 64 to its intersection with West Broad Street (U.S. Route 250); thence southeastwardly along West Broad Street (U.S. Route 250) to its intersection with Lexington Farm Drive; thence northeastwardly along Lexington Farm Drive and Lexington Farm Drive extended to its intersection with Fort McHenry Parkway; thence northeastwardly along Fort McHenry Parkway to its intersection with

Nuckols Road; thence eastwardly along Nuckols Road to its intersection with Springfield Road; thence northeastwardly along Springfield Road to its intersection with Jones Road and the point of beginning. The polling place for Innsbrook Precinct shall be St. Anthony's Day Care Center, 4611 Sadler Road.

e. *Jackson Davis Precinct.* Beginning at the intersection of Three Chopt Road and Pemberton Road; thence southeastwardly along Three Chopt Road to its intersection with North Parham Road; thence northeastwardly along North Parham Road to its intersection with Interstate Route 64; thence northwestwardly along Interstate Route 64 to its intersection with Pemberton Road; thence southwestwardly along Pemberton Road to its intersection with Three Chopt Road and the point of beginning. The polling place for Jackson Davis Precinct shall be Jackson Davis Elementary School, 8800 Nesslewood Drive.

f. *Nuckols Farm Precinct.* Beginning at the intersection of North Gayton Road and West Broad Street (U.S. Route 250); thence northwestwardly along West Broad Street (U.S. Route 250) to its intersection with the boundary line of Goochland County and Henrico County; thence southwardly along the boundary line of Goochland County and Henrico County to its intersection with Harding Branch; thence northeastwardly along Harding Branch to its intersection with the western shore of Wilde Lake; thence northwardly along the western shore of Wilde Lake to the intersection with a graveled lake access drive for the Wilde Lake Association (approximately 360 feet southwest of the intersection of Wilde Lake Drive with Berkeley Pointe Drive); thence northwestwardly along a graveled lake access drive for the Wilde Lake Association to its intersection with Wilde Lake Drive; thence northeastwardly along Wilde Lake Drive to its intersection with Hardings Trace Lane; thence northeastwardly along Hardings Trace Lane to its intersection with Sage Drive; thence northwestwardly along Sage Drive to its intersection with Parchment Circle; thence northwestwardly along the northern loop of Parchment Circle to its intersection with North Gayton Road; thence northeastwardly along North Gayton Road to its intersection with West Broad Street (U.S. Route 250) and the point of beginning. The polling place for Nuckols Farm Precinct shall be Nuckols Farm Elementary School, 12351 Graham Meadows Drive.

g. *Pocahontas Precinct.* Beginning at the intersection of Cox Road and West Broad Street (U.S. Route 250); thence westwardly along West Broad Street (U.S. Route 250) to its intersection with Stoney Run Creek; thence southeastwardly along Stoney Run Creek to its intersection with Church Road; thence northeastwardly along Church Road to its intersection with Three Chopt Road and Cox Road; thence northeastwardly along Cox Road to its intersection with West Broad Street (U.S. Route 250) and the point of beginning. The polling place for Pocahontas Precinct shall be Pocahontas Middle School, 12000 Three Chopt Road.

h. *Ridge Precinct.* Beginning at the intersection of Fordson Road and North Parham Road; thence southwardly along North Parham Road to its intersection with Quioccasin Road; thence eastwardly along Quioccasin Road to its intersection with East Ridge Road; thence northeastwardly along East Ridge Road to its intersection with Three Chopt Road; thence southeastwardly along Three Chopt Road to its intersection with Michaels Road; thence northwardly along Michaels Road to its intersection with Michael Road; thence northwestwardly along Michael Road to its intersection with Fordson Road; thence northwestwardly along Fordson Road to its intersection with North Parham Road and the point of beginning. The polling place for Ridge Precinct shall be Tuckahoe Middle School, 9000 Three Chopt Road.

i. *Rivers Edge Precinct.* Beginning at the intersection of Staples Mill Road (U.S. Route 33) and the boundary line of Hanover County and Henrico County; thence westwardly along the boundary line of Hanover County and Henrico County to its intersection with Dominion Club Drive; thence southwardly along Dominion Club Drive to its intersection with Old Wyndham Drive; thence southwestwardly along Old Wyndham Drive to its intersection with Wyndham Lake Drive; thence southwardly along Wyndham Lake Drive to its intersection

with Wyndham Park Drive; thence southeastwardly along Wyndham Park Drive to its intersection with Nuckols Road; thence southeastwardly along Nuckols Road to its intersection with Fords Country Lane; thence northeastwardly along Fords Country Lane to its intersection with Rooty Branch; thence southwardly along Rooty Branch to its intersection with Interstate Route 295; thence northeastwardly along Interstate Route 295 to its intersection with Staples Mill Road (U.S. Route 33); thence northwardly along Staples Mill Road (U.S. Route 33) to its intersection with the boundary line of Hanover County and Henrico County and the point of beginning. The polling place for Rivers Edge Precinct shall be Rivers Edge Elementary School, 11600 Holman Ridge Road.

j. *Sadler Precinct.* Beginning at the intersection of Nuckols Road and Pouncey Tract Road (State Route 271); thence southeastwardly along Pouncey Tract Road (State Route 271) to its intersection with Shady Grove Road; thence eastwardly along Shady Grove Road to its intersection with Twin Hickory Road; thence northeastwardly along Twin Hickory Road to its intersection with Nuckols Road; thence northwestwardly along Nuckols Road to its intersection with Pouncey Tract Road (State Route 271) and the point of beginning. The polling place for Sadler Precinct shall be Deep Run High School, 4801 Twin Hickory Road.

k. *Shady Grove Precinct.* Beginning at the intersection of Dominion Club Drive and the boundary line of Hanover County and Henrico County; thence westwardly along the boundary line of Hanover County and Henrico County to its intersection with the boundary line of Hanover County, Goochland County and Henrico County; thence southwardly along the boundary line of Goochland County and Henrico County to its intersection with Pouncey Tract Road; thence southeastwardly along Pouncey Tract Road to its intersection with Nuckols Road; thence northeastwardly along Nuckols Road to its intersection with Wyndham Park Drive; thence northwestwardly along Wyndham Park Drive to its intersection with Wyndham Lake Drive; thence northwardly along Wyndham Lake Drive to its intersection with Old Wyndham Drive; thence northeastwardly along Old Wyndham Drive to its intersection with Dominion Club Drive; thence northwardly along Dominion Club Drive to its intersection with the boundary line of Hanover County and Henrico County and the point of beginning. The polling place for Shady Grove Precinct shall be Shady Grove Elementary School, 12200 Wyndham Lake Drive.

l. *Short Pump Precinct.* Beginning at the intersection of Pouncey Tract Road (State Route 271) and the boundary line of Goochland County and Henrico County; thence southwardly along the boundary line of Goochland County and Henrico County to its intersection with Interstate Route 64; thence southeastwardly along Interstate Route 64 to its intersection with North Gayton Road; thence northeastwardly along North Gayton Road to its intersection with Liesfeld Farm Drive; thence southeastwardly along Liesfeld Farm Drive to its intersection with Pouncey Tract Road (State Route 271); thence northeastwardly along Twin Hickory Lake Drive to its intersection with Twin Hickory Road; thence westwardly along Twin Hickory Road to its intersection with Shady Grove Road; thence westwardly along Shady Grove Road to its intersection with Pouncey Tract Road (State Route 271); thence northwestwardly along Pouncey Tract Road (State Route 271) to its intersection with the boundary line of Goochland County and Henrico County and the point of beginning. The polling place for Short Pump Precinct shall be Short Pump Middle School, 4701 Pouncey Tract Road.

m. *Springfield Precinct.* Beginning at the intersection of Springfield Road and Nuckols Road; thence westwardly along Nuckols Road to its intersection with Fort McHenry Parkway; thence southwestwardly along Fort McHenry Parkway and Fort McHenry Parkway extended to its intersection with Lexington Farm Drive; thence southwestwardly along Lexington Farm Drive to its intersection with West Broad Street (U.S. Route 250); thence eastwardly along West Broad Street (U.S. Route 250) to its intersection with Springfield Road; thence northeastwardly along Springfield Road to its intersection with Nuckols Road and the point of

beginning. The polling place for Springfield Precinct shall be Springfield Elementary School, 4301 Fort McHenry Parkway.

n. *Stoney Run Precinct.* Beginning at the intersection of Stoney Run Creek and West Broad Street (U.S. Route 250); thence northwestwardly along West Broad Street (U.S. Route 250) to its intersection with Lauderdale Drive; thence southwestwardly along Lauderdale Drive to its intersection with Church Road; thence eastwardly along Church Road to its intersection with Stoney Run Creek; thence northwestwardly along Stoney Run Creek to its intersection with West Broad Street (U.S. Route 250) and the point of beginning. The polling place for Stoney Run Precinct shall be Short Pump Elementary School, 3425 Pump Road.

o. *Three Chopt Precinct.* Beginning at the intersection of Skipwith Road and North Parham Road; thence southwestwardly along North Parham Road to its intersection with Fordson Road; thence southeastwardly along Fordson Road to its intersection with Michael Road; thence southeastwardly along Michael Road to its intersection with Michaels Road; thence southwardly along Michaels Road to its intersection with Three Chopt Road; thence southeastwardly along Three Chopt Road to its intersection with Skipwith Road; thence northwardly along Skipwith Road to its intersection with North Parham Road and the point of beginning. The polling place for Three Chopt Precinct shall be Three Chopt Elementary School, 1600 Skipwith Road.

p. *Tucker Precinct.* Beginning at the intersection of Old Parham Road and West Broad Street (U.S. Route 250); thence northwestwardly along West Broad Street (U.S. Route 250) to its intersection with Gaskins Road; thence southwestwardly along Gaskins Road to its intersection with Interstate Route 64; thence southeastwardly along Interstate Route 64 to its intersection with North Parham Road; thence northeastwardly along North Parham Road to its intersection with Old Parham Road; thence eastwardly along Old Parham Road to its intersection with West Broad Street (U.S. Route 250) and the point of beginning. The polling place for Tucker Precinct shall be Tucker High School, 2910 Parham Road.

(4) *Tuckahoe Magisterial District.*

a**.** *Crestview Precinct.* Beginning at the intersection of Horsepen Road and Monument Avenue; thence southeastwardly along Monument Avenue to its intersection with Orchard Road; thence northeastwardly along Orchard Road to its intersection with Fitzhugh Avenue; thence westwardly along Fitzhugh Avenue to its intersection with Betty Lane; thence northwestwardly along Betty Lane to its intersection with Horsepen Road; thence eastwardly along Horsepen Road to its intersection with West Broad Street; thence northwestwardly along West Broad Street to its intersection with Upham Brook; thence westwardly along Upham Brook to its intersection with Interstate Route 64; thence northwestwardly along Interstate Route 64 to its intersection with Skipwith Road; thence southwardly along Skipwith Road to its intersection with Three Chopt Road; thence southeastwardly along Three Chopt Road to its intersection with Horsepen Road; thence northwardly along Horsepen Road to its intersection with Monument Avenue and the point of beginning. The polling place for Crestview Precinct shall be Crestview Elementary School, 1901 Charles Street.

b. *Derbyshire Precinct.* Beginning at the intersection of North Parham Road and Avalon Drive; thence westwardly along Avalon Drive to its intersection with Midway Road; thence southwestwardly along Midway Road to its intersection with Derbyshire Road; thence westwardly along Derbyshire Road to its intersection with Gunby Drive; thence southwestwardly along Gunby Drive to its intersection with George's Branch; thence southeastwardly along George's Branch to its intersection with North Mooreland Road; thence southwestwardly along North Mooreland Road to its intersection with River Road; thence southeastwardly along River Road to its intersection with North Parham Road; thence northeastwardly along

North Parham Road to its intersection with Avalon Drive and the point of beginning. The polling place for Derbyshire Precinct shall be Derbyshire Baptist Church, 8800 Derbyshire Road.

c. *Freeman Precinct.* Beginning at the intersection of Skipwith Road and Three Chopt Road; thence northwestwardly along Three Chopt Road to its intersection with Eastridge Road; thence southwestwardly along Eastridge Road to its intersection with Quioccasin Road; thence westwardly along Quioccasin Road to its intersection with N. Parham Road; thence southwestwardly along N. Parham Road to its intersection with Patterson Avenue; thence eastwardly along Patterson Avenue to its intersection with the boundary line of the City of Richmond and Henrico County; thence northeastwardly along the boundary line between the City of Richmond and Henrico County to its intersection with Three Chopt Road; thence northwestwardly along Three Chopt Road to its intersection with Skipwith Road and the point of beginning. The polling place for Freeman Precinct shall be Freeman High School, 8701 Three Chopt Road.

d. *Gayton Precinct.* Beginning at the intersection of Pump Road and Ridgefield Parkway; thence westwardly along Ridgefield Parkway to its intersection with Cambridge Drive; thence southwestwardly along Cambridge Drive to its intersection with Gayton Road; thence eastwardly along Gayton Road to its intersection with Flat Branch; thence southwardly along Flat Branch to its intersection with Patterson Avenue (State Route 6); thence eastwardly along Patterson Avenue (State Route 6) to its intersection with Pump Road; thence northwardly along Pump Road to its intersection with Ridgefield Parkway and the point of beginning. The polling place for Gayton Precinct shall be Gayton Library, 10600 Gayton Road.

e. *Godwin Precinct.* Beginning at the intersection of Deep Run Creek and Ridgefield Parkway; thence southwestwardly along Ridgefield Parkway to its intersection with Pump Road; thence southwardly along Pump Road to its intersection with Gayton Road; thence eastwardly along Gayton Road to its intersection with Deep Run Creek; thence northeastwardly along Deep Run Creek to its intersection with Ridgefield Parkway and the point of beginning. The polling place for Godwin Precinct shall be Godwin High School, 2101 Pump Road.

f. *Lakewood Precinct.* Beginning at the intersection of Flat Branch and Gayton Road; thence westwardly along Gayton Road to its intersection with Copperas Creek; thence southwestwardly along Copperas Creek to its intersection with the boundary line of Goochland County and Henrico County; thence southwardly along the boundary line of Goochland County and Henrico County to its intersection with Patterson Avenue (State Route 6); thence eastwardly along Patterson Avenue (State Route 6) to its intersection with Flat Branch; thence northwardly along Flat Branch to its intersection with Gayton Road and the point of beginning. The polling place for Lakewood Precinct shall be Cambridge Baptist Church, 12025 Gayton Road.

g. *Lauderdale Precinct.* Beginning at the intersection of Ridgefield Parkway and Cambridge Drive, thence westwardly along Ridgefield Parkway extended approximately 920 feet to the boundary line of Goochland County and Henrico County; thence southwardly along the boundary line of Goochland County and Henrico County to its intersection with Copperas Creek; thence northeastwardly along Copperas Creek to its intersection with Gayton Road: thence northwestwardly along Gayton Road to its intersection with Cambridge Drive; thence northeastwardly along Cambridge Drive to its intersection with Ridgefield Parkway and the point of beginning. The polling place for Lauderdale Precinct shall be Carver Elementary School, 1801 Lauderdale Drive.

h. *Maybeury Precinct.* Beginning at the intersection of North Parham Road and Patterson Avenue (State Route 6); thence westwardly along Patterson Avenue (State Route 6) to its intersection with North Gaskins Road; thence southwardly along North Gaskins Road to its intersection with River Road; thence

southeastwardly along River Road to its intersection with North Mooreland Road; thence northeastwardly along North Mooreland Road to its intersection with George's Branch; thence northwestwardly along George's Branch to its intersection with Gunby Drive; thence northeastwardly along Gunby Drive to its intersection with Derbyshire Road; thence eastwardly along Derbyshire Road to its intersection with Midway Road; thence northeastwardly along Midway Road to its intersection with Avalon Drive; thence eastwardly along Avalon Drive to its intersection with North Parham Road; thence northeastwardly along North Parham Road to its intersection with Patterson Avenue (State Route 6) and the point of beginning. The polling place for Maybeury Precinct shall be Maybeury Elementary School, 901 Maybeury Drive.

i. *Mooreland Precinct.* Beginning at the intersection of North Parham Road and River Road and the Virginia Power easement; thence northwestwardly along River Road to its intersection with the boundary line of Goochland County and Henrico County; thence southwestwardly along the boundary line of Goochland County and Henrico County to its intersection with the boundary line of Goochland County, Powhatan County and Henrico County; thence southwardly along the boundary line of Powhatan County and Henrico County to its intersection with the boundary line of Powhatan County, Chesterfield County and Henrico County; thence eastwardly along the boundary line of Chesterfield County and Henrico County to its intersection with South Gaskins Road extended; thence northwardly along South Gaskins Road extended to its intersection with South Gaskins Road and the Chesapeake and Ohio Railroad; thence eastwardly along the Chesapeake and Ohio Railroad to its intersection with the Virginia Power easement; thence northwestwardly along the Virginia Power easement to its intersection with River Road and North Parham Road and the point of beginning. The polling place for Mooreland Precinct shall be Second Baptist Church, 9614 River Road.

j. *Pemberton Precinct.* Beginning at the intersection of North Parham Road and Three Chopt Road; thence northwestwardly along Three Chopt Road to its intersection with Pemberton Road (State Route 157); thence southwestwardly along Pemberton Road (State Route 157) to its intersection with Quioccasin Road; thence southeastwardly along Quioccasin Road to its intersection with Blue Jay Lane; thence southwestwardly along Blue Jay Lane to its intersection with Farmington Drive; thence westwardly along Farmington Drive to its intersection with Blue Jay Lane; thence southwestwardly along Blue Jay Lane to its intersection with Gayton Road; thence southeastwardly along Gayton Road to its intersection with Patterson Avenue (State Route 6); thence eastwardly along Patterson Avenue (State Route 6) to its intersection with North Parham Road; thence northwardly along North Parham Road to its intersection with Three Chopt Road and the point of beginning. The polling place for Pemberton Precinct shall be Pemberton Elementary School, 1400 Pemberton Road.

k. *Pinchbeck Precinct.* Beginning at the intersection of Gayton Road and Patterson Avenue (State Route 6); thence westwardly along Patterson Avenue (State Route 6) to its intersection with Pump Road; thence northwardly along Pump Road to its intersection with Gayton Road; thence eastwardly along Gayton Road to its intersection with Gaskins Road (State Route 157); thence northwardly along Gaskins Road (State Route 157) to its intersection with Quioccasin Road (State Route 157); thence eastwardly along Quioccasin Road (State Route 157) to its intersection with Pemberton Road and Quioccasin Road (State Route 157); thence eastwardly along Quioccasin Road (State Route 157) to its intersection with Blue Jay Lane; thence southwestwardly along Blue Jay Lane to its intersection with Farmington Drive; thence westwardly along Farmington Drive to its intersection with Blue Jay Lane; thence southwestwardly along Blue Jay Lane to its intersection with Gayton Road; thence southeastwardly along Gayton Road to its intersection with Patterson Avenue (State Route 6) and the point of beginning. The polling place for Pinchbeck Precinct shall be Pinchbeck Elementary School, 1275 Gaskins Road.

l. *Quioccasin Precinct.* Beginning at the intersection of Pemberton Road (State Route 157) and Interstate Route 64; thence northwestwardly along Interstate Route 64 to its intersection with Deep Run Creek; thence southwestwardly along Deep Run Creek to its intersection with Gayton Road; thence eastwardly along Gayton Road to its intersection with Gaskins Road; thence northwardly along Gaskins Road to its intersection with Quioccasin Road (State Route 157); thence eastwardly along Quioccasin Road (State Route 157) to its intersection with Pemberton Road (State Route 157); thence northwardly along Pemberton Road (State Route 157) to its intersection with Interstate Route 64 and the point of beginning. The polling place for Quioccasin Precinct shall be Quioccasin Middle School, 9400 Quioccasin Road.

m. *Ridgefield Precinct.* Beginning at the intersection of Stoney Run Creek and Church Road; thence westwardly along Church Road to its intersection with Copperas Creek; thence southwestwardly along Copperas Creek to its intersection with Ridgefield Parkway; thence eastwardly along Ridgefield Parkway to its intersection with Stoney Run Creek; thence northwestwardly along Stoney Run Creek to its intersection with Church Road and the point of beginning. The polling place for Ridgefield Precinct shall be Columbian Center, 2324 Pump Road.

n. *Rollingwood Precinct.* Beginning at the intersection of Forest Avenue and Patterson Avenue (State Route 6); thence eastwardly along Patterson Avenue (State Route 6) to its intersection with the boundary line of the City of Richmond and Henrico County; thence southwardly along the boundary line of the City of Richmond and Henrico County to its intersection with Little Westham Creek; thence northwestwardly along Little Westham Creek to its intersection with Westham Parkway; thence southwestwardly along Westham Parkway to its intersection with Lindsay Drive; thence northwestwardly along Lindsay Drive to its intersection with Forest Avenue; thence southwestwardly along Forest Avenue to its intersection with Silverspring Drive; thence northwestwardly along Silverspring Drive to its intersection with Spottswood Road; thence northeastwardly along Spottswood Road to its intersection with Forest Avenue; thence northeastwardly along Forest Avenue to its intersection with Patterson Avenue (State Route 6) and the point of beginning. The polling place for Rollingwood Precinct shall be Third Church, 600 Forest Avenue.

o. *Skipwith Precinct.* Beginning at the intersection of Upham Brook and West Broad Street (U.S. Route 250); thence northwestwardly along West Broad Street (U.S. Route 250) to its intersection with Old Parham Road; thence westwardly along Old Parham Road to its intersection with North Parham Road; thence southwestwardly along North Parham Road to its intersection with Skipwith Road; thence southwardly along Skipwith Road to its intersection with Upham Brook; thence eastwardly along Upham Brook to its intersection with West Broad Street (U.S. Route 250) and the point of beginning. The polling place for Skipwith Precinct shall be Skipwith Elementary School, 2401 Skipwith Road.

p. *Spottswood Precinct.* Beginning at the intersection of North Parham Road and Patterson Avenue (State Route 6); thence eastwardly along Patterson Avenue (State Route 6) to its intersection with Forest Avenue; thence southwestwardly along Forest Avenue to its intersection with Spottswood Road; thence southeastwardly along Spottswood Road to its intersection with Silverspring Drive; thence southeastwardly along Silverspring Drive to its intersection with Forest Avenue; thence southwestwardly along Forest Avenue to its intersection with Ridge Road; thence northwestwardly along Ridge Road to its intersection with Glendale Drive; thence southwestwardly along Glendale Drive to its intersection with Warrenton Drive; thence northwestwardly along Warrenton Drive to its intersection with Cedarbrooke Lane; thence southwestwardly along Cedarbrooke Lane to its intersection with Seldondale Lane; thence westwardly along Seldondale Lane to its intersection with Ridgeley Lane, thence northwardly along Ridgeley Lane to its intersection with Oakcroft Drive; thence westwardly along Oakcroft Drive to its intersection with North Parham Road; thence northeastwardly along North Parham Road to its intersection with Patterson Avenue

(State Route 6) and the point of beginning. The polling place for Spottswood Precinct shall be Grove Avenue Baptist Church, 8701 Ridge Road.

q. *Tuckahoe Precinct.* Beginning at the intersection of the boundary line of the City of Richmond and Henrico County, College Road and Little Westham Creek; thence northwestwardly along Little Westham Creek to its intersection with Westham Parkway; thence southwestwardly along Westham Parkway to its intersection with Lindsay Drive; thence northwestwardly along Lindsay Drive to its intersection with Forest Avenue; thence southwestwardly along Forest Avenue to its intersection with Ridge Road; thence northwestwardly along Ridge Road to its intersection with Glendale Drive; thence southwestwardly along Glendale Drive to its intersection with Warrenton Drive; thence northwestwardly along Warrenton Drive to its intersection with Cedarbrooke Lane; thence southwestwardly along Cedarbrooke Lane to its intersection with Seldondale Lane; thence westwardly along Seldondale Lane to its intersection with Ridgeley Lane; thence northwardly along Ridgeley Lane to its intersection with Oakcroft Drive; thence westwardly along Oakcroft Drive to its intersection with North Parham Road; thence southwestwardly along North Parham Road to its intersection with River Road and the Virginia Power easement; thence southwestwardly along the Virginia Power easement to its intersection with the Chesapeake and Ohio Railroad; thence westwardly along the Chesapeake and Ohio Railroad to its intersection with South Gaskins Road and South Gaskins Road extended; thence southwardly along South Gaskins Road extended to its intersection with the boundary line of Chesterfield County and Henrico County; thence eastwardly along the boundary line of Chesterfield County and Henrico County to its intersection with the boundary line of Chesterfield County, the City of Richmond and Henrico County; thence eastwardly along the boundary line of the City of Richmond and Henrico County to its intersection with College Road, Little Westham Creek and the point of beginning. The polling place for Tuckahoe Precinct shall be Tuckahoe Elementary School, 701 Forest Avenue.

r. *Welborne Precinct.* Beginning at the intersection of North Gaskins Road and Patterson Avenue (State Route 6); thence westwardly along Patterson Avenue (State Route 6) to its intersection with the boundary line of Goochland County and Henrico County; thence southwardly along the boundary line of Goochland County and Henrico County to its intersection with River Road; thence southeastwardly along River Road to its intersection with North Gaskins Road; thence northeastwardly along North Gaskins Road to its intersection with Patterson Avenue (State Route 6) and the point of beginning. The polling place for Welborne Precinct shall be Welborne United Methodist Church, 920 Maybeury Drive.

s. *West End Precinct.* Beginning at the intersection of Copperas Creek and Church Road; thence northwestwardly along Church Road to its intersection with Wilde Lake Drive; thence southwestwardly along Wilde Lake Drive to its intersection with a graveled lake access drive for the Wilde Lake Association (approximately 360 feet southwest of the intersection with Wilde Lake Drive and Berkeley Pointe Drive); thence southeastwardly along a graveled lake access drive for the Wilde Lake Association to its intersection with the western shore of Wilde Lake; thence southwardly along the western shore of Wilde Lake to the intersection with Harding Branch; thence southwestwardly along Harding Branch to its intersections with the boundary line of Goochland County and Henrico County (Tuckahoe Creek); thence southwardly along the boundary line of Goochland County and Henrico County (Tuckahoe Creek) to its intersection with Ridgefield Parkway (extended approximately 920 feet to the boundary line); thence eastwardly along Ridgefield Parkway to its intersection with Copperas Creek; thence northeastwardly along Copperas Creek to its intersection with Church Road and the point of beginning. The polling place for West End Precinct shall be Gayton Elementary School, 12481 Church Road.

(5) *Varina Magisterial District.*

a. *Antioch Precinct.* Beginning at the intersection of Interstate Route 295 and the Norfolk Southern Railway; thence northeastwardly along the Norfolk Southern Railway to its intersection with Meadow Road; thence southwardly along Meadow Road to its intersection with Interstate Route 64; thence northeastwardly along Interstate Route 64 to its intersection with the boundary line of New Kent County and Henrico County; thence southeastwardly along the boundary line of New Kent County and Henrico County to its intersection with White Oak Swamp Creek; thence southwestwardly along White Oak Swamp Creek to its intersection with the Chessie System Railway; thence southwestwardly along the Chessie System Railway to its intersection with Elko Road (State Route 156); thence northwestwardly along Elko Road (State Route 156) to its intersection with Old Elko Road; thence northwardly along Old Elko Road to its intersection with Old Elko Road Extended; thence northwardly along Old Elko Road Extended to its intersection with E. Williamsburg Road (U.S. Route 60); thence westwardly along E. Williamsburg Road (U.S. Route 60) to its intersection with Interstate Route 295; thence northwardly along Interstate Route 295 to its intersection with the Norfolk Southern Railway and the point of beginning. The polling place for Antioch Precinct shall be Antioch Baptist Church, 3868 Antioch Church Road.

b. *Cedar Fork Precinct.* Beginning at the intersection of Mary Washington Street, A.P. Hill Avenue and A.P. Hill Avenue extended; thence northeastwardly along A.P. Hill Avenue extended to its intersection with the boundary line of Hanover County and Henrico County; thence northwestwardly along the boundary line of Hanover County and Henrico County to its intersection with Creighton Road; thence southwestwardly along Creighton Road to its intersection with Cedar Fork Road; thence southwardly along Cedar Fork Road to its intersection with Tiffanywoods Lane; thence eastwardly along Tiffanywoods Lane to its intersection with Cloverfield Lane; thence southeastwardly along Cloverfield Lane to its intersection with Buffalo Road; thence southwardly on Buffalo Road to its intersection with Natchez Road; thence westwardly on Natchez Road to its intersection with Biloxi Road; thence southeastwardly on Biloxi Road to its intersection with Bayard Road; thence southwardly on Bayard Road to its intersection with Nine Mile Road and W. Nine Mile Road; thence eastwardly along Nine Mile Road to its intersection with Nine Mile Road and A.P. Hill Avenue; thence northeastwardly along A.P. Hill Avenue to its intersection with Mary Washington Street and A.P. Hill Avenue extended and the point of beginning. The polling place for Cedar Fork Precinct shall be Fairfield Middle School, 5121 Nine Mile Road.

c. *Chickahominy Precinct.* Beginning at the intersection of Nine Mile Road (State Route 33) and A.P. Hill Avenue; thence northeastwardly along A.P. Hill Avenue to its intersection with Mary Washington Street and A.P. Hill Avenue extended; thence northeastwardly along A.P. Hill Avenue extended to its intersection with the boundary line of Hanover County and Henrico County; thence southeastwardly along the boundary line of Hanover County and Henrico County, New Kent County and Henrico County; thence southeastwardly along the boundary line of New Kent County and Henrico County to its intersection with Interstate Route 64; thence southwestwardly along Interstate Route 64 to its intersection with Meadow Road; thence northwardly along Meadow Road to its intersection with the Norfolk Southern Railway; thence southwestwardly along the Norfolk Southern Railway to its intersection with Interstate Route 295; thence northwardly along Interstate Route 295 to its intersection with Meadow Road; thence westwardly along Meadow Road to its intersection with Broad Water Creek; thence northwestwardly along Broad Water Creek to its intersection with Graves Road; thence northwestwardly along Graves Road to its intersection with Hanover Road (Old State Route 156); thence northwestwardly along Hanover Road (Old State Route 156) to its intersection with North Airport Drive (State Route 156); thence southwestwardly along North Airport Drive (State Route 156) to its intersection with East Washington Street; thence northwestwardly along East Washington Street to its intersection with North Holly Avenue and West Washington Street; thence northwestwardly along West Washington Street to its intersection with Bridge Street; thence southwestwardly along Bridge Street to its intersection with Nine Mile Road (State Route 33); thence westwardly along Nine Mile Road (State Route 33)

to its intersection with A.P. Hill Avenue and the point of beginning. The polling place for Chickahominy Precinct shall be Oak Hall Baptist Church, 1877 Old Hanover Road.

d. *Donahoe Precinct.* Beginning at the intersection of Hanover Road and Graves Road; thence southeastwardly along Graves Road to its intersection with Broad Water Creek; thence southwestwardly along Broad Water Creek to its intersection with Meadow Road; thence eastwardly along Meadow Road to its intersection with Interstate Route 295; thence southwestwardly along Interstate Route 295 to its intersection with White Oak Swamp; thence northwestwardly along White Oak Swamp to its intersection with Beulah Road (approximately 1,200 feet north of the intersection of Beulah Road and La France Road); thence northwardly along Beulah Road to its intersection with Treva Road; thence eastwardly along Treva Road to its intersection with Seabury Avenue; thence northwardly along Seabury Avenue to its intersection with Huntsman Road; thence westwardly along Huntsman Road to its intersection with Sandston Avenue; thence northwardly along Sandston Avenue to its intersection with East Williamsburg Road (U.S. Route 60); thence westwardly along East Williamsburg Road (U.S. Route 60) to its intersection with East Nine Mile Road (State Route 33); thence northwardly along East Nine Mile Road (State Route 33) to its intersection with Howard Street; thence northeastwardly along Howard Street to its intersection with Seven Pines Avenue; thence northwardly along Seven Pines Avenue to its intersection with Defense Avenue; thence northwestwardly along Defense Avenue to its intersection with Algiers Drive; thence northwestwardly along Algiers Drive to its intersection with Bond Street; thence southwestwardly along Bond Street to its intersection with East Nine Mile Road (State Route 33); thence northwestwardly along East Nine Mile Road (State Route 33) to its intersection with Hanover Road; thence northeastwardly along Hanover Road to its intersection with Midage Lane; thence northwestwardly along Midage Lane to its intersection with Carlstone Drive; thence northeastwardly along Carlstone Drive to its intersection with East Washington Street; thence northwestwardly along East Washington Street to its intersection with North Airport Drive (State Route 156); thence northeastwardly along North Airport Drive (State Route 156) to its intersection with Hanover Road; thence southwestwardly along Hanover Road to its intersection with Graves Road and the point of beginning. The polling place for Donahoe Precinct shall be Donahoe Elementary School, 1801 Graves Road.

e. *Dorey Precinct.* Beginning at the intersection of Strath Road and Darbytown Road; thence southeastwardly along Darbytown Road to its intersection with Britton Road; thence northeastwardly along Britton Road to its intersection with Charles City Road; thence southeastwardly along Charles City Road to its intersection with Yahley Mill Road; thence southwardly along Yahley Mill Road to its intersection with Long Bridge Road; thence southwestwardly along Long Bridge Road to its intersection with New Market Road (State Route 5); thence northwestwardly along New Market Road (State Route 5) to its intersection with the north entrance ramp of Interstate Route 295; thence northwardly along the north entrance ramp of Interstate Route 295 to its intersection with Interstate Route 295; thence northeastwardly along Interstate Route 295 to its intersection with Fourmile Creek; thence northwestwardly along Fourmile Creek to its intersection with Doran Road; thence southwestwardly along Doran Road to its intersection with New Market Road (State Route 5); thence northwestwardly along New Market Road (State Route 5) to its intersection with Strath Road; thence northwardly along Strath Road to its intersection with Darbytown Road and the point of beginning. The polling place for Dorey Precinct shall be Dorey Park Recreation Center, 7200 Dorey Park Drive.

f. *Eanes Precinct.* Beginning at the intersection of the boundary line of the City of Richmond, Henrico County and Almond Creek; thence northwestwardly along Almond Creek to its intersection with Bickerstaff Road; thence southeastwardly along Bickerstaff Road to its intersection with Darbytown Road; thence southeastwardly along Darbytown Road to its intersection with Willson Road; thence southwardly along Willson Road to its intersection with Yarnell Road; thence southeastwardly along Yarnell Road to its intersection with Strath Road; thence northwardly along Strath Road to its intersection with Darbytown

Road; thence southeastwardly along Darbytown Road to its intersection with Britton Road; thence northeastwardly along Britton Road to its intersection with Charles City Road; thence northwestwardly along Charles City Road to its intersection with Williamsburg Road (U.S. Route 60); thence westwardly along Williamsburg Road (U.S. Route 60) to its intersection with the boundary line of the City of Richmond and Henrico County; thence southwestwardly along the boundary line of the City of Richmond and Henrico County to its intersection with Almond Creek and the point of beginning. The polling place for Eanes Precinct shall be Baker Elementary School, 6651 Willson Road.

g. *Elko Precinct.* Beginning at the intersection of Charles City Road and Elko Road (State Route 156); thence northeastwardly along Elko Road (State Route 156) to its intersection with Hines Road; thence southwestwardly along Hines Road to its intersection with an unnamed stream (approximately 2,800 feet east of the intersection of Hines Road and Charles City Road); thence northeastwardly along the unnamed stream to its intersection with White Oak Swamp Creek (approximately 7,000 feet west of the intersection of Elko Road (State Route 156) and White Oak Swamp Creek); thence northwestwardly along White Oak Swamp Creek to its intersection with Interstate Route 295; thence northeastwardly along Interstate Route 295 to its intersection with East Williamsburg Road (U.S. Route 60); thence eastwardly along East Williamsburg Road (U.S. Route 60) to its intersection with Old Elko Road extended; thence southeastwardly along Old Elko Road extended to its intersection with Old Elko Road; thence southeastwardly along Old Elko Road to its intersection with Elko Road (State Route 156); thence southeastwardly along Elko Road (State Route 156) to its intersection with the Chessie System Railway; thence northeastwardly along the Chessie System Railway to its intersection with White Oak Swamp Creek; thence northeastwardly along White Oak Swamp Creek to its intersection with the boundary line of New Kent County and Henrico County; thence southeastwardly along the boundary line of New Kent County and Henrico County to its intersection with the boundary line of Charles City County, New Kent County and Henrico County; thence southwestwardly along the boundary line of Charles City County and Henrico County to its intersection with Charles City Road; thence southwestwardly along Charles City Road to its intersection with Elko Road and the point of beginning. The polling place for Elko Precinct shall be New Bridge Baptist Church, 5710 Elko Road.

h. *Highland Springs Precinct.* Beginning at the intersection of South Beech Avenue, North Beech Avenue and West Nine Mile Road (State Route 33); thence southeastwardly along West Nine Mile Road (State Route 33) to its intersection with North Holly Avenue and East Nine Mile Road (State Route 33); thence southeastwardly along East Nine Mile Road (State Route 33) to its intersection with North Oak Avenue; thence northeastwardly along North Oak Avenue to its intersection with East Willow Street; thence southeastwardly along East Willow Street to its intersection with East Willow Street extended; thence southeastwardly along East Willow Street extended to its intersection with Tucker's Branch; thence northeastwardly along Tucker's Branch to its intersection with East Washington Street; thence southeastwardly along East Washington Street to its intersection with Carlstone Drive; thence southwestwardly along Carlstone Drive to its intersection with Midage Lane; thence southeastwardly along Midage Lane to its intersection with Hanover Road; thence southwestwardly along Hanover Road to its intersection with East Nine Mile Road; thence southeastwardly along East Nine Mile Road to its intersection with the Southern Railway right-of-way; thence westwardly along the Southern Railway right-of-way to its intersection with South Airport Drive (State Route 156); thence northeastwardly along South Airport Drive (State Route 156) to its intersection with East Beal Street; thence northwestwardly along East Beal Street to its intersection with South Oak Avenue; thence northeastwardly along South Oak Avenue to its intersection with East Read Street; thence northwestwardly along East Read Street to its intersection with South Kalmia Avenue; thence southwestwardly along South Kalmia Avenue to its intersection with East Jerald Street; thence northwestwardly along East Jerald Street to its intersection with South Holly Avenue and West Jerald Street; thence northwestwardly along West Jerald Street to its intersection with South Cedar Avenue; thence

northeastwardly along South Cedar Avenue to its intersection with West Read Street; thence northwestwardly along West Read Street to its intersection with South Beech Avenue; thence northeastwardly along South Beech Avenue to its intersection with West Nine Mile Road (State Route 33) and North Beech Avenue and the point of beginning. The polling place for Highland Springs Precinct shall be Highland Springs High School, 15 South Oak Avenue.

i. *Laburnum Precinct.* Beginning at the intersection of the Norfolk Southern Railway and S. Airport Drive (State Route 156); thence southwardly along S. Airport Drive (State Route 156) to its intersection with W. Williamsburg Road (U.S. Route 60) and Williamsburg Road (U.S. Route 60); thence westwardly along Williamsburg Road (U.S. Route 60) to its intersection with S. Airport Drive Extended; thence southwardly along S. Airport Drive Extended to its intersection with S. Airport Drive (State Route 156); thence southwardly along S. Airport Drive (State Route 156) to its intersection with Charles City Road; thence northwestwardly along Charles City Road to its intersection with Williamsburg Road (U.S. Route 60); thence eastwardly along Williamsburg Road (U.S. Route 60) to its intersection with Millers Lane; thence northwardly along Millers Lane to its intersection with Millers Lane Extended; thence northwardly along Millers Lane Extended to its intersection with Interstate Route 64; thence eastwardly along Interstate Route 64 to its intersection with Oakleys Lane; thence northwardly along Oakleys Lane to its intersection with the Norfolk Southern Railway; thence eastwardly along the Norfolk Southern Railway to its intersection with S. Airport Drive (State Route 156) and the point of beginning. The polling place for Laburnum Precinct shall be Mountain of Blessings Christian Center, 4700 Oakleys Lane.

j. *Mehfoud Precinct.* Beginning at the intersection of Willson Road and Yarnell Road; thence southeastwardly along Yarnell Road to its intersection with Strath Road; thence southwardly along Strath Road to its intersection with New Market Road (State Route 5); thence southeastwardly along New Market Road (State Route 5) to its intersection with Doran Road; thence northeastwardly along Doran Road to its intersection with Fourmile Creek; thence southeastwardly along Fourmile Creek to its intersection with Interstate Route 295; thence southwestwardly along Interstate Route 295 to its intersection with the north entrance ramp of Interstate Route 295; thence southwardly along the north entrance ramp of Interstate Route 295 to its intersection with New Market Road (State Route 5); thence southeastwardly along New Market Road (State Route 5) to its intersection with Kingsland Road; thence southwestwardly along Kingsland Road to its intersection with Varina Road; thence northwardly along Varina Road to its intersection with Mill Road; thence westwardly along Mill Road to its intersection with Osborne Turnpike; thence northwardly along Osborne Turnpike to its intersection with Cornelius Creek; thence northwardly along Cornelius Creek to its intersection with New Market Road (State Route 5); thence southeastwardly along New Market Road (State Route 5) to its intersection with an unnamed stream (approximately 2,850 feet northwest of the intersection of Willson Road and New Market Road (State Route 5)); thence eastwardly along the unnamed stream to its intersection with Willson Road (approximately 800 feet northeast of the intersection of New Market Road (State Route 5)) and Willson Road; thence northeastwardly along Willson Road to its intersection with Yarnell Road and the point of beginning. The polling place for Mehfoud Precinct shall be Mehfoud Elementary School, 8320 Buffin Road.

k. *Montrose Precinct.* Beginning at the intersection of Creighton Road and N. Laburnum Avenue; thence southeastwardly along N. Laburnum Avenue to its intersection with Nine Mile Road (State Route 33); thence southwestwardly along Nine Mile Road (State Route 33) to its intersection with Masonic Lane; thence southwardly along Masonic Lane to its intersection with Interstate Route 64; thence eastwardly along Interstate Route 64 to its intersection with Millers Lane extended; thence southwardly along Millers Lane extended to its intersection with Millers Lane; thence southwardly along Millers Lane to its intersection with Williamsburg Road (U.S. Route 60); thence westwardly along Williamsburg Road (U.S. Route 60) to its

intersection with the boundary line of the City of Richmond and Henrico County; thence northwardly along the boundary line of the City of Richmond and Henrico County to its intersection with Creighton Road; thence northeastwardly along Creighton Road to its intersection with N. Laburnum Avenue and the point of beginning. The polling place for Montrose Precinct shall be Montrose Elementary School, 2820 Williamsburg Road.

l. *Nine Mile Precinct.* Beginning at the intersection of West Nine Mile Road (State Route 33) and Bridge Street; thence northeastwardly along Bridge Street to its intersection with West Washington Street; thence southeastwardly along West Washington Street to its intersection with North Holly Avenue and East Washington Street; thence southeastwardly along East Washington Street to its intersection with Tucker's Branch; thence southwestwardly along Tucker's Branch to its intersection with East Willow Street extended; thence northwestwardly along East Willow Street extended to its intersection with East Willow Street; thence northwestwardly along East Willow Street to its intersection with North Oak Avenue; thence southwestwardly along North Oak Avenue to its intersection with East Nine Mile Road (State Route 33); thence northwestwardly along East Nine Mile Road (State Route 33) to its intersection with North Holly Avenue and West Nine Mile Road (State Route 33); thence northwestwardly along West Nine Mile Road (State Route 33) to its intersection with Bridge Street and the point of beginning. The polling place for Nine Mile Precinct shall be Henrico Adult Education Center, 201 East Nine Mile Road.

m. *Pleasants Precinct.* Beginning at the intersection of Pleasant Street and Nine Mile Road; thence southwardly along Pleasant Street to its intersection with Yates Lane; thence westwardly along Yates Lane to its intersection with Oakleys Lane; thence southeastwardly along Oakleys Lane to its intersection with Gillies Creek; thence southwestwardly along Gillies Creek to its intersection with the Norfolk Southern Railway right-of-way (approximately 1,600 feet east of the intersection of the Norfolk Southern Railway right-of-way and S. Laburnum Avenue); thence southwestwardly along the Norfolk Southern Railway right-of-way to its intersection with Interstate Route 64; thence eastwardly along Interstate Route 64 to its intersection with Oakleys Lane; thence northwardly along Oakleys Lane to its intersection with the Norfolk Southern Railway right-of-way; thence eastwardly along the Norfolk Southern Railway right-of-way to its intersection with S. Airport Drive; thence northeastwardly along S. Airport Drive to its intersection with E. Beal Street; thence northwestwardly along E. Beal Street to its intersection with S. Oak Avenue; thence northeastwardly along S. Oak Avenue to its intersection with E. Read Street; thence northwestwardly along E. Read Street to its intersection with S. Kalmia Avenue; thence southwestwardly along S. Kalmia Avenue to its intersection with E. Jerald Street; thence northwestwardly along E. Jerald Street to its intersection with W. Jerald Street; thence northwestwardly along W. Jerald Street to its intersection with S. Cedar Avenue; thence northeastwardly along S. Cedar Avenue to its intersection with W. Read Street; thence northwestwardly along W. Read Street to its intersection with S. Beech Avenue; thence northeastwardly along S. Beech Avenue to its intersection with W. Nine Mile Road and N. Beech Avenue; thence westwardly along W. Nine Mile Road to its intersection with Nine Mile Road and A.P. Hill Avenue; thence westwardly along Nile Mile Road to its intersection with Pleasant Street and the point of beginning. The polling place for Pleasants Precinct shall be Highland Springs Elementary School, 600 West Pleasant Street.

n. *Rolfe Precinct.* Beginning at the intersection of Willson Road and South Laburnum Avenue; thence southwestwardly along South Laburnum Avenue to its intersection with Michael Robinson Way; thence northwestwardly along Michael Robinson Way to its intersection with Messer Road; thence southwestwardly along Messer Road to its intersection with New Market Road (State Route 5); thence northwestwardly along New Market Road (State Route 5) to its intersection with Osborne Turnpike (State Route 5); thence northwardly along Osborne Turnpike (State Route 5) to its intersection with Lanier Avenue; thence eastwardly along Lanier Avenue to its intersection with Whitfield Avenue; thence northwardly along

Whitfield Avenue to its intersection with Northbury Avenue; thence eastwardly along Northbury Avenue to its intersection with Old Oakland Road; thence eastwardly along Old Oakland Avenue to its intersection with Bickerstaff Road; thence southeastwardly along Bickerstaff Road to its intersection with Darbytown Road; thence southeastwardly along Darbytown Road to its intersection with Willson Road; thence southwardly along Willson Road to its intersection with South Laburnum Avenue and the point of beginning. The polling place for Rolfe Precinct shall be Rolfe Middle School, 6901 Messer Road.

o. *Sandston Precinct.* Beginning at the intersection of Charles City Road and S. Airport Drive; thence northwardly along S. Airport Drive to its intersection with S. Airport Drive Extended (approximately 2,650 feet southwest of the intersection of S. Airport Drive and Williamsburg Road); thence northwardly along S. Airport Drive Extended to its intersection with Williamsburg Road (U.S. Route 60); thence eastwardly along Williamsburg Road (U.S. Route 60) to its intersection with S. Airport Drive (State Route 156): thence northwardly along S. Airport Drive (State Route 156) to its intersection with the Southern Railway; thence eastwardly along the Southern Railway to its intersection with East Nine Mile Road (State Route 33); thence southeastwardly along East Nine Mile Road (State Route 33) to its intersection with Bond Street; thence northeastwardly along Bond Street to its intersection with Algiers Drive; thence southeastwardly along Algiers Drive to its intersection with Defense Avenue; thence southeastwardly along Defense Avenue to its intersection with Seven Pines Avenue; thence southwardly along Seven Pines Avenue to its intersection with Howard Street; thence southwestwardly along Howard Street to its intersection with East Nine Mile Road (State Route 33); thence southwardly along East Nine Mile Road (State Route 33) to its intersection with East Williamsburg Road (U.S. Route 60); thence eastwardly along East Williamsburg Road (U.S. Route 60) to its intersection with Sandston Avenue; thence southwardly along Sandston Avenue to its intersection with Huntsman Road; thence eastwardly along Huntsman Road to its intersection with Seabury Avenue; thence southwardly along Seabury Avenue to its intersection with Treva Road; thence westwardly along Treva Road to its intersection with Beulah Road; thence southwardly along Beulah Road to its intersection with White Oak Swamp Creek (approximately 1,200 feet north of the intersection of Beulah Road and La France Road); thence southeastwardly along White Oak Swamp Creek to its intersection with Portugee Road; thence southwardly along White Oak Swamp Creek to a fork in the creek (approximately 400 feet west of the intersection of Poplar Springs Road and White Oak Swamp Creek); thence southwestwardly along White Oak Swamp Creek to its intersection with an unnamed stream (approximately 4,800 feet east of the intersection of White Oak Swamp Creek and Interstate Route 295); thence southwardly along the unnamed stream to its intersection with another unnamed stream; thence southwestwardly along this unnamed stream to its intersection with Charles City Road (approximately 2,000 feet east of the intersection of Turner Road and Charles City Road); thence northwestwardly along Charles City Road to its intersection with S. Airport Drive and the point of beginning. The polling place for Sandston Precinct shall be Sandston Baptist Church, 100 W. Williamsburg Road.

p. *Sullivans Precinct.* Beginning at the intersection of South Laburnum Avenue and Willson Road; thence southeastwardly along Willson Road to its intersection with an unnamed stream (approximately 800 feet northeast of the intersection of New Market Road (State Route 5) and Willson Road); thence westwardly along the unnamed stream to its intersection with New Market Road (State Route 5); thence northwestwardly along New Market Road (State Route 5) to its intersection with Cornelius Creek; thence southwardly along Cornelius Creek to its intersection with the boundary line of Chesterfield County and Henrico County; thence northwardly along the boundary line of Chesterfield County and Henrico County to its intersection with the boundary line of the City of Richmond and Henrico County; thence northwardly along the boundary line of the City of Richmond and Henrico County to its intersection with Almond Creek; thence northeastwardly along Almond Creek to its intersection with Bickerstaff Road; thence eastwardly along Bickerstaff Road to its intersection with Old Oakland Road; thence westwardly along Old Oakland Road to

its intersection with Northbury Avenue; thence southwardly along Northbury Avenue to its intersection with Whitfield Avenue; thence southwardly along Whitfield Avenue to its intersection with Lanier Avenue; thence westwardly along Lanier Avenue to its intersection with Osborne Turnpike (State Route 5); thence southwardly along Osborne Turnpike (State Route 5) to its intersection with New Market Road (State Route 5); thence southeastwardly along New Market Road (State Route 5) to its intersection with Messer Road; thence northeastwardly along Messer Road to its intersection with Michael Robinson Way; thence southeastwardly along Michael Robinson Way to South Laburnum Avenue; thence northeastwardly along South Laburnum Avenue to its intersection with Willson Road and the point of beginning. The polling place for Sullivans Precinct shall be Varina High School, 7053 Messer Road.

q. *Town Hall Precinct.* Beginning at the intersection of Mill Road and Varina Road; thence southwardly along Varina Road to its intersection with Kingsland Road; thence northeastwardly along Kingsland Road to its intersection with New Market Road (State Route 5); thence eastwardly along New Market Road (State Route 5) to its intersection with Long Bridge Road; thence northeastwardly along Long Bridge Road to its intersection with Bailey Creek; thence southwardly along Bailey Creek to its intersection with the boundary line of Chesterfield County and Henrico County; thence westwardly along the boundary line of Chesterfield County and Henrico County to its intersection with Cornelius Creek; thence northeastwardly along Cornelius Creek to its intersection with Osborne Turnpike; thence southwardly along Osborne Turnpike to its intersection with Mill Road; thence eastwardly along Mill Road to its intersection with Varina Road and the point of beginning. The polling place for Town Hall Precinct shall be Varina Elementary School, 2551 New Market Road.

r. *Whitlocks Precinct.* Beginning at the intersection of Yahley Mill Road and Charles City Road; thence westwardly along Charles City Road to its intersection with an unnamed stream (approximately 4,000 feet west of the intersection of Yahley Mill Road and Charles City Road); thence northeastwardly along the unnamed stream to its intersection with White Oak Swamp Creek (approximately 4,800 feet east of the intersection of White Oak Swamp Creek and Interstate Route 295); thence northeastwardly along White Oak Swamp Creek to a fork in the creek (approximately 400 feet west of the intersection of Poplar Spring Road and White Oak Swamp Creek); thence eastwardly along White Oak Swamp Creek to its intersection with an unnamed stream (approximately 7,000 feet west of the intersection of Elko Road (State Route 156) and White Oak Swamp Creek); thence southwestwardly along the unnamed stream to its intersection with Hines Road (approximately 2,800 feet east of the intersection of Hines Road and Charles City Road); thence northeastwardly along Hines Road to its intersection with Elko Road (State Route 156); thence southwardly along Elko Road (State Route 156) to its intersection with Charles City Road (State Route 156); thence northeastwardly along Charles City Road to its intersection with the boundary line of Charles City County and Henrico County; thence southwestwardly along the boundary line of Charles City County and Henrico County to its intersection with the boundary line of Charles City County, Chesterfield County and Henrico County; thence westwardly along the boundary line of Chesterfield County and Henrico County to its intersection with Bailey Creek; thence northwardly along Bailey Creek to its intersection with Long Bridge Road; thence northeastwardly along Long Bridge Road to its intersection with Yahley Mill Road; thence northwardly along Yahley Mill Road to its intersection with Charles City Road and the point of beginning. The polling place for Whitlocks Precinct shall be Varina Church of the Nazarene, 5350 Darbytown Road.

(Code 1980, §§ 8-2, 8-3; Code 1995, § 9-2; Ord. No. 900, § 1, 6-28-1995; Ord. No. 901, § 1, 6-28-1995; Ord. No. 905, §§ 1, 2, 7-26-1995; Ord. No. 926, § 1, 7-10-1996; Ord. No. 949, § 1, 5-14-1997; Ord. No. 977, § 1, 6-24-1998; Ord. No. 1012, § 1, 6-12-2001; Ord. No. 1014, § 1, 7-24-2001; Ord. No. 1018, § 1, 10-9-2001; Ord. No. 1021, § 1, 1-22-2002; Ord. No. 1036, §§ 1, 2, 8-13-2002; Ord. No. 1042, § 1, 4-22-2003; Ord. No. 1049, § 1, 8-12-2003; Ord. No. 1067, § 1, 7-13-2004; Ord. No. 1106, § 1, 6-26-2007; Ord. No. 1122, § 1, 7-22-2008; Ord. No. 1133, § 1, 3-10-2009)

State law reference—Precincts and polling places, Code of Virginia, § 24.2-307.

Sec. 9-3. Central absentee election district.

There is hereby established a permanent central absentee election district to be used for all elections. Such district shall be located in the Home Demonstration Meeting Room, Room 3027 of the Human Services Building of the county government center at 8600 Dixon Powers Drive. Such election district shall be operated as provided in Code of Virginia, § 24.2-712.

(Code 1980, § 8-4; Code 1995, § 9-3; Ord. No. 1036, § 3, 8-13-2002)

State law reference—Absentee ballots, Code of Virginia, § 24.2-700 et seq.

Chapter 10 - ENVIRONMENT

***Cross reference—** Unsafe buildings, § 6-25 et seq.; spot blight abatement, § 6-104 et seq.; pollution of waters in parks, § 14-39.

ARTICLE I. IN GENERAL

Sec. 10-1. Repair or removal of defacement of buildings, walls, fences and other structures.

(a) The building official is hereby authorized to repair or remove defacement of the following if the property owner fails to remove or repair the defacement within 30 days of the mailing of written notice to the owner's address shown on the real property records of the county.

(1) Any public building, wall, fence or other structure; or

(2) Any private building, wall, fence or other structure if the defacement is visible from a public right-of-way.

(b) The building official may have the defacement removed or repaired by county employees or agents at county expense.

(Code 1995, § 10-1; Ord. No. 916, § 1, 4-24-1996; Ord. No. 955, § 1, 8-13-1997)

Cross reference— Offenses, ch. 13.

State law reference— Authority for repair or removal, Code of Virginia, § 15.2-908; authority to charge parents for costs of defacement of public property by a minor, Code of Virginia, § 8.01-43.

Sec. 10-2. Repair, removal or securing of buildings and other structures harboring illegal drug use or other criminal activity.

(a) *Definitions.* For the purpose of this section, the following terms shall have the following meanings:

Affidavit means the affidavit sworn to under oath in accordance with subsection (c).

Commercial sex acts means any specific activities that would constitute a criminal act under Code of Virginia, title 18.2, ch. 8, art. 3 (Code of Virginia, § 18.2-344 et seq.) or a substantially similar local ordinance if a criminal charge were to be filed against the individual perpetrator of such criminal activity.

Controlled substance means illegally obtained controlled substances or marijuana, as defined in Code of Virginia, § 54.1-3401.

Corrective action means (i) taking specific actions with respect to the buildings or structures on property that are reasonably expected to abate criminal blight on such real property, including the removal, repair, or securing of any building, wall, or other structure, or (ii) changing specific policies, practices, and procedures of the real property owner that are reasonably expected to abate criminal blight on real property. A local law-enforcement official shall prepare an affidavit on behalf of the locality that states specific actions to be taken on the part of the property owner that the locality determines are necessary to abate the identified criminal blight on such real property and that do not impose an undue financial burden on the owner.

Criminal blight means a condition existing on real property that endangers public health or the safety of county residents and is caused by (i) the regular presence of persons under the influence of controlled substances; (ii) the regular use of the property for the purpose of illegally possessing, manufacturing, or distributing controlled substances; (iii) the regular use of the property for the purpose of engaging in

commercial sex acts; or (iv) repeated acts of the malicious discharge of a firearm within any building or dwelling that would constitute a criminal act under Code of Virginia, § 18.2-279 or a substantially similar local ordinance if a criminal charge were to be filed against the individual perpetrator of such criminal activity.

Law-enforcement official **means an official designated to enforce criminal laws within a locality, or an agent of such law-enforcement official. The law-enforcement official shall coordinate with the building or fire code official of the locality as otherwise provided under applicable laws and regulations.**

Owner means the record owner of real property.

Property means real property.

(b) *Abatement authorized.* The building official is hereby authorized to take reasonable steps to abate criminal blight on real property, such as removal, repair or securing of a building, wall or other structure, after complying with the notification provisions of this section.

(c) *Initial notification procedures.* Before any corrective action is taken, the chief of police shall execute and send the building official an affidavit that cites Code of Virginia, § 15.2-907, and states the following:

(1) Criminal blight exists on the property;

(2) The grounds for determining that criminal blight exists on the property;

(3) The division of police has been unable to abate the criminal blight despite diligent efforts to do so; and

(4) The criminal blight constitutes a present threat to the public's health, safety or welfare.

The building official shall send a copy of the affidavit by (i) certified mail, return receipt requested; (ii) hand delivery; or (iii) overnight delivery by a commercial service or the United States Postal Service, to the owner of the property at his current address in the county's assessment records along with a notice stating that the owner has 30 days from the date of the notice to take corrective action and that, upon the owner's request, the county will assist the owner in determining and coordinating the corrective action. If the owner notifies the county in writing within the 30-day period that additional time to complete the corrective action is needed, the county shall allow such owner an extension for an additional 30-day period to take such corrective action.

(d) *Additional notification.* If no corrective action is taken during the 30-day period, or during the extension if such extension is granted by the county, the building official shall send an additional notice to the owner by certified mail, return receipt requested, at the address stated in subdivision (c). The notice shall state the date on which the county may commence (i) corrective action to abate the criminal blight or (ii) legal action in a court of competent jurisdiction to obtain a court order to require that the owner take such corrective action or, if the owner does not take corrective action, a court order to revoke the certificate of occupancy for such property, which date shall be no earlier than 15 days after the date of mailing of the additional notice. The notice shall also describe the county's contemplated corrective action and state that the costs of corrective action taken by the county will be charged to the owner. Upon reasonable notice to the county, the owner may seek judicial relief, and the county may not take corrective action during the pendency of a proper petition for relief in a court of competent jurisdiction.

(e) *Costs of corrective action.* If the county takes corrective action after complying with the requirements of this section, the county may charge the costs and expenses of the corrective action to the owner and may collect them as taxes are collected. Every charge authorized by this section that remains unpaid shall constitute a lien against the property with the same priority as liens for unpaid local real estate taxes and shall be enforceable in the same manner as provided in Code of Virginia, title 58.1, ch. 39, arts. 3 (Code of Virginia, § 58.1-3940 et seq.) and 4 (Code of Virginia, § 58.1-3965 et seq.).

(f) *Corrective action by owner.* If the owner of the property takes timely and effective corrective action

pursuant to the provisions of this section, the building official shall deem the criminal blight abated, shall close the proceedings without any charge or costs to the owner, and shall promptly provide a written notice to the owner that the proceeding has been terminated satisfactorily. The closing of a proceeding shall not bar the county from initiating a subsequent proceeding if the criminal blight recurs.

(g) *Owner's rights preserved.* Nothing in this section shall be construed to abridge, diminish, limit, or waive any rights or remedies of an owner of property at law or any permits or nonconforming rights the owner may have under Code of Virginia, title 15.2, ch. 22 (Code of Virginia, § 15.2-2200 et seq.) or under the Code. If an owner in good faith takes corrective action, and despite having taken such action, the specific criminal blight identified in the affidavit persists, such owner shall be deemed in compliance with this section. Further, if a tenant of a rental dwelling unit, or a tenant on a manufactured home lot, is the cause of criminal blight on such property and the owner in good faith initiates legal action and pursues the same requesting a final order by a court of competent jurisdiction, as otherwise authorized by the Code of Virginia, against such tenant to remedy such noncompliance or to terminate the tenancy, such owner shall be deemed in compliance with this section.

(Code 1995, § 10-2; Ord. No. 917, § 1, 4-24-1996)

State law reference—Similar provisions, Code of Virginia, § 15.2-907.

Sec. 10-3. Inoperable motor vehicles.

(a) *Restrictions.* It shall be unlawful to keep more than one inoperable motor vehicle outside a fully enclosed building or structure on property zoned or used for residential purposes, or any property zoned for, commercial or agricultural purposes. For purposes of this section, the term "inoperable motor vehicle" means any motor vehicle, trailer or semitrailer, as defined in Code of Virginia, § 46.2-100, which:

(1) Is not in operating condition;

(2) Does not display valid license plates;

(3) Does not display an inspection decal that is valid; or

(4) Displays an inspection decal that has been expired for more than 60 days.

(b) *Shielding or screening required.* One inoperable motor vehicle may be kept outside a fully enclosed building or structure if it is shielded or screened from view. As used in this section, the term "shielded or screened from view" means not visible to someone standing at ground level from outside of the property on which the subject vehicle is located.

(c) *Exceptions.* This section shall not apply to a licensed business which is regularly engaged in business as an automobile dealer, salvage dealer or scrap processor.

(d) *Enforcement.* The director of community revitalization shall enforce this section.

(Code 1995, § 10-3; Ord. No. 922, § 1, 5-22-1996; Ord. No. 945, § 1, 5-14-1997; Ord. No. 986, § 1, 7-13-1999; Ord. No. 1069, § 1, 8-10-2004)

Cross reference—Traffic and vehicles, ch. 22.

State law reference—Authority of Henrico County to restrict keeping of inoperable motor vehicles on residential or commercial property, Code of Virginia, § 15.2-905.

Sec. 10-4. Repair, removal or securing of buildings and other structures harboring a bawdy place.

(a) *Definitions.* For the purpose of this section, the following terms shall have the following meanings:

Affidavit means an affidavit prepared in accordance with subsection (c) of this section.

Bawdy place means the same as that term is defined in Code of Virginia, § 18.2-347.

Corrective action means the taking of steps which are reasonably expected to be effective to abate a bawdy place on real property, such as removal, repair or securing of any building, wall or other structure.

Owner means the record owner of real property.

(b) *Abatement authorized.* The building official is hereby authorized to take reasonable steps to abate a bawdy place on real property, such as removal, repair or securing of a building, wall or other structure, after complying with the notification provisions of this section.

(c) *Initial notification procedures.* Before any corrective action is taken, the chief of police shall execute and send the building official an affidavit that cites Code of Virginia, § 15.2-908.1, and states the following:

(1) A bawdy place exists on the property and in the manner described therein;

(2) The division of police has been unable to abate the bawdy place despite diligent efforts to do so; and

(3) The bawdy place constitutes a present threat to the public's health, safety or welfare.

The building official shall send a copy of the affidavit by regular mail to the owner of the property at his current address in the county's assessment records along with a notice stating that the owner has 30 days from the date of the notice to take corrective action to abate the bawdy place and that, upon the owner's request, the county will assist the owner in determining and coordinating the corrective action.

(d) *Additional notification.* If no corrective action is taken during the 30-day period, the building official shall send an additional notice to the owner by regular mail. The notice shall state that the county may take corrective action to abate the bawdy place after 15 days from the date of the additional notice, and it shall describe the county's contemplated corrective action. The notice shall also state that the costs of corrective action taken by the county will be charged to the owner. Upon reasonable notice to the county, the owner may seek equitable relief, and the county may not take corrective action during the pendency of a proper petition for relief in a court of competent jurisdiction.

(e) *Costs of corrective action.* If the county takes corrective action after complying with the requirements of this section, the county may charge the costs and expenses of the corrective action to the owner and may collect them as taxes are collected. Every charge authorized by this section which remains unpaid shall constitute a lien against the property with the same priority as liens for unpaid local real estate taxes and shall be enforceable in the same manner as provided in Code of Virginia, title 58.1, ch. 39, arts. 3 (Code of Virginia, § 58.1-3940 et seq.) and 4 (Code of Virginia, § 58.1-3965 et seq.).

(f) *Corrective action by owner.* If the owner of the property takes timely and effective corrective action, the building official shall deem the bawdy place abated, shall close the proceedings without any charge or costs to the owner, and shall promptly provide a written notice to the owner that the proceeding has been terminated satisfactorily. The closing of a proceeding shall not bar the county from initiating a subsequent proceeding if the bawdy place recurs.

(g) *Owner's rights preserved.* Nothing in this section shall be construed to abridge or waive any rights or remedies of an owner of property at law or in equity.

(Code 1995, § 10-4; Ord. No. 959, § 1, 9-10-1997)

Cross reference—Offenses, ch. 13.

State law reference—Similar provisions, Code of Virginia, § 15.2-908.1.

Secs. 10-5—10-26. Reserved.

ARTICLE II. STORMWATER MANAGEMENT

Division 1. Purpose, Definitions, and Applicability

Sec. 10-27. Purpose and authority.

(a) The purposes of this article are to promote and protect the health, safety, and general welfare of the citizens of Henrico County; to protect state waters, stream channels, and other natural resources from the potential impacts of development; and to establish procedures whereby state and federal requirements related to stormwater quality and quantity shall be administered and enforced.

(b) This article sets forth the county's provisions for complying with state requirements for erosion and sediment control, stormwater management, and protection of Chesapeake Bay Preservation Areas as well as for complying with federal requirements in the Clean Water Act. Authority and additional definitions for this article are provided by § 62.1-44.15:24 et seq. (Stormwater Management Act), § 62.1-44.15:51 et seq. (Erosion and Sediment Control Law), and § 62.1-44.15:67 et seq. (Chesapeake Bay Preservation Act) of the Code of Virginia, and the state regulations implementing these acts.

Sec. 10-28. 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:

Act or *Virginia Stormwater Management Act* means § 62.1-44.15:24 et seq. of the Code of Virginia.

Administrator means the director of public works or his designee.

Agreement in lieu of an erosion and sediment control plan means a contract executed by the administrator and the owner in lieu of an erosion and sediment control plan for construction of a single-family residence which specifies conservation measures to be used during construction.

Agreement in lieu of a stormwater management plan means a contract between the VSMP authority and the owner or permittee that specifies methods that shall be implemented to comply with the requirements of the VSMP for the construction of a single-family residence; such contract may be executed by the VSMP authority in lieu of a stormwater management plan.

Applicant means any person executing an agreement in lieu of a plan, submitting an ECP for approval, submitting an application for a permit, or requesting issuance of a permit authorizing land-disturbing activities to commence.

Best management practices or *BMPs* means the schedules of activities, prohibitions of practices, including both structural and nonstructural practices, maintenance procedures, and other management practices to prevent or reduce the pollution of surface waters and groundwater systems.

Board means the State Water Control Board.

Buffer means a natural or landscaped area or screening device intended to provide a horizontal distance and open space, to preserve vegetation, and to lessen the impact and adverse relationships between dissimilar, unrelated or incompatible land uses, or to provide an area of natural or planted vegetation to protect Chesapeake Bay Preservation Areas and county and state waters from degradation due to land disturbances or uses.

Certificate of competence means a valid certificate of competence from the Board as specified in 9VAC25-850-40 and 9VAC25-850-50.

Chesapeake Bay Preservation Area or *CBPA* means any land as defined in § 24-3 of the Code. Chesapeake Bay Preservation Areas shall consist of a resource protection area and a resource management area.

Chesapeake Bay Preservation Act land-disturbing activity or *CBPA land-disturbing activity* means a land-disturbing activity, including clearing, grading, or excavation, that results in land disturbance in a CBPA equal to or greater than 2,500 square feet and less than one acre. The term does not include the following activities as provided in § 62.1-44.15:34 of the Code of Virginia:

1. Permitted surface or deep mining operations and projects, or oil and gas operations and projects conducted under the provisions of title 45.1 of the Code of Virginia;
2. Clearing of lands specifically for agricultural purposes and the management, tilling, planting, or harvesting of agricultural, horticultural, or forest crops, livestock feedlot operations, or as additionally set forth by the Board in regulations, including engineering operations as follows: construction of terraces, terrace outlets, check dams, desilting basins, dikes, ponds, ditches, strip cropping, lister furrowing, contour cultivating, contour furrowing, land drainage, and land irrigation; however, this exception shall not apply to harvesting of forest crops unless the area on which harvesting occurs is reforested artificially or naturally in accordance with the provisions of § 10.1-1100 et seq. of the Code of Virginia or is converted to bona fide agricultural or improved pasture use as described in § 10.1-1163(B) of the Code of Virginia;
3. Single-family residences separately built and disturbing less than one acre and not part of a larger common plan of development or sale, including additions or modifications to existing single-family detached residential structures;
4. Land-disturbing activities less than 2,500 square feet in CBPAs or activities that are part of a larger common plan of development or sale that is one acre or greater of disturbance;
5. Discharges to a sanitary sewer or a combined sewer system;
6. Activities under a state or federal reclamation program to return an abandoned property to an agricultural or open land use;
7. Routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, or original construction of the project. The paving of an existing road with a compacted or impervious surface and reestablishment of existing associated ditches and shoulders shall be deemed routine maintenance if performed to maintain the original line and grade, hydraulic capacity, or original construction of the project; and
8. Conducting land-disturbing activities in response to a public emergency where the related work requires immediate authorization to avoid imminent endangerment to human health or the environment. In such situations, the VSMP authority shall be advised of the disturbance within seven days of commencing the land-disturbing activity and compliance with the administrative requirements of subsection A of § 62.1-44.15:34 of the Code of Virginia is required within 30 days of commencing the land-disturbing activity.

Clearing means any activity which removes vegetation, including cutting and/or removal of trees, root mat, or topsoil.

Common plan of development or sale means a contiguous area where separate and distinct construction activities may be taking place at different times on different schedules.

Control measure means any best management practice or stormwater facility, or other method used to minimize the discharge of pollutants to state waters.

Clean Water Act or *CWA* means the federal Clean Water Act (33 U.S.C § 1251 et seq.), formerly referred to as the Federal Water Pollution Control Act or Federal Water Pollution Control Act Amendments of 1972, Public Law 92-500, as amended by Public Law 95-217, Public Law 95-576, Public Law 96-483, and Public Law 97-117, and any subsequent revisions thereto.

Department means the Virginia Department of Environmental Quality.

Development means land disturbance and the resulting landform associated with the construction of residential, commercial, industrial, institutional, recreational, transportation or utility facilities or structures or the clearing of land for non-agricultural or non-silvicultural purposes. For purposes of this article, the regulation of discharges from development does not include exemptions found in 9VAC25-870-300.

District or *soil and water conservation district* means a political subdivision of the state organized in accordance with the provisions of § 10.1-506 et seq. of the Code of Virginia.

Environmental compliance plan or *ECP* means a document containing the information set forth in § 10-32 of the Code that is required to comply with this article.

Erosion and sediment control plan or *ESC plan* means a document containing material, including all major conservation decisions, for the conservation of soil and water resources of a unit or group of units of land. Each plan shall contain the information specified in § 10-34 of the Code.

Excavating means any digging, scooping, or other method of removing earth materials.

Exception means an approved deviation from the requirements applicable to VESCP land-disturbing activities.

Filling means any depositing or stockpiling of earth materials.

Final stabilization means that one of the following:

1. All soil-disturbing activities at the site have been completed and a permanent vegetative cover has been established on denuded areas not otherwise permanently stabilized. Permanent vegetation shall not be considered established until a ground cover is achieved that is uniform (*e.g.*, evenly distributed), is mature enough to survive, and will inhibit erosion;
2. For individual lots in residential construction, final stabilization is achieved by either:
    a. The homebuilder completing final stabilization as specified in subdivision 1 of this definition; or
    b. The homebuilder establishing temporary stabilization, including perimeter controls for an individual lot prior to occupation of the home by the homeowner, and informing the homeowner of the need for, and benefits of, final stabilization;
3. For construction projects on land used for agricultural purposes (*e.g.*, pipelines across crop or range land), final stabilization is achieved by returning the disturbed land to its preconstruction agricultural use. Areas disturbed that were not previously used for agricultural activities, such as buffer strips immediately adjacent to surface waters, and areas that are not being returned to their preconstruction agricultural use must meet the final stabilization criteria specified in subsection 1 or 2 of this definition.

Flood-prone area means the component of a natural or restored stormwater conveyance system that is outside the main channel. Flood-prone areas may include, but are not limited to, the floodplain, the floodway, the flood fringe, wetlands, riparian buffers, or other areas adjacent to the main channel.

General Construction Permit or *GCP* means the state permit titled GENERAL VPDES PERMIT FOR DISCHARGES OF STORMWATER FROM CONSTRUCTION ACTIVITIES set forth at 9VAC25-880-70 that authorizes a category of discharges under the Act and the CWA within a geographical area.

Grading means any excavating or filling of earth materials or any combination thereof which changes the slope or contour of land.

Highly erodible soils means soils (excluding vegetation) with an erodibility index (EI) from sheet and rill erosion equal to or greater than eight. The erodiblity index for any soil is defined as the product of the rill formula RKLS/T, where K is the soil susceptibility to water in the surface layer; R is the rainfall and runoff; LS is the combined effects of slope length and steepness; and T is the soil loss tolerance.

Highly permeable soils means soils with a given potential to transmit water through the soil profile. Highly permeable soils are identified as any soil having a permeability equal to or greater than six inches of water movement per hour in any part of the soil profile to a depth of 72 inches (permeability groups "rapid" and "very rapid") as found in the National Soil Survey Handbook of November 1996 in the Field Office Technical Guide of the U.S. Department of Agriculture Natural Resources Soil Conservation Service.

Impervious cover means a surface composed of any material that significantly impedes or prevents natural infiltration of water into the soil. Impervious surfaces include, but are not limited to, roofs, buildings, streets, parking areas, and any concrete, asphalt, or compacted gravel surface.

Land development approval process means an administrative procedure for approvals required by the Code, including approvals of construction plans, plans of development, conditional and special use permits, provisional use permits, landscape plans, agreements in lieu of a plan, erosion and sediment control plans, building permits, conditional or final subdivision plats, and construction plans.

Layout means a conceptual drawing sufficient to provide for the specified stormwater management facilities required at the time of approval.

Manual means Henrico County Environmental Compliance Manual.

Minor modification means an amendment to an existing General Construction Permit before its expiration not requiring extensive review and evaluation including, but not limited to, changes in EPA promulgated test protocols, increasing monitoring frequency requirements, changes in sampling locations, and changes to compliance dates within the overall compliance schedules. A minor General Construction Permit modification or amendment does not substantially alter permit conditions, substantially increase or decrease the amount of surface water impacts, increase the size of the operation, or reduce the capacity of the facility to protect human health or the environment.

100-year floodplain means the special flood hazard area as defined in § 24-3 of the Code.

Operator means the owner or operator of any facility or activity subject to the Act and this article. In the context of stormwater associated with a large or small construction activity, operator means any person associated with a construction project that meets either of the following two criteria: (i) the person has direct operational control over construction plans and specifications, including the ability to make modifications to those plans and specifications, or (ii) the person has day-to-day operational control of those activities at a project that are necessary to ensure compliance with a stormwater pollution prevention plan for the site or other state permits or VSMP authority permit conditions (*i.e.*, they are authorized to direct workers at a site to carry out activities

required by the stormwater pollution prevention plan or to comply with other permit conditions). In the context of stormwater discharges from municipal separate storm sewer systems, operator means the operator of the regulated system.

Owner means the owner 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 in control of a property.

Permittee means the person to whom the permit authorizing land-disturbing activities is issued, including any owner or operator whose construction site is covered under a GCP, or the person who certifies that the approved erosion and sediment control plan, ECP, or agreement in lieu of a plan will be followed.

Person means any individual, corporation, partnership, association, state, municipality, commission, political subdivision, governmental body, any interstate body, or any other legal entity.

Postdevelopment means conditions that may be reasonably expected or anticipated to exist after completion of the land development activity on a specific site or tract of land.

Predevelopment means conditions at the time the erosion and sediment control plan is submitted to the plan approving authority. Where phased development or plan approval occurs (preliminary grading, roads and utilities, etc.), the existing conditions at the time the erosion and sediment control plan for the initial phase is submitted for approval shall establish predevelopment conditions.

Prior developed lands means land that has been previously utilized for residential, commercial, industrial, institutional, recreational, transportation, or utility facilities or structures, and that will have the impervious areas associated with those uses altered during a land-disturbing activity.

Resource management area or *RMA* means that component of Chesapeake Bay Preservation Areas defined in §§ 24-3 and 24-106.3 of the Code.

Resource protection area or *RPA* means that component of a Chesapeake Bay Preservation Area comprised of lands adjacent to water bodies with perennial flow that have an intrinsic water quality value due to the ecological and biological processes they perform or are sensitive to impacts which may result in significant degradation to the quality of state waters.

Regulations means the Virginia Stormwater Management Program regulations set out in 9VAC25-870-10 et seq., as amended.

Silvicultural activities means forest management activities, including, but not limited to, the harvesting of timber, the construction of roads and trails for forest management purposes, and the preparation of property for reforestation that are conducted in accordance with the silvicultural best management practices developed and enforced by the state forester pursuant to § 10.1-1105 of the Code of Virginia, and are located on property defined as real estate devoted to forest use under § 58.1-3230 of the Code of Virginia.

Single-family residence means a noncommercial dwelling that is occupied exclusively by one family.

Site means the land or water area where any facility or land-disturbing activity is physically located or conducted, including adjacent land used or preserved in connection with the facility or land-disturbing activity. Areas channelward of mean low water in tidal Virginia shall not be considered part of a site.

State means the Commonwealth of Virginia.

State permit means an approval to conduct a land-disturbing activity issued by the Board in the form of a state stormwater individual permit or coverage issued under a state General Construction Permit or an approval issued by the Board for stormwater discharges from a municipal separate storm sewer system. Under these state permits, the state imposes and enforces requirements pursuant to the federal Clean Water Act and regulations, the Act and the Regulations.

State Water Control Law means § 62.1-44.2 et seq. of the Code of Virginia. On July 1, 2013, it incorporated the Chesapeake Bay Preservation Act, the Erosion and Sediment Control Law, and the Stormwater Management Control Act under the jurisdiction of the Board.

State waters means all water, on the surface and under the ground, wholly or partially within or bordering the state or within its jurisdiction, including wetlands.

Stormwater means precipitation that is discharged across the land surface or through conveyances to one or more waterways and that may include stormwater runoff, snow melt runoff, and surface runoff and drainage.

Stormwater management plan or *SWM plan* means a document containing material describing methods for complying with the requirements of this article. An agreement in lieu of a stormwater management plan as defined in this section shall be considered to meet the requirements of a stormwater management plan.

Stormwater Pollution Prevention Plan or *SWPPP* means a document that is prepared in accordance with good engineering practices and that identifies potential sources of pollutants that may reasonably be expected to affect the quality of stormwater discharges. A SWPPP for construction activities shall identify and require the implementation of control measures and shall include by reference an approved erosion and sediment control plan, an approved stormwater management plan, and a pollution prevention plan.

Stream protection area or *SPA* means an area 50 feet in width adjacent to both sides of a stream that extends upstream from the RPA boundary to a point where the drainage area is 100 acres or more. The SPA is measured from the streambank or the limits of the two-year storm flow if the streambank is not defined.

Subdivision means a division of land as defined in § 19-2 of the Code.

Tidal shore means land contiguous to a tidal body of water between the mean low water level and the mean high water level.

Total maximum daily load or *TMDL* means the sum of the individual wasteload allocations for point sources, load allocations for nonpoint sources, natural background loading, and a margin of safety. TMDLs can be expressed in terms of either mass per time, toxicity, or other appropriate measure. The TMDL process provides for point versus nonpoint source trade-offs.

Transporting means any moving of earth materials from one place to another, other than such movement incidental to grading, when such movement results in destruction of the vegetative ground cover, either by tracking or the buildup of earth materials, and erosion and sedimentation.

Variance means an approved deviation from the requirements applicable to VSMP land-disturbing activities.

Virginia Erosion and Sediment Control Program authority or *VESCP authority* means the county department of public works, which is responsible for determining the adequacy of erosion and sediment control plans and their approval.

Virginia Erosion and Sediment Control Program land-disturbing activity or *VESCP land-disturbing activity* means any man-made change to the land surface that may result in soil erosion from water or wind and the movement of sediments into state waters or onto lands in the state. It includes, but is not limited to, clearing, grading, excavating, transporting, and filling of land. The term does not include the following activities as provided in § 62.1-44.15:51 of the Code of Virginia:

1. Minor land-disturbing activities such as home gardens and individual home landscaping, repairs, and maintenance work;
2. Individual service connections;
3. Installation, maintenance, or repair of any underground public utility lines when such activity occurs on an existing hard-surfaced road, street or sidewalk, provided the land-disturbing activity is confined to the area of the road, street or sidewalk that is hard-surfaced;
4. 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;
5. Permitted surface or deep mining operations and projects, or oil and gas operations and projects conducted pursuant to title 45.1 of the Code of Virginia;
6. Tilling, planting, or harvesting of agricultural, horticultural, or forest crops, livestock feedlot operations, or as additionally set forth by the Board in regulation, including engineering operations as follows: construction of terraces, terrace outlets, check dams, desilting basins, dikes, ponds, ditches, strip cropping, lister furrowing, contour cultivating, contour furrowing, land drainage and land irrigation; however, this exception shall not apply to harvesting of forest crops unless the area on which harvesting occurs is reforested artificially or naturally in accordance with the provisions of § 10.1-1100 et seq. of the Code of Virginia or is converted to bona fide agricultural or improved pasture use as described in § 10.1-1163(B) of the Code of Virginia;
7. Repair or rebuilding of the tracks, right-of-way, bridges, communication facilities and other related structures and facilities of a railroad company;
8. Agricultural engineering operations, including but not limited to the construction of terraces, terrace outlets, check dams, desilting basins, dikes, ponds not required to comply with the provisions of the Dam Safety Act (§ 10.1-604 et seq. of the Code of Virginia), ditches, strip cropping, lister furrowing, contour cultivating, contour furrowing, land drainage and land irrigation;
9. Disturbed land areas of less than 2,500 square feet in size;
10. Installation of fence and sign posts or telephone and electric poles and other kinds of posts or poles;
11. Shoreline erosion control projects on tidal waters when all of the land-disturbing activities are within the regulatory authority of and approved by local wetlands boards, the Virginia Marine Resources Commission, or the United States Army Corps of Engineers; however, any associated land that is disturbed outside of this exempted area shall remain subject to this article and the regulations adopted pursuant thereto; and
12. Emergency work to protect life, limb or property, and emergency repairs; however, if the land-disturbing activity would have required an approved erosion and sediment control plan if the activity were not an emergency, then the land area disturbed shall be shaped and stabilized in accordance with the requirements of the VESCP authority.

Virginia Stormwater BMP Clearinghouse website means a website that contains detailed design standards and specifications for control measures that may be used in Virginia to comply with the requirements of the Act and associated regulations.

Virginia Stormwater Management Program or *VSMP* means a program approved by the Board after June 30, 2013 that has been established to manage the quality and quantity of runoff resulting from land-disturbing activities and shall include such items as local ordinances, rules, permit requirements, annual standards and specifications, policies and guidelines, technical materials, and requirements for plan review, inspection, enforcement as authorized in this article, and evaluation consistent with the requirements of this article and associated regulations.

Virginia Stormwater Management Program authority or *VSMP authority* means the county department of public works, which is responsible for determining the adequacy of stormwater management plans and their approval.

Virginia Stormwater Management Program land-disturbing activity or *VSMP land-disturbing activity* means a man-made change to the land surface that potentially changes its runoff characteristics, including clearing, grading, or excavation. The term does not include the following activities as provided in § 62.1-44.15:34 of the Code of Virginia:

1. Permitted surface or deep mining operations and projects, or oil and gas operations and projects conducted under the provisions of title 45.1 of the Code of Virginia;
2. Clearing of lands specifically for agricultural purposes and the management, tilling, planting, or harvesting of agricultural, horticultural, or forest crops, livestock feedlot operations, or as additionally set forth by the Board in regulations, including engineering operations as follows: construction of terraces, terrace outlets, check dams, desilting basins, dikes, ponds, ditches, strip cropping, lister furrowing, contour cultivating, contour furrowing, land drainage, and land irrigation; however, this exception shall not apply to harvesting of forest crops unless the area on which harvesting occurs is reforested artificially or naturally in accordance with the provisions of § 10.1-1100 et seq. of the Code of Virginia or is converted to bona fide agricultural or improved pasture use as described in § 10.1-1163(B) of the Code of Virginia;
3. Single-family residences separately built and disturbing less than one acre and not part of a larger common plan of development or sale, including additions or modifications to existing single-family detached residential structures;
4. Land-disturbing activities that disturb less than one acre of land area except for land-disturbing activity exceeding an area of 2,500 square feet in CBPAs or activities that are part of a larger common plan of development or sale that is one acre or greater of disturbance;
5. Discharges to a sanitary sewer or a combined sewer system;
6. Activities under a state or federal reclamation program to return an abandoned property to an agricultural or open land use;
7. Routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, or original construction of the project. The paving of an existing road with a compacted or impervious surface and reestablishment of existing associated ditches and shoulders shall be deemed routine maintenance if performed in accordance with this subsection; and
8. Conducting land-disturbing activities in response to a public emergency where the related work requires immediate authorization to avoid imminent endangerment to human health or the environment. In such situations, the VSMP authority shall be advised of the disturbance within seven days of commencing the land-disturbing activity and compliance with the administrative requirements of subsection A of § 62.1-44.15:34 of the Code of Virginia is required within 30 days of commencing the land-disturbing activity.

Water quality impact assessment means an evaluation of the environmental impacts associated with proposed development in Chesapeake Bay Preservation Areas. The evaluation components may be submitted as part of the plan of development process or in a separate document.

Wetlands, nontidal means those wetlands other than tidal wetlands that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, as defined by current federal regulatory programs under § 404 of the Clean Water Act.

Wetlands, tidal means vegetated and nonvegetated wetlands as defined in § 28.2-1300 of the Code of Virginia.

Sec. 10-29. Applicability.

(a) This article regulates three types of land disturbances and land-disturbing activities as defined in § 10-28 of the Code:

(1) VESCP land-disturbing activity;
(2) VSMP land-disturbing activity; and
(3) CBPA land-disturbing activity.

(b) A land-disturbing activity may be a VESCP land-disturbing activity and/or either a VSMP land-disturbing activity or a CBPA land-disturbing activity.

Division 2. Plan Requirements for Land-Disturbing Activities

Sec. 10-30. General requirements for all land-disturbing activities.

(a) No person shall conduct a land disturbance or a land-disturbing activity until:

(1) An environmental compliance plan meeting the requirements of § 10-32 of the Code has been submitted to and approved by the administrator;
(2) A maintenance agreement or other enforceable mechanism ensuring long term maintenance for permanent stormwater facilities meeting the requirements of § 10-54 of the Code has been submitted to and approved by the administrator;
(3) A financial guarantee in accordance with § 10-46 of the Code has been submitted to and approved by the administrator; and
(4) A preconstruction meeting in accordance with § 10-48 of the Code has been conducted.

(b) No county department which issues grading, building, or other permits for work resulting in a regulated land-disturbing activity may issue such permits until the applicant demonstrates compliance with the applicable requirements of subsection (a) and has certified that the ECP will be followed. The owner is responsible for obtaining approval even if the land-disturbing activity will be performed by contractors or others.

Sec. 10-31. Applicable design standards, specifications and methods.

The applicant shall use the applicable standards in the Virginia Erosion and Sediment Control Regulations at 9VAC25-840 et seq., the Virginia Erosion and Sediment Control Handbook, the Regulations, the Virginia BMP Clearinghouse, and the Manual in the preparation and submission of an ECP. The plan-approving authority shall be guided by the same standards, regulations and guidelines in considering the adequacy of a plan submittal. When the standards vary between the publications, the state regulations shall take precedence.

Sec. 10-32. Components of environmental compliance plan.

The ECP shall contain the following components:

(a) General information
  (1) A statement that it was prepared by a professional registered in the state pursuant to § 54.1-400 et seq. of the Code of Virginia;
  (2) A site plan or map which conforms to a subdivision plat or plan of development which complies with chapters 19 or 24 of the Code;
  (3) A tree protection plan which complies with § 24-106.2 of the Code;
  (4) The location of RPAs, RMAs, SPAs, and all buffers required by conditions of zoning, development, or use;
  (5) A certification by the permittee that:
    a) All wetlands, RPAs RMAs, SPAs, and buffers will be conspicuously flagged or otherwise identified and not disturbed unless authorized; and
    b) The permittee will notify the administrator upon completion of the flagging;
  (6) A comprehensive drainage plan;
  (7) Evidence on the site plan that no more land than is necessary to provide for the proposed use or development shall be disturbed;
  (8) A statement by the permittee acknowledging that the U.S. Army Corps of Engineers and the Department may have additional jurisdiction over wetlands not regulated by the county; and
  (9) Evidence that all applicable U.S. Army Corps of Engineers and state permits necessary for activities in state waters and wetlands, or appropriate waivers of jurisdiction, have been obtained.
(b) An environmental site assessment in accordance with § 10-33 of the Code;
(c) Information addressing the Chesapeake Bay Preservation Act requirements of § 10-39 of the Code;
(d) Information addressing the municipal separate storm sewer system program requirements in chapter 15 of the Manual; and
(e) Other components as applicable to the type of land-disturbing activity:
  (1) An erosion and sediment control plan in accordance with § 10-34 of the Code;
  (2) A stormwater management plan in accordance with § 10-35 of the Code;
  (3) A pollution prevention plan in accordance with § 10-36 of the Code;
  (4) Measures to address applicable TMDLs in accordance with § 10-37 of the Code; and
  (5) A stormwater pollution prevention plan in accordance with § 10-38 of the Code.
(f) *Exception for single-family residential structures*. Unless otherwise required by §§ 10-34 through 10-38 of the Code or by the administrator, the requirements of subsubsections (a)(1), (a)(3), and (b) are not applicable to the construction of single-family residential structures, including additions or modifications to existing single-family residential structures.

Sec. 10-33. Environmental site assessment component of environmental compliance plans.

(a) The environmental site assessment component of the ECP shall indicate whether the following features are present on the site:
  (1) Surface waters (including wetlands) under the jurisdiction of the state or federal government;
  (2) Stream protection area features as described in chapter 6 of the Manual;
  (3) Resource protection area features as described in § 24-106.3(b)(1) of the Code, including:
    a. Tidal wetlands;
    b. Tidal shores;
    c. Nontidal wetlands connected by surface flow and contiguous to tidal wetlands or water bodies with perennial flow;

d. Such other lands as the board of supervisors may designate by ordinance which are necessary to protect the quality of state waters; and
e. A vegetated buffer area no less than 100 feet in width located adjacent to and landward of the components listed in subsections a. through d. above, and along both sides of any water body with perennial flow.

(4) Resource management area features as described in § 24-106.3(b)(2) of the Code, including:
a. Special flood hazard areas as defined in § 24-3 of the Code that are contiguous to resource protection areas;
b. Highly erodible soils, including steep slopes, that are contiguous to resource protection areas;
c. Highly permeable soils that are contiguous to resource protection areas;
d. Nontidal wetlands not included in resource protection areas that are contiguous to resource protection areas; and
e. Other areas within 100 feet of resource protection areas; and
f. All areas specifically designated as RMAs by ordinance of the board of supervisors because of their potential effect on water quality.

(b) The applicant shall accurately map the location of all the above features on a site in the ECP.

Sec. 10-34. Erosion and sediment control plan requirements for VESCP land-disturbing activities.

(a) An erosion and sediment control plan must be prepared for VESCP land-disturbing activities.

(b) An ESC plan must include the following:
(1) Measures to control erosion and sediment;
(2) A statement by the permittee that all erosion and sediment control measures shall be maintained;
(3) Information assuring and demonstrating compliance with the minimum standards of the Board's erosion and sediment control regulations. Compliance with the water quantity requirements of § 10-39 of the Code shall be deemed to satisfy the requirements of subsection 19 of 9VAC25-840-40;
(4) Calculations for sediment traps, basins, outlet protection, etc. as applicable;
(5) Clear delineation of the preliminary limits of disturbance necessary for installation of the initial erosion and sediment control measures. The preliminary areas of land disturbance shall be the minimum necessary for installation of the initial erosion and sediment control measures, and the delineation shall include all areas necessary for such installation, including stockpiles, borrow areas, and staging areas;
(6) Clear delineation of the ultimate limits of disturbance; and
(7) A sequence of construction that details construction schedules and the installation, inspection, and maintenance of ESC measures.

(c) An agreement in lieu of an erosion and sediment control plan may be substituted for an ESC plan when the VESCP land-disturbing activity results from the construction of single-family residential structures, including additions or modifications to existing single-family detached residential structures.

(d) A certificate of competence shall not be required for persons carrying out an agreement in lieu of a plan for construction of a single-family residence. However, if a violation occurs during the land-disturbing activity, then the person responsible for carrying out the agreement in lieu of a plan shall correct the violation and provide the name of an individual holding a certificate of competence. Failure to provide the name of an individual holding a certificate of competence shall be a violation of this article.

Sec. 10-35. Stormwater management plan requirements for VSMP and CBPA land-disturbing activities.

(a) A SWM plan must be prepared for VSMP land-disturbing activities and CBPA land-disturbing activities. However, an agreement in lieu of a stormwater management plan may be substituted for a SWM plan when the VSMP land-disturbing activity results from the construction of a single-family residence.

(b) The SWM plan shall contain information demonstrating compliance with the following requirements of chapter 9 of the Manual:

(1) The general SWM plan requirements;
(2) The stormwater quality requirements;
(3) The channel protection requirements; and
(4) The flood protection requirements.

(c) For purposes of computing predevelopment runoff, all pervious lands on the site shall be assumed to be in good hydrologic condition in accordance with the U.S. Department of Agriculture's Natural Resources Conservation Service (NRCS) standards, regardless of conditions existing at the time of computation. Predevelopment runoff calculations utilizing other hydrologic conditions may be utilized, provided that actual site conditions warrant such consideration and their use is approved by the administrator.

(d) Predevelopment and postdevelopment runoff characteristics and site hydrology shall be verified by site inspections, topographic surveys, available soil mapping or studies, and calculations consistent with good engineering practices. Guidance provided in the Virginia Stormwater Management Handbook and by the Virginia Stormwater BMP Clearinghouse shall be considered appropriate practices.

(e) Proposed residential, commercial, or industrial developments shall apply these stormwater management criteria to the development as a whole. Individual lots in new developments, including those developed under subsequent owners, shall not be considered separate land-disturbing activities; rather, the entire development shall be considered a single land-disturbing activity. Hydrologic parameters shall reflect the ultimate development and shall be used in all engineering calculations.

(f) Elements of the stormwater management plans requiring services regulated under article 1 of chapter 4 of title 54.1 of the Code of Virginia shall be appropriately sealed and signed by a professional registered in the state pursuant to § 54.1-400 et seq. of the Code of Virginia.

(g) In lieu of providing the information required by subsection (b), activities grandfathered under § 10-50 of the Code must comply with the technical criteria in chapter 14 of the Manual. In those cases, stormwater management plans must:

(1) Specify the applicable watershed management area designation and all watershed management practices that will be implemented, including construction of best management practices or a contribution to the county's environmental fund at a rate of $8,000.00 per pound of pollutant removal required for the project in accordance with chapter 14 of the Manual;
(2) Include calculations and other evidence necessary to show that nonpoint source pollution loads of phosphorous and sediments to receiving surface waters during and after development will be controlled in accordance with chapter 14 of the Manual; and
(3) Demonstrate compliance with the 50/10 detention requirements in chapter 14 of the Manual.

Sec. 10-36. Pollution prevention plan requirements for VSMP land-disturbing activities.

(a) A pollution prevention plan must be prepared for VSMP land-disturbing activities.

(b) The pollution prevention plan shall include the following information:

(1) The standard plan sheet provided by the county;
(2) Identification of measures that will be used to minimize the following:
a. The discharge of pollutants from equipment and vehicle washing, wheel wash water, and other wash waters;
b. The exposure of building materials, building products, construction wastes, trash, landscape materials, fertilizers, pesticides, herbicides, detergents, sanitary waste, and other materials present on the site to precipitation and to stormwater; and
c. The discharge of pollutants from spills and leaks, including chemical spill and leak prevention and response procedures;

(3) Identification of practices that will be used to prohibit the following discharges:
a. Wastewater from washout of concrete, unless managed by an appropriate control;
b. Wastewater from washout and cleanout of stucco, paint, form release oils, curing compounds, and other construction materials;
c. Fuels, oils, or other pollutants used in vehicle and equipment operation and maintenance; and
d. Soaps or solvents used in vehicle and equipment washing.

(c) The pollution prevention plan shall prohibit discharges from dewatering activities, including discharges from dewatering of trenches and excavations, unless managed by appropriate controls.

(d) The pollution prevention plan shall be implemented and updated by the operator in accordance with § 10-49 of the Code as necessary throughout all phases of the VSMP land-disturbing activity to implement appropriate pollution prevention measures applicable to construction activities.

Sec. 10-37. Total maximum daily load (TMDL) requirements.

(a) To satisfy the TMDL requirements of the General Construction Permit, the following control measures must be used for all VSMP land-disturbing activities:

(1) Nutrients must be applied in accordance with manufacturer's recommendations and shall not be applied during rainfall events;
(2) Permanent or temporary soil stabilization measures shall be applied to denuded areas within seven days after final grade is reached on any portion of the site;
(3) The operator shall conduct inspections to ensure compliance with the SWPPP and GCP conditions in accordance with the following frequency:
a. At least once every four business days; or
b. At least once every five business days and no later than 48 hours following any measurable storm event. In the event that a measurable storm event occurs when there are more than 48 hours between business days, the inspection shall be conducted on the next business day.

(b) These control measures are not required for CBPA land-disturbing activities.

Sec. 10-38. Stormwater pollution prevention plan requirements for VSMP land-disturbing activities.

(a) A SWPPP must be prepared for all VSMP land-disturbing activities.

(b) A SWPPP must include the following information:

(1) Information complying with the SWPPP requirements in chapter 13 of the Manual;
(2) An ESC plan in accordance with § 10-34 of the Code;
(3) A SWM plan in accordance with § 10-35 of the Code;
(4) A PPP in accordance with § 10-36 of the Code; and
(5) Measures to address applicable TMDLs in accordance with § 10-37 of the Code.

(c) A SWPPP must accomplish the following:

(1) Control the volume and velocity of runoff within the site to minimize soil erosion;
(2) Control stormwater discharges, including both peak flow rates and total stormwater volume, to minimize erosion at outlets and to minimize downstream channel and stream bank erosion;
(3) Minimize the amount of soil exposed during construction activity;
(4) Minimize the disturbance of steep slopes;
(5) Minimize sediment discharges from the site;
(6) Provide and maintain natural buffers around surface waters, direct stormwater to vegetated areas to increase sediment removal, and maximize stormwater infiltration, unless infeasible;
(7) Minimize soil compaction and, unless infeasible, preserve topsoil;
(8) Ensure that stabilization of disturbed areas will be initiated immediately whenever any clearing, grading, excavating, or other earth-disturbing activities have permanently ceased on any portion of the site or temporarily ceased on any portion of the site and will not resume for a period exceeding 14 calendar days; and
(9) Utilize outlet structures that withdraw water from the surface, unless infeasible, when discharging from basins and impoundments.

Compliance with an ESC plan developed in accordance with § 10-34 of the Code is deemed to satisfy the requirements of this subsection.

(d) The operator must maintain and update the SWPPP in accordance with § 10-49 of the Code.

Sec. 10-39. Information regarding Chesapeake Bay Preservation Areas in the ECP.

The ECP shall include the following features:

(a) The location of all CBPAs, including all land-disturbing activities contemplated therein.
(b) A water quality impact assessment for any proposed development within a RPA, including any buffer area modification, and for any development in RMA which, due to the unique characteristics of the site or intensity of the proposed development, is considered by the administrator to be environmentally sensitive land. Two types of water quality impact assessments are appropriate:
    (1) A minor water quality impact assessment for development which causes no more than 5,000 square feet of land disturbance within CBPAs. A minor water quality impact assessment must demonstrate that the remaining buffer area and additional vegetated area equal to the area of encroachment into the buffer will maximize water quality protection and mitigate the effects of the buffer encroachment;

(2) A major water quality impact assessment for any development which exceeds 5,000 square feet of land disturbance within CBPAs. A major water quality impact assessment must demonstrate that the remaining buffer area and additional vegetated area equal to the area of encroachment into the buffer will maximize water quality protection and will mitigate the effects of the buffer encroachment. In addition, the major water quality impact assessment shall address all the following requirements except those waived by the administrator:

a. Describe the existing topography, soils, hydrology and geology of the site and adjacent lands.

b. Describe the impacts of the proposed development on topography, soils, hydrology, and geology on the site and adjacent lands.

c. Indicate the following:

i. Disturbances or destruction of wetlands and justification for such action;

ii. Disruptions or reduction in the supply of water to wetlands, streams, lakes, rivers, or other water bodies;

iii. Disruptions to existing hydrology, including wetlands and stream circulation patterns;

iv. Source location and description of proposed fill material;

v. Location of dredge material and location of dumping area for such material;

vi. Location of and impacts on shellfish beds, submerged aquatic vegetation, and fish spawning areas;

vii. Estimation of predevelopment and postdevelopment pollutant loads in runoff;

viii. Estimation of the percentage increase in impervious surface on the site and types of surfacing materials used;

ix. Percentage of site to be cleared for the project;

x. Anticipated duration and phasing schedule of the construction project; and

xi. Listing of all required permits from all applicable agencies necessary to develop the project.

d. Describe the proposed mitigation measures for the potential hydrological impacts. Potential mitigation measures include:

i. Proposed erosion and sediment control steps. Steps may include minimizing the extent of the cleared area, perimeter controls, reduction of runoff velocities, measures to stabilize disturbed areas, and the schedule and personnel for site inspection;

ii. Proposed stormwater management system;

iii. Creation of wetlands to replace those lost; and

iv. Minimizing cut and fill.

(c) An acknowledgement that the owner is subject to the CBPA requirements of § 24-106.3 of the Code.

<u>Sec. 10-40</u>. Review and approval of ECPs and supporting documentation.

(a) The applicant shall submit an ECP and supporting documentation addressing the applicable requirements of § 10-32 of the Code to the administrator for review.

(b) The administrator shall approve or disapprove the submittal as follows:

(1) The administrator shall review the submittal within 45 calendar days of the date of submission;

(2) The administrator shall review any submittal that has been previously disapproved within 45 calendar days of the date of resubmission;
(3) During the review period, the administrator shall approve or disapprove the submittal and communicate the decision in writing to the person responsible for the land-disturbing activity or his designated agent. If the submittal is not approved or if the plan is returned for insufficient information, the administrator shall provide the reasons for not approving the submittal in writing and indicate the modifications, additions, terms, and conditions that will permit approval of the submittal. Approval or denial shall be based on the submittal's compliance with the requirements of § 10-32 of the Code. Where available to the applicant, electronic communication may be considered communication in writing; and
(4) If a submittal meets all requirements of this article and no action is taken within the time specified above, the submittal shall be deemed approved.

(c) The administrator shall not approve an ECP unless it contains all information and control measures required by this article.

Sec. 10-41. Amendments to approved plans.

(a) The administrator shall review field work under the ECP. The administrator may require amendments to an approved ECP to address any deficiencies. In the alternative, the administrator may amend components of the ECP if on-site inspection indicates that the ECP is inadequate to satisfy state or county requirements or if, because of changed circumstances, the ECP cannot be carried out. The persons responsible for carrying out the ECP must agree to the administrator's amendments, and the amendments must be consistent with state law.

(b) Modifications to an approved ECP shall be allowed only after review and written approval by the administrator. The administrator shall have 60 calendar days to either approve or disapprove a request in writing.

(c) If the land disturbance or land-disturbing activity ceases for more than 180 days, the administrator may reevaluate the ECP to determine whether the ECP still satisfies the requirements of this article and to verify that all requirements are still appropriate. If the administrator finds the ECP to be inadequate, the operator must submit amendments to the ECP which the administrator must approve prior to the resumption of the land-disturbing activity.

Division 3. General Construction Permits for Discharges of Stormwater from Construction Activities

Sec. 10-42. General Construction Permit requirements.

(a) General Construction Permit coverage is required for all VSMP land-disturbing activities. A GCP is not required for CBPA land-disturbing activities.

(b) All VSMP land-disturbing activities must satisfy the following requirements:

(1) The owner must submit a GCP application/registration statement to the administrator; however, in accordance with § 62.1-44.15:28 of the Code of Virginia, no registration statement is

required for the construction of a single-family detached residential structure within or outside a common plan of development or sale;

(2) The owner must pay the applicable GCP fee set forth in chapter 12 of the Manual to the administrator; and

(3) The owner must obtain evidence of GCP coverage from the Department and submit it to the administrator, except for VSMP land-disturbing activities resulting from the construction of a single-family detached residential structure within or outside a common plan of development.

(c) No county department may issue grading, building, or other permits for a VSMP land-disturbing activity until the owner complies with the requirements of subsection (b). The owner is responsible even if the land-disturbing activity will be performed by others.

Sec. 10-43. Issuance, modification, maintenance, transfer, or termination of General Construction Permits.

(a) Issuance of GCP.

(1) The administrator will process the GCP application using the procedures in chapters 12 and 18 of the Manual. GCPs are issued by the Department.

(2) Prior to issuance of the GCP , the administrator must:

a. Verify the information on the registration statement is accurate and complete;

b. Verify that the ECP has been approved by the VSMP authority; and

c. Verify that all applicable permit fees have been submitted.

(b) Modification of GCP.

(1) The operator must use the procedures in chapters 12 and 18 of the Manual to seek modifications to the GCP.

(2) Modifications requiring changes to the GCP that require review by the administrator require payment of the fees in chapter 12 of the Manual.

(3) Modifications resulting in additional land-disturbing activity are subject to additional permit issuance fees equal to the difference between the initial permit issuance fee paid and the permit issuance fee that applies to the total disturbed acreage.

(c) Maintenance of GCP.

(1) The operator must use the procedures in chapters 12 and 18 of the Manual regarding maintenance of the GCP. Annual maintenance fees in accordance with chapter 12 of the Manual apply to the GCP until the permit is terminated in accordance with subsection (e).

(d) Transfer of GCP.

(1) The operator must use the procedures in chapters 12 and 18 of the Manual to transfer a GCP.

(2) GCP transfers require payment of the transfer fees in chapter 12 of the Manual.

(e) Termination of GCP.

(1) The operator shall submit a notice of termination to the administrator within 30 days of one or more of the following events:

a. Necessary permanent control measures included in the SWPPP for the site are in place and functioning effectively, and final stabilization has been achieved on all portions of the site for which the operator is responsible. When applicable, long term responsibility and maintenance obligations shall be recorded in the Clerk's Office of the Henrico County Circuit Court prior to submission of a notice of termination;

b. Another operator has assumed control over all areas of the site that have not been finally stabilized and has obtained coverage for the ongoing discharge;
c. The operator has obtained coverage under an alternative VPDES or state permit; or
d. For residential construction only, temporary soil stabilization has been completed and title to the residence has been transferred to the homeowner.

(2) Authorization to discharge terminates at midnight on the date that the notice of termination is submitted for the conditions set forth in provisions b through d of subsection (e)(1). Authorization to discharge for the condition set forth in provision a of subsection (e)(1) shall be effective upon notification from the Department that the necessary conditions have been met or 60 days after submittal of the notice of termination, whichever occurs first.

(3) The notice of termination shall be signed as set forth in chapter 18 of the Manual.

Sec. 10-44. General Construction Permit time limits on applicability of approved design criteria.

(a) VSMP land-disturbing activities that obtain an initial state permit or commence land disturbance prior to July 1, 2014 shall be conducted in accordance with the technical criteria of chapter 14 of the Manual. Such projects shall remain subject to such technical criteria for two additional state permit cycles. At the conclusion of two additional state permit cycles, portions of the project not under construction shall become subject to the current technical criteria adopted by the Board.

(b) VSMP land-disturbing activities that obtain an initial state permit on or after July 1, 2014 shall be conducted in accordance with the technical criteria in chapter 9 of the Manual, except as provided for in § 10-50 of the Code. Land-disturbing activities conducted in accordance with the technical criteria of chapter 9 of the Manual shall remain subject to such criteria for two additional state permit cycles. At the conclusion of two additional state permit cycles, portions of the project not under construction shall become subject to the current technical criteria adopted by the Board.

(c) Nothing in this section shall preclude an operator from satisfying more stringent technical criteria for land-disturbing activities at its discretion.

Division 4. Maintenance and Financial Guarantees

Sec. 10-45. Long term maintenance provisions for permanent stormwater facilities.

(a) The VSMP authority shall require the owner's written acceptance of long term responsibility for maintenance of stormwater management facilities to control the quality and quantity of runoff. The owner's acceptance shall be set forth in an instrument in a form provided by the VSMP authority. The instrument will, at a minimum:
(1) Identify the owner of the property, or its successors in interest, as the responsible party;
(2) State that it runs with the land;
(3) Permit the VSMP authority to have access to the property for regulatory inspections and maintenance, if necessary;
(4) Provide for owner inspections and maintenance as well as the owner's submission of inspection and maintenance reports to the VSMP authority;
(5) Be enforceable by all appropriate governmental parties;
(6) Be submitted to the VSMP authority for review and approval prior to the approval of the ECP; and

(7) Be recorded in the Clerks' Office of the Henrico County Circuit Court prior to (i) recordation of a subdivision plat, if applicable and (ii) prior to the administrator's release of the owner's financial guarantee for all other plans.

(b) Recorded instruments are not required for stormwater management facilities designed to treat stormwater runoff primarily from an individual residential lot on which they are located. The administrator shall send the owners of those facilities an educational mailing once every five years describing the maintenance responsibilities for those facilities.

Sec. 10-46. Financial guarantee.

(a) The owner shall be responsible for the cost of all control measures required by this article.

(b) An applicant other than a state or federal entity must submit a cash escrow, irrevocable letter of credit, or other financial guarantee acceptable to the VSMP authority that will ensure that the VSMP authority can implement control measures at the applicant's expense should the applicant fail, after proper notice, to initiate or maintain control measures required as a result of its land-disturbing activity. Unless deemed necessary by the administrator, a financial guarantee is not required for construction on a single-family residential lot.

(c) In accordance with § 10-30 of the Code, no person shall conduct land disturbance or a land-disturbing activity until the owner has submitted a financial guarantee in an amount determined by the administrator. This financial guarantee shall be equal to the approximate total cost of providing environmental compliance control measures and water quality improvements and in a form approved by the county attorney, guaranteeing that the required control measures will be properly and satisfactorily undertaken.

(d) Upon completion of the land disturbance or land-disturbing activity and achievement of full stabilization of the land, the owner or permittee must provide written notification to the administrator. Upon verification of final stabilization of the land disturbance or land-disturbing activity in the project or any section thereof, submission of required stormwater management facility construction record drawings in accordance with § 10-47 of the Code, and a GCP termination statement if applicable, the administrator shall reduce or return the financial guarantee to the owner or permittee within 60 calendar days based upon the percentage of stabilization accomplished in the project or section thereof.

(e) If the measures required by the ECP are not completely constructed, or, if constructed, fail through overload or inadequate maintenance, then the county may, if the owner or permittee does not, install control measures equal to those which would have been furnished by the approved plans or agreement in lieu of a plan. The cost of any such measures taken by the county shall be borne by the owner or permittee and shall be a charge against the financial guarantee. The county shall be entitled to collect from the owner any amount it expended which exceeds the financial guarantee. Within 60 calendar days of the achievement of final stabilization of the land-disturbing activity, the financial guarantee, or the unexpended portion thereof, shall be refunded to the applicant.

Sec. 10-47. Stormwater management facility construction record drawing.

(a) A stormwater management facility construction record drawing shall be developed for each permanent stormwater management facility and submitted to the administrator for approval prior to release of the bond required in § 10-46 of the Code.

(b) The stormwater management facility construction record drawing shall be appropriately sealed and signed by a professional registered in the state.

(c) The stormwater management facility construction record drawing shall include a statement certifying that the stormwater management facility has been constructed in accordance with the approved ECP.

(d) Stormwater management facility record drawings are not required for stormwater management facilities designed to treat stormwater runoff primarily from an individual residential lot on which they are located.

Division 5. Implementation of plans

Sec. 10-48. Preconstruction meeting required.

(a) In accordance with § 10-30 of the Code, no person shall conduct land disturbance or a land-disturbing activity until a preconstruction meeting has been conducted.

(b) Prior to the preconstruction meeting, the limits of all wetlands, RPAs, SPAs, and other areas to be protected shall be conspicuously flagged, marked with signage, or otherwise identified as shown on the ECP. The limits of these features will be verified during the preconstruction meeting.

(c) During the preconstruction meeting, the requirements of the ECP will be reviewed.

(d) During the preconstruction meeting for a VSMP land-disturbing activity, the SWPPP must be available for review and shall include:
   (1) A copy of the registration for coverage;
   (2) A copy of the notice of coverage letter;
   (3) A copy of the GCP;
   (4) A narrative description of the nature of the construction activity;
   (5) Identification of the operator's inspection frequency in accordance with § 10-49 of the Code; and
   (6) The location of the on-site rain gauge or a description of the methodology for identifying measurable storm events if the operator inspections are to be performed every seven calendar days and no later than 48 hours following a measurable storm event.

(e) Prior to the conclusion of the preconstruction meeting for a VESCP land-disturbing activity, the individual holding a certificate of competence who will be in charge and responsible for carrying out the VESCP land-disturbing activity shall be identified and noted on the ESC plan.

(f) Prior to conclusion of the preconstruction meeting for a VSMP land-disturbing activity, the following items must be addressed:
   (1) The name, phone number, and qualifications of the qualified personnel conducting inspections for compliance with a SWPPP shall be identified and noted on the SWPPP;
   (2) The individuals or positions with delegated authority to sign inspection reports or modify the SWPPP in accordance with the signatory requirements of chapter 18 of the Manual must be identified and noted on the SWPPP;
   (3) The SWPPP shall be signed and dated in accordance with the signatory requirements of chapter 18 of the Manual;

(4) Evidence of GCP coverage must be posted conspicuously near the main entrance of the construction site;
(5) A copy of the SWPPP must be made available at a central location onsite for use by those having responsibilities under the SWPPP whenever they are on the construction site; and
(6) The SWPPP must be available upon request by the Department, the administrator, or the EPA. If an on-site location is unavailable to store the SWPPP when no personnel are present, notice of the SWPPP's location must be posted near the main entrance of the construction site.

(g) The administrator or his designee will sign the ECP, distribute signed copies of the ECP to appropriate parties, and authorize commencement of the land disturbance or land-disturbing activity only after the requirements of the preconstruction meeting are satisfied.

(h) Preconstruction meetings are not required for the construction of single-family residential structures, including additions or modifications to existing single-family detached residential structures, unless deemed necessary by the administrator.

Sec. 10-49. Operator responsibilities.

(a) An operator of a land-disturbing activity is responsible for ensuring compliance with the following:
(1) The plans and documents required by § 10-32 of the Code are submitted for review and approved by the administrator prior to initiating a land disturbance;
(2) A preconstruction meeting in accordance with § 10-48 of the Code is conducted prior to initiating land disturbance;
(3) The approved ECP is implemented;
(4) Maintenance of the environmental control measures in the ECP is continued.

(b) An operator of a VSMP land-disturbing activity is also responsible for ensuring compliance with the following:
(1) The required registration statement is submitted to the Department in a format specified by the Department prior to initiating land disturbance;
(2) Applicable GCP issuance fees as set forth in chapter 12 of the Manual are paid;
(3) Evidence of GCP coverage is submitted to the administrator prior to initiating land disturbance;
(4) A copy of the notice of coverage letter must be posted conspicuously near the main entrance of the construction site and maintained until the GCP is terminated;
(5) The operator conducts site inspections at the following intervals:
a. At least once every four business days; or
b. At least once every five business days and no later than 48 hours following any measurable storm event. In the event that a measurable storm event occurs when there are more than 48 hours between normal business days, the inspection shall be conducted on the next business day;
(6) Records of required inspections are maintained and included in the SWPPP in accordance with chapter 18 of the Manual;
(7) Identification, including name, phone number and qualifications, of the qualified personnel conducting the required inspections is provided;
(8) The SWPPP is implemented, maintained, and amended in accordance with chapter 18 of the Manual;
(9) Applicable GCP modification, transfer and maintenance fees in accordance with chapter 12 of the Manual are paid;
(10) GCP coverage is terminated in accordance with § 10-43 of the Code;

(11) A copy of the SWPPP is made available at a central location on-site for use by those having responsibilities under the SWPPP whenever they are on the construction site;
(12) The SWPPP and all updates are made available upon request to the Department, the VSMP authority, the EPA, the VESCP authority, local government officials, or the operator of a municipal separate storm sewer system receiving discharges from the construction activity. If an on-site location is unavailable to store the SWPPP when no personnel are present, notice of the SWPPP's location is posted near the main entrance of the construction site;
(13) A stormwater management facility construction record drawing in accordance with § 10-47 of the Code is submitted prior to release of the financial guarantee required by § 10-46 of the Code; and
(14) SWPPPs and pollution prevention plans for construction activities covered by a previous GCP are reviewed and updated as necessary no later than 30 calendar days following permit coverage to address all applicable requirements of the latest GCP.

Division 6. Grandfathering, variances and exceptions

Sec. 10-50. Grandfathered activities.

(a) Any VSMP or CBPA land-disturbing activity shall be grandfathered and subject to the technical criteria of chapter 14 of the Manual if:

(1) A proffered or conditional zoning plan, zoning with a plan of development, preliminary or final subdivision plat, preliminary or final site plan, or any document determined by the administrator to be equivalent thereto (i) was approved by the county prior to July 1, 2012, (ii) provided a layout as defined in § 10-28 of the Code, (iii) will comply with the technical criteria of chapter 14 of the Manual, and (iv) has not been subsequently modified or amended in a manner resulting in an increase in the amount of phosphorus leaving each point of discharge, and such that there is no increase in the volume or rate of runoff;
(2) A state permit has not been issued prior to July 1, 2014; and
(3) Land disturbance did not commence prior to July 1, 2014.

(b) County, state, and federal projects shall be grandfathered and subject to the technical criteria of chapter 14 of the Manual provided:
(1) There has been an obligation of county, state, or federal funding, in whole or in part, prior to July 1, 2012, or the Department has approved a stormwater management plan prior to July 1, 2012;
(2) A state permit has not been issued prior to July 1, 2014; and
(3) Land disturbance did not commence prior to July 1, 2014.

(c) VSMP and CBPA land-disturbing activities grandfathered under subsections (a) and (b) shall remain subject to the technical criteria of chapter 14 of the Manual for one additional state permit cycle. After one additional state permit cycle, the portions of the project not under construction shall become subject to the current technical criteria adopted by the Board.

(d) In cases where governmental bonding or public debt financing has been issued for a project prior to July 1, 2012, such project shall be subject to the technical criteria of chapter 14 of the Manual.

(e) Nothing in this section shall preclude an operator from satisfying more stringent technical criteria for land-disturbing activities at its discretion.

Sec. 10-51. Variances from requirements for VESCP land-disturbing activities.

(a) This section applies to VESCP land-disturbing activities.

(b) The administrator may waive or modify any of the requirements of the ESC plan that are deemed inappropriate or too restrictive under the following conditions:

(1) An applicant may request a variance by explaining the reasons in writing. Specific variances which are allowed shall be documented in the plan;
(2) During construction, the person responsible for implementing the approved plan may request a variance in writing from the administrator; and
(3) The administrator shall respond in writing either approving or disapproving the request. If the administrator does not approve a variance within ten calendar days of receipt of the request, the request is denied. Following disapproval, the applicant may resubmit a variance request with additional documentation.

(c) The administrator shall consider variance requests judiciously, keeping in mind both the need of the applicant to maximize cost effectiveness and the need to protect off-site properties and resources from damage. Variances shall be the minimum necessary to afford relief, and the administrator shall impose reasonable conditions necessary to protect water quality.

Sec. 10-52. Exceptions to requirements for VSMP land-disturbing activities.

(a) This section applies to VSMP land-disturbing activities as defined in § 10-28 of the Code.

(b) The administrator may only grant exceptions to the requirements of § 10-35 of the Code.

(c) Exception requests must be made in writing and must include the reasons for making the request.

(d) Exception requests may be submitted to the administrator at any time during the plan review and approval process or after the VSMP land-disturbing activity has commenced.

(e) Economic hardship alone is not a sufficient reason for an exception from the requirements of this chapter.

(f) An exception to the requirement that the VSMP land-disturbing activity obtain GCP coverage shall not be granted under any circumstances.

(g) An exception to fully satisfying required phosphorus reductions shall not be granted unless offsite options in accordance with chapter 9 of the Manual have been considered and are not available.

(h) An exception cannot be allowed for use of a BMP not found on the Virginia Stormwater BMP Clearinghouse Website except where allowed in accordance with chapter 14 of the Manual.

Division 7. Inspections and Monitoring

Sec. 10-53. Right of entry.

(a) The Department, the VSMP authority, where authorized to enforce this article, any duly-authorized agent of the Department or VSMP authority, or the county may, at reasonable times and under reasonable

circumstances, enter any establishment or upon any property, public or private, to obtain information or conduct surveys or investigations necessary to enforce this article. For the county, this authority shall apply only to those properties from which a discharge enters its municipal separate storm sewer system.

(b) In accordance with a financial guarantee, a VSMP authority may also enter any establishment or upon any property, public or private, to initiate or maintain appropriate actions that are required by the permit conditions associated with a land-disturbing activity when a permittee, after proper notice, has failed to take acceptable action within the time specified.

Sec. 10-54. Monitoring and inspection of land-disturbing activities.

(a) The administrator shall inspect land-disturbing activities to ensure compliance with the provisions of the ECP required in § 10-30 of the Code.

(b) The administrator shall provide notice of the inspection to the owner, operator, permittee or person responsible for carrying out the ECP.

(c) The administrator will conduct inspections in accordance with the following frequencies:
   (1) Inspections to monitor compliance with the requirements of an ESC plan shall be conducted in accordance with the county's alternate inspection program approved by the Soil and Water Conservation Board or the Board;
   (2) Inspections to monitor compliance with the requirements of a SWM plan shall occur at least once every three months;
   (3) Inspections to monitor compliance with the requirements of a pollution prevention plan shall occur at least once every three months; and
   (4) Inspections to monitor compliance with the measures required to address applicable TMDLs in accordance with § 10-37 of the Code shall occur at least once every three months.

(d) The operator of a VSMP land-disturbing activity shall conduct inspections to ensure compliance with the SWPPP and other GCP conditions in accordance with the following frequency:
   (1) At least once every four business days; or
   (2) At least once every five business days and no later than 48 hours following any measurable storm event. In the event that a measurable storm event occurs when there are more than 48 hours between business days, the inspection shall be conducted on the next business day.

(e) The operator of a VSMP land-disturbing activity shall maintain and include records of the required inspections in the SWPPP in accordance with chapter 18 of the Manual.

(f) The administrator may require every permit applicant, every permittee, or any person subject to GCP requirements under § 62.1-44.15:24 et seq. of the Code of Virginia to furnish when requested such application materials, plans, specifications, and other pertinent information as may be necessary to determine the effect of its discharge on the quality of state waters, or such other information as may be necessary to accomplish the purposes of the Act. Any personal information shall not be disclosed except to an appropriate official of the Board, the Department, the U.S. Environmental Protection Agency, or as required by the Virginia Freedom of Information Act (§ 2.2-3700 et seq. of the Code of Virginia).

Sec. 10-55. Monitoring and inspection of permanent stormwater facilities.

(a) The VSMP authority shall establish an inspection program that ensures stormwater management facilities are being adequately maintained as designed after completion of land-disturbing activities. The inspection program shall:
   (1) Be approved by the Board;
   (2) Ensure that each stormwater management facility is inspected by the administrator or its designee, not to include the owner, at least once every five years unless it is inspected as provided in subsection (c); and
   (3) Be documented by records.

(b) The owner of a stormwater management facility must provide inspection and maintenance reports to the VSMP authority in accordance with the provisions of the recorded maintenance agreement required by § 10-45 of the Code.

(c) The VSMP authority may utilize the inspection reports submitted by the owner of a stormwater management facility as required by § 10-54 of the Code as part of an inspection program established in subsection (a) of this section if the inspection is conducted by a person who is licensed as a professional engineer, architect, landscape architect, or land surveyor pursuant to § 54.1-400 et seq. of the Code of Virginia, a person who works under the direction and oversight of the licensed professional engineer, architect, landscape architect, or land surveyor, or who holds an appropriate certificate of competence from the Board.

(d) Stormwater management facilities for which a recorded instrument is not required under § 10-54 of the Code shall not be subject to the requirement for inspections conducted by the VSMP authority. The administrator shall send the owners of those facilities an educational mailing once every five years describing the maintenance responsibilities associated with the facilities.

Division 8. Enforcement and Appeals

Sec. 10-56. Enforcement.

(a) If the administrator determines there is a failure to comply with the provisions of this article, he may pursue the following enforcement measures to ensure compliance:
   (1) Verbal warnings and inspection reports;
   (2) Notices of corrective action;
   (3) Notices to comply and stop work orders in accordance with § 62.1-44.15:37 of the Code of Virginia;
   (4) Criminal penalties in accordance with §62.1-44.15:49(B) and (C) of the Code of Virginia; and
   (5) Injunctions in accordance with §§ 62.1-44.15:42 and 62.1-44.15:48 of the Code of Virginia.

(b) The enforcement measures listed in subsection (a) will be undertaken in accordance with chapter 21 of the Manual.

(c) Nothing in this article removes from the Board its authority to enforce the provisions of the Act and its implementing regulations.

(d) The Department may terminate state permit coverage during its term and require an application for an individual state permit or it may deny a state permit renewal application for a permittee's failure to comply with state permit conditions or on its own initiative in accordance with the Act and this article.

(e) Any person who violates any provision of this article or of any regulation, ordinance, or standard and specification adopted or approved hereunder, including those adopted pursuant to the conditions of a municipal separate storm sewer system permit, or who fails, neglects, or refuses to comply with any order of a VSMP authority authorized to enforce this article, the Department, the Board, or a court, issued as herein provided, shall be subject to a civil penalty not to exceed $32,500 for each violation within the discretion of the court. Each day of violation of each requirement shall constitute a separate offense.

(f) Violation of this article shall be a misdemeanor.

Sec. 10-57. Appeals.

(a) A permit applicant, permittee, or person subject to the permit requirements of this article who is aggrieved by a decision of the administrator may file a notice of appeal stating the grounds therefor with the county manager within 15 working days of the decision being appealed. The county manager shall render a written decision on the appeal. The county manager's decision shall be the final decision of the county.

(b) The county manager's decision may be appealed by the filing of a notice of appeal stating the grounds therefor with the Henrico County Circuit Court within 30 days of the county manager's decision.

Secs. 10-58—10-66. - Reserved.

ARTICLE III. NOISE

***Cross reference—** Amusements, ch. 4; buildings, ch. 6; offenses, ch. 13; traffic and vehicles, ch. 22; unnecessary noise in operation of vehicle, § 22-36; zoning, ch. 24.

***State law reference—** Applicability of local noise ordinances to certain sport shooting ranges, Code of Virginia, § 15.2-917; locality may regulate motorcycle noise, Code of Virginia, § 15.2-919.

Sec. 10-67. Penalty and enforcement.

(a) No person shall be charged with a violation of the provisions of section 10-68 unless:
(1) A complainant appears before a magistrate and requests a summons to be issued; or
(2) A violation is committed in the presence of a police officer.
(b) Any person convicted of violating any of the provisions of section 10-68 shall be punished by a fine not to exceed $500.00. Any person convicted of a second offense within less than five years after a first offense under this article shall be punished by a fine not to exceed $1,000.00. Any person convicted of a third offense within less than ten years after a first offense under this article shall be punished by a fine not to exceed $2,500.00.
(c) Each day a violation continues unabated shall constitute a separate offense.
(d) Criminal enforcement against a person violating this article shall not be a bar against, or a prerequisite for, taking any other action permitted by this Code or the Code of Virginia to abate the violation.
(Code 1980, § 15-10; Code 1995, § 10-71; Ord. No. 1141, § 1, 2-23-2010)

Sec. 10-68. Prohibited noises enumerated.

It shall be unlawful for any person to cause or permit to be caused any of the following prohibited sounds or noises:

(1) *Social gatherings and parties.* Allowing any noise between 11:00 p.m. and 7:00 a.m. generated from a gathering of ten or more people that is plainly audible:

a. Inside the confines of the dwelling unit, house or apartment of another person; or

b. In a residential area, at 100 or more feet from the gathering.

(2) *Sound-producing and sound-reproducing devices.* Except for commercial establishments located in areas zoned for urban mixed use, the use, operation or playing of any radio, phonograph, television, record, compact disc, tape, digital music, MP3 or DVD player, musical instrument, loudspeaker, sound amplifier or other machine or device capable of producing or reproducing sound, regardless of whether such sound-producing or sound-reproducing machine or device is located inside of a structure or outside of or on a structure, in such a manner or with such volume or duration that it is plainly audible between 11:00 p.m. and 7:00 a.m.:

a. Inside the confines of the dwelling unit, house or apartment of another person; or

b. In residential areas, at 50 or more feet from the device.

(3) *Noisy animals.* Allowing any animal to cause any sound or noise such that it is plainly audible

a. Inside the confines of the dwelling unit, house or apartment of another person at least once a minute for ten consecutive minutes; or

b. At 100 or more feet from the animal at least once a minute for ten consecutive minutes.

However, this prohibition shall not apply to animal sounds or noises arising between the hours of 7:00 a.m. and 11:00 p.m. on the premises of any commercial kennel, animal boarding place, small animal hospital, veterinarian hospital, or veterinarian clinic, as those terms are defined in chapter 24, or any county animal shelter.

(4) *Trash and recycling collection.* The creation of any sound or noise between 12:00 midnight and 6:00 a.m. that is plainly audible in a residential area, except those areas zoned for urban mixed use, when the sound or noise is produced in connection with the loading or unloading of refuse, waste or recycling collection vehicles.

(5) *Street cleaning and construction.* The creation of any sound or noise between 11:00 p.m. and 6:00 a.m. that is plainly audible in a residential area, except those areas zoned for urban mixed use, when the sound or noise is produced in connection with:

a. The cleaning of streets or parking lots; or

b. Construction or demolition activities.

(6) *Peddlers and hawkers.* Yelling, shouting, whistling, screaming or crying for the purpose of attracting attention to a performance, show, sale or display of merchandise between the hours of 11:00 p.m. and 7:00 a.m. on any public street, sidewalk or parking lot or any privately owned street, sidewalk or parking lot open to the public, except to summon aid in an emergency.

(7) *Amplified sound from vehicles.* Playing, using or operating, or permitting the playing, use or operation of, any radio, stereo, tape player, compact disc player, loudspeaker or other electronic device or mechanical equipment used for the amplification of sound, which is located on or within a motor vehicle and which is plainly audible from outside the motor vehicle at a distance of 50 feet or more. The provisions of this subsection shall not apply to the playing of music or jingles by an ice cream truck or similar mobile food service vehicle, provided such vehicle may emit sounds otherwise prohibited by this subsection only between the hours of 7:00 a.m. and 9:00 p.m.

(8) *Lawn care activities.* Creating any sound or noise plainly audible in residential areas between 11:00 p.m. and 7:00 a.m. in connection with lawn care, leaf removal, gardening, tree maintenance or removal or other landscaping, lawn or timbering activities. The provisions of this subsection shall not apply to sound or noise generated by the maintenance of recreational facilities such as golf courses and ball or playing fields.

(Code 1980, § 15-9; Code 1995, § 10-73; Ord. No. 908, 10-11-1995; Ord. No. 1141, § 3, 2-23-2010)

Sec. 10-69. Exemptions.

The prohibitions of section 10-68 shall not apply to any sound or noise generated by any of the following:

(1) Sound or noise which is necessary for the protection or preservation of property or the health, safety, life or limb of any person, including sound or noise caused by restoration of utility service after an interruption.
(2) Sound or noise which is necessary for the maintenance or construction of roads and highways.
(3) Radios, sirens, horns and bells on police, fire or other emergency response vehicles.
(4) Parades, fireworks displays, school-related activities and other such public special events or public activities.
(5) Band performances or practices, athletic contests or practices and other school-sponsored activities on the grounds of public or private schools, colleges or universities.
(6) Athletic contests and other officially sanctioned activities in county parks.
(7) Fire alarms, burglar alarms and car alarms, prior to the giving of notice and a reasonable opportunity for the owner or person in possession of the premises or vehicle served by any such alarm to turn off the alarm.
(8) Religious services, religious events or religious activities or expressions, including, but not limited to, music, singing, bells, chimes and organs which are part of such service, event, activity or expression.
(9) Locomotives and other railroad equipment, and aircraft.
(10) Military activities of the state or of the United States of America.
(11) Agricultural operations, as defined in Code of Virginia, § 3.2-300, provided such operations comply with all applicable laws, regulations and ordinances.
(12) Amateur and professional motorsports competitions and competition-related events such as time trials and practices, provided the competition is sanctioned by a nationally recognized motorsports racing organization and complies with all applicable laws, regulations and ordinances, including permit terms and conditions, if any.
(13) Political gatherings and other activities protected by the First Amendment to the United States Constitution.
(14) Activities for which the regulation of noise has been preempted by federal law.
(Ord. No. 1141, § 4, 2-23-2010)

Secs. 10-70—10-96. Reserved.

ARTICLE IV. TRASH, GARBAGE, REFUSE AND LITTER

***Cross reference—**Dumping wastes on premises other than sanitary landfills, § 17-25; putting glass or other hazardous material on streets, § 22-38; depositing refuse on highway, right-of-way or private property, § 22-39

***State law reference—**Litter control and recycling, Code of Virginia, § 10.1-1414 et seq.

Sec. 10-97. 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:

Litter means all waste material, disposable packages or containers, but does not include the properly disposed waste of the primary processes of mining, logging, sawmilling, farming or manufacturing.

Litter receptacle means a container with a capacity of not less than ten gallons, constructed and placed for use as a depository for litter.

(Code 1980, § 12.1-2; Code 1995, § 10-101)

State law reference—Definition of litter, Code of Virginia, § 10.1-1414.

Sec. 10-98. Securing or covering loads.

(a) *Required.* No person shall transport gravel, sand, coal or other nonagricultural and nonforestry products in a truck, trailer or semitrailer along streets, roads or highways of the county, unless the load is secured to the vehicle or is covered by a tarpaulin or other suitable cover, securely fastened to the body of the vehicle, and of such size and shape as necessary to cover the entire load.

(b) *Exceptions.* This section shall not apply to pickup trucks, public service company vehicles, or emergency snow removal equipment while engaged in snow removal operations.

(c) *Penalty.* Violation of this section shall constitute a traffic infraction punishable by a fine not to exceed $200.00.

(Code 1980, § 11-5; Code 1995, § 10-102; Ord. No. 976, § 1, 5-27-1998)

Cross reference—Definitions and rules of construction, § 1-2.

State law reference—Similar provisions, Code of Virginia, § 46.2-1156(B).

Sec. 10-99. Allowing escape of load material.

(a) *Prohibited.* No vehicle shall be operated or moved on any highway unless it is constructed, maintained and loaded to prevent its contents from dropping, sifting, leaking or otherwise escaping.

(b) *Exceptions.* This section shall not apply to any:

(1) Motor vehicle which is used exclusively for agricultural purposes as provided in Code of Virginia, § 46.2-698, and is not licensed in any other state;

(2) Agricultural vehicle, tractor or other vehicle exempted from registration and licensing requirements under state law; or

(3) Motor vehicle transporting forest products, poultry or livestock.

(c) *Penalty.* Violation of this section shall constitute a traffic infraction punishable by a fine not to exceed $200.00.

(Code 1980, § 12.1-4; Code 1995, § 10-103; Ord. No. 976, § 2, 5-27-1998)

State law reference—Similar provisions, Code of Virginia, § 46.2-1156(A).

Sec. 10-100. Unlawful storage or accumulation of refuse.

(a) *Prohibited storage or accumulation.* It shall be unlawful for any owner of property to allow the storage or accumulation of trash, garbage, refuse, litter and other substances which might endanger the health or safety of other residents of the county.

(b) *Use of containers required.* All garbage, trash, refuse and litter shall be placed in watertight containers and be kept covered until transported to the county landfill or until taken from the premises by trash or garbage collectors or otherwise disposed of as permitted by law.

(c) *Penalty.* Violation of this section shall be a class 4 misdemeanor.

(Code 1980, §§ 11-8, 12.1-5; Code 1995, § 10-104)

State law reference—Authority to remove trash, weeds, etc., Code of Virginia, § 15.2-901.

Sec. 10-101. Notice of violation; summons or warrant.

County inspectors shall commence enforcement of section 10-100 by issuing a written notice to the owner in person or by mail at his last known address, informing him of the date and nature of the violation. All other violations of this article shall be enforced by summons or warrant.

(Code 1980, § 12.1-10; Code 1995, § 10-105)

Sec. 10-102. Cleanup of premises by county; lien for unpaid charges.

If the owner refuses or fails to clean up the property after receiving the notice required by section 10-101, the county inspector may issue a summons and the county's agents or employees may remove trash, garbage, refuse, litter or other substances which might endanger the health of other residents of the county, and the cost and expenses of removal shall be charged to the owner. Such costs and expenses may be collected by the county as taxes and levies are collected. Every charge to the owner and lienholder under this section which remains unpaid shall constitute a lien against such property on a parity with liens for unpaid local real estate taxes.

(Code 1980, § 12.1-8; Code 1995, § 10-106)

State law reference—Similar provisions, Code of Virginia, § 15.2-901(B).

Sec. 10-103. Violations of article; penalty.

The imposition of punishment for violation of any provision of this article shall not excuse the violation or permit it to continue, and appropriate proceedings may be instituted to prevent continuation of the violation.

(Code 1980, § 11-13; Code 1995, § 10-107)

Secs. 10-104—10-134. Reserved.

ARTICLE V. WEEDS AND GRASS

***Cross reference—**Buildings, ch. 6; zoning, ch. 24.

***State law reference—**Locality may provide for cutting of grass and weeds, Code of Virginia, §§ 15.2-901, 15.2-1215; local authority to control certain noxious weeds, Code of Virginia, § 15.2-902.

Sec. 10-135. 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:

Owner means the principal occupants and persons holding title to any land in the county.

Weeds means grass, weeds, bushes, poison ivy, poison oak or any other foreign growth other than trees, ornamental shrubbery, flowers and garden vegetables.

(Code 1980, § 11-15; Code 1995, § 10-151)

Sec. 10-136. Cutting of weeds required.

(a) It shall be a nuisance for the owner of any developed property to permit weeds more than 12 inches in height within 150 feet of adjacent property and public streets.
(b) It shall be a nuisance for the owner of any undeveloped property to permit weeds more than 12 inches in height within 150 feet of adjacent developed property.
(c) This section shall not apply to land more than 50 feet from the boundary line of property developed for residential use if such land is enrolled in a state or federal conservation program and is more than two acres in size.
(d) This section shall not apply to land in a public utility transmission easement that is more than 50 feet from the boundary line of property developed for residential use or from public streets.

(Code 1980, § 11-16; Code 1995, § 10-153)

State law reference—Authority to prohibit weeds, Code of Virginia, § 15.2-901, authority for subsection (b), Code of Virginia, § 15.2-1215.

Sec. 10-137. Inspection of nuisance; notice to cut.

When the director of community revitalization has determined from inspections that a nuisance as defined in Section 10-136 exists, he shall notify the owner of the land upon which the nuisance exists to cut or cause to be cut the weeds within such reasonable time as is specified in the notice. Such notice shall be in writing, shall be delivered by hand or mailed to the last known address of the owner and of the principal occupant if different from the owner, and shall be complied with by such owner or principal occupant. One written notice per growing season shall be reasonable notice.

(Code 1980, § 11-18; Code 1995, § 10-155; Ord. No. 942, § 1, 4-10-1997)

Sec. 10-138. Performance of work by county; collection of costs.

If such weeds are not cut within the required time as provided for in the notice under section 10-137, the director of community revitalization shall cause such weeds to be cut and shall charge and collect the cost thereof from the owner or principal occupant of the property in any manner provided by law for the collection of state or local taxes. Every such charge in excess of $200 which has been assessed against the owner of such property and which remains unpaid shall constitute a lien against such property on a parity with liens for unpaid local real estate taxes.

(Code 1980, § 11-19; Code 1995, § 10-156; Ord. No. 915, § 1, 4-24-1996; Ord. No. 942, § 1, 4-10-1997)

State law reference—Assessment and collection of charges, Code of Virginia, §§ 15.2-901(B), 15.2-1115, 15.2-1215.

Secs. 10-139—10-163. Reserved.

ARTICLE VI. RATS

***Cross reference—**Animals, ch. 5; buildings, ch. 6.

Sec. 10-164. Purpose.

It is the purpose of this article to control rats in the county by declaring unlawful certain acts which cause the proliferation of rats and by providing penalties for violations. This article is intended to add to and not supersede existing laws governing or prohibiting litter, weed and garbage control and the disposal of waste.

(Code 1980, § 12.2-1; Code 1995, § 10-181)

Sec. 10-165. 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:

Building means that which is built or constructed, including, without limitation, buildings for any occupancy or use whatsoever, or anything erected and framed of component parts which is fastened, anchored or rests on a permanent foundation or on the ground.

Owner means the principal occupants or persons holding title to any land or building in the county.

Premises means a lot, plot or parcel of land, including the buildings or structures thereon.

Rat. The term "rat" or any term including the term "rat" shall include mice.

Rat eradication means the elimination or extermination of rats within and without buildings and from rat harborages of any kind by any or all of the accepted measures, such as baiting, fumigation, trapping, clubbing, etc., so that such buildings and rat harborages are completely freed of rats and there is no evidence of rat infestation remaining.

Rat harborage means any condition which provides shelter, nutrition or protection for rats, thus favoring their multiplication and continued existence in, under or outside of a building of any kind.

Ratproofing means a form of construction preventing the ingress of rats into buildings from the exterior or from one building to another. It consists essentially of treating or closing all actual or potential openings in the exterior walls, ground or first floors, basements, roofs and foundations that may be reached by rats from the ground, by climbing or by burrowing, with material or equipment which is impervious to rat gnawing.

(Code 1980, § 12.2-2; Code 1995, § 10-182)

Cross reference—Definitions and rules of construction, § 1-2.

Sec. 10-166. Penalty for refusal to implement rat eradication or eliminate rat harborages.

If, after receipt of the written notice or an order from the director of community revitalization under this article, the owner, occupant or other person responsible refuses to implement rat eradication or eliminate rat harborages, such owner or individual shall, upon conviction, be guilty of a class 4 misdemeanor. Each day that the violation continues shall constitute a separate offense.

(Code 1980, § 12.2-8; Code 1995, § 10-183; Ord. No. 942, § 2, 4-10-1997)

Sec. 10-167. Control of rats required.

It shall be the duty of each owner or occupant to keep his building and premises ratproofed, freed of rats, and maintained in a ratproof and rat-free condition and to eradicate any rat harborage.

(Code 1980, § 12.2-3; Code 1995, § 10-184)

Sec. 10-168. Maintenance of ratproofing devices.

It shall be unlawful for the owner, occupant, contractor, public utility company, plumber, any repairman or any other person to remove and fail to restore in like condition the ratproofing from any building for any purpose, or to make any new openings that are not closed or sealed against the entrance of rats.

(Code 1980, § 12.2-4; Code 1995, § 10-185)

Sec. 10-169. Report of violation.

Any person aggrieved by the presence of rats in violation of this article may report such presence to the director of community revitalization.

(Code 1980, § 12.2-5; Code 1995, § 10-186; Ord. No. 942, § 2, 4-10-1997)

Sec. 10-170. Inspection of site of violation; notice to control rats.

Upon receipt of a report under section 10-169, the director of community revitalization shall cause the site of the reported violation to be inspected pursuant to applicable constitutional and statutory provisions. When the director of community revitalization has determined from such reports and inspections or otherwise that a violation in fact exists, he shall notify the owner or the occupant of the building or premises to take immediate steps to ratproof the building and eliminate rat harborages on the premises within such reasonable time as specified in the notice. Such notice shall be given in writing, shall be delivered by hand or mailed to the last known address of the owner and of the principal occupant, if different from the owner, and shall be complied with by such owner.

(Code 1980, § 12.2-6; Code 1995, § 10-187; Ord. No. 942, § 2, 4-10-1997)

Sec. 10-171. Performance of work by county; payment of costs.

If the owner or occupant fails to implement rat eradication and ratproofing or eliminate rat harborages within the time required in the notice provided for in section 10-170, the director of community revitalization shall cause reasonable steps to be taken to implement rat eradication and ratproofing or eliminate rat harborages from the building or premises. If the owner, occupant or other person responsible denies free access for such purposes, the director of community revitalization may proceed after obtaining a warrant. Costs and expenses incurred by the county in implementing rat eradication or eliminating rat harborages on private property shall be assessed against the owner or occupant of the building or premises or any other person responsible for the condition on the property. The assessment shall be collected as taxes and levies are collected.

(Code 1980, § 12.2-7; Code 1995, § 10-188; Ord. No. 942, § 2, 4-10-1997)

State law reference—Authority to collect costs of nuisance abatement, Code of Virginia, § 15.2-900.

Secs. 10-172—10-195. Reserved.

ARTICLE VII. ILLICIT DISCHARGE DETECTION AND MONITORING

***Cross reference—** Buildings, ch. 6; culverts, § 18-4.

***State law reference—** Locality may adopt stormwater control ordinance consistent with state law, Code of Virginia, § 15.2-2114; local stormwater ordinances, Code of Virginia, § 10.1-603.14:1.

Sec. 10-196. 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:

Director means the director of public works or his designee.

Discharge means to dispose, deposit, spill, pour, inject, dump, leak or place by any means, or that which is disposed, deposited, spilled, poured, injected, dumped, leaked or placed by any means.

Illicit discharge means any discharge to a storm sewer that is not composed entirely of stormwater, except discharges pursuant to a VPDES permit or discharges resulting from firefighting activities. This definition shall not include the discharges listed in section 10-199(b) unless such discharges are identified by the county as sources of pollutants to waters of the United States.

Industrial discharge means discharges from any conveyance which are used for collecting and conveying stormwater and which are directly related to manufacturing, processing or raw materials storage areas at an industrial plant, as defined by federal stormwater management regulations.

Person means any individual, firm, corporation, partnership, association, organization or other entity, including governmental entities, or any combination thereof.

Storm sewer system means the system of roads, streets, catchbasins, curbs, gutters, ditches, pipes, lakes, ponds, channels, storm drains and other facilities located within the county which are designed or used for collecting, storing or conveying stormwater or through which stormwater is collected, stored or being conveyed.

Stormwater means runoff from rain, snow or other forms of precipitation and surface runoff and drainage.

(Code 1980, § 21.1-1; Code 1995, § 10-215)

Cross reference— Definitions and rules of construction, § 1-2.

Sec. 10-197. Enforcement of article; penalty for violation.

(a) *Violations deemed misdemeanor; continuing violations; fine.* Any person who willfully or negligently violates any provision of this article shall be guilty of a misdemeanor punishable by confinement in jail for not more than 12 months and a fine of not less than $2,500.00 nor more than $32,500.00, either or both. Any defendant that is not an individual shall, upon conviction of a violation under this subsection, be sentenced to pay a fine of not less than $10,000.00. Each day of violation of each requirement shall constitute a separate offense.

(b) *Liability for costs for testing, containment, etc.* Any person who, intentionally or otherwise, commits any of the acts prohibited by section 10-199 shall be liable to the county for all costs of testing, containment, cleanup, abatement, removal and disposal of any substance unlawfully discharged into the storm sewer system.

(c) *Civil penalty.* Any person who violates any provision of this article shall be subject to a civil penalty not to exceed $32,500.00 for each violation within the discretion of the court. Each day of violation of each requirement shall constitute a separate offense. The court assessing such penalties may, at its discretion,

order such penalties to be paid into the treasury of the county for the purpose of abating, preventing or mitigating environmental pollution of the waters of the locality and abating environmental pollution therein in such manner as the court may, by order, direct.

(d) *Enjoinment.* The director may bring legal action to enjoin the continuing violation of this article and the existence of any other remedy shall be no defense to any such action.

(e) *Remedies cumulative.* The remedies set forth in this section shall be cumulative, not exclusive, and it shall not be a defense to any action that one or more of the remedies set forth in this section has been sought or granted.

(Code 1980, § 21.1-4; Code 1995, § 10-216)

State law reference—Penalties, Code of Virginia, §§ 10.1-603.14, 10.1-602.14:1.

Sec. 10-198. Inspections and monitoring.

(a) The director shall have authority to carry out all inspection, surveillance and monitoring procedures necessary to determine compliance and noncompliance with the conditions of the county's VPDES permit, including the prohibition of illicit discharges to the storm sewer system. The director may monitor stormwater outfalls or other components of the storm sewer system as may be appropriate in the administration and enforcement of this article.

(b) The director shall have the authority to require pollution prevention plans from any person whose discharges cause or may cause a violation of the county's VPEDS permit.

(Code 1980, § 21.1-3; Code 1995, § 10-217)

Sec. 10-199. Discharges to storm sewer system.

(a) It shall be unlawful to:

(1) Cause or allow illicit discharges to the county's storm sewer system;

(2) Discharge materials other than stormwater to the storm sewer system by spills, dumping or disposal without a VPDES permit;

(3) Cause or allow industrial discharges into the storm sewer system without a VPDES permit; or

(4) Violate any condition or provision of this article or any permit granted for stormwater discharges.

(b) The following activities shall not be unlawful as illicit discharges under this article unless the State Water Control Board or the director determines the activity to be a significant source of pollutants to surface waters:

(1) Water line flushing;

(2) Landscape irrigation;

(3) Diverted stream flows;

(4) Rising ground waters;

(5) Uncontaminated groundwater infiltration (as defined at 40 CFR Part 35.2005(20));

(6) Uncontaminated pumped groundwater;

(7) Discharges from potable water sources;

(8) Foundation drains;

(9) Air conditioning condensation;

(10) Irrigation water;

(11) Springs;

(12) Water from crawl space pumps;

(13) Footing drains;

(14) Lawn watering;

(15) Individual residential car washing;

(16) Charity and fund-raising car washing;

(17) Flows from riparian habitats and wetlands;

(18) Dechlorinated swimming pool discharges;

(19) Street wash water;

(20) Discharges or flows from firefighting activities; and

(21) Other activities generating discharges identified by the Department of Environmental Quality as not requiring VPDES authorization.

(c) If the State Water Control Board or the director determines that an activity listed in subsection (b) is a significant source of pollutants to surface waters, the director shall notify the person performing such activity and shall order that such activity be stopped or conducted in such manner as to avoid the discharge of pollutants into surface waters. The failure to comply with any such order shall constitute a violation of the provisions of this article.

(Code 1980, § 21.1-2; Code 1995, § 10-218)

Sec. 10-200. Compliance with county design standards.

All stormwater management facilities, including best management practices (BMPs) for water quality and quantity management, shall comply with the current edition of the Stormwater Guidelines Manual maintained by the county engineer.

(Code 1995, § 10-219; Ord. No. 972, § 1, 3-24-1998)

Chapter 11 - FIRE PREVENTION AND PROTECTION

***Cross reference—** Buildings, ch. 6; smoke detectors, § 6-56 et seq.; fires in parks, § 14-47.

***State law reference—** Fire protection, Code of Virginia, § 27-1 et seq.

Sec. 11-1. Applicability of Virginia Statewide Fire Prevention Code.

Except as set out in section 11-20, the current edition of the Virginia Statewide Fire Prevention Code setting forth regulations for the prevention of, and protection from, fire shall be administered and enforced in the county by the division of fire. Future amendments and revisions of the Virginia Statewide Fire Prevention Code shall be implemented upon their effective date.

(Code 1980, § 10-1; Code 1995, § 11-1; Ord. No. 1060, § 1, 11-25-2003)

State law reference— Uniform statewide fire prevention code, Code of Virginia, §§ 27-97, 27-98.

Sec. 11-2. Penalty; time limit for correction of violations.

The imposition of a penalty for any violation shall not excuse the violation or permit it to continue. All persons shall be required to correct or remedy violations or defects within a reasonable time.

(Code 1980, § 10-22; Code 1995, § 11-2)

Sec. 11-3. Enforcement of this chapter and fire prevention code.

The Statewide Fire Prevention Code and the provisions of this chapter shall be enforced by the fire chief or his designee. Whenever this chapter declares an act or omission to be unlawful or to constitute a misdemeanor, the fire chief or his designee shall obtain an arrest warrant or summons against the violator.

(Code 1980, § 10-20; Code 1995, § 11-3)

State law reference— Enforcement of fire code, warrants, Code of Virginia, §§ 27-34.2, 27-98.2.

Sec. 11-4. Appeals.

Appeals shall be made to the building code and examining board of appeals by any person aggrieved by a decision or interpretation of the fire chief.

(Code 1980, § 10-21; Code 1995, § 11-4)

State law reference— Enforcement and appeals regarding fire code, Code of Virginia, § 27-98 et seq.

Sec. 11-5. Authority of members of division of fire.

(a) While the division of fire is answering an alarm or operating at an emergency incident where there is imminent danger, the actual occurrence of fire or explosion, or the uncontrolled release of hazardous materials which threaten life or property, or is returning to the station, the officer in charge shall have the authority to maintain order at the emergency incident or its vicinity, direct the actions of the firefighters or emergency medical services personnel at the incident, keep bystanders or other persons at a safe distance from the incident and emergency equipment, facilitate the speedy movement and operation of emergency equipment and firefighters or emergency medical services personnel, cause an investigation to be made into

the origin and cause of the incident and, until the arrival of a police officer, direct and control traffic in person or by deputy and facilitate the movement of traffic. The officer in charge shall display his firefighter's badge or other means of identification.

(b) Notwithstanding any other provision of law, this authority shall extend to the activation of traffic control signals at a fire station.

(c) The authority granted under the provisions of this section may not be exercised to inhibit or obstruct members of law-enforcement agencies or rescue squads from performing their normal duties when operating at such emergency incident. Personnel from the news media, such as the press, radio and television, when gathering the news may enter at their own risk into the incident area only when the officer in charge has deemed the area safe and only into those areas of the incident that do not, in the opinion of the officer in charge, interfere with the fire department or firefighters or emergency medical services personnel dealing with such emergencies, in which case the chief or other officer in charge may order such person from the scene of the emergency incident.

(d) Any person refusing to obey the orders of the officer in charge shall be guilty of a class 4 misdemeanor. The officer in charge shall have the power to make arrests for violation of the provisions of this section.

(Code 1980, §§ 10-2, 14-8; Code 1995, § 11-5)

State law reference—Similar provisions, Code of Virginia, § 27-15.1.

Sec. 11-6. Physical examinations for firefighters.

The county manager shall employ physicians to perform physical examinations of every salaried and volunteer firefighter entering the service of the division of fire.

(Code 1980, § 10-19; Code 1995, § 11-6)

State law reference—Performance of medical examination, Code of Virginia, § 27-40.1:1.

Sec. 11-7. False alarms.

It shall be a misdemeanor to call or summon any ambulance or firefighting equipment without just cause.

(Code 1980, § 10-4; Code 1995, § 11-7)

Cross reference—Fire alarm systems, § 3-56 et seq.

State law reference—Similar provisions, Code of Virginia, § 18.2-212.

Sec. 11-8. Boarding or tampering with vehicle or equipment of fire division.

It shall be unlawful for any person to cling to, attach himself to, climb upon or into, board or swing upon any fire division emergency vehicle without permission. It shall also be unlawful to manipulate, tamper with, or attempt to manipulate or tamper with, any levers, valves, switches, starting devices, brakes, pumps or any equipment or protective clothing on or a part of any fire emergency vehicle.

(Code 1980, § 10-5; Code 1995, § 11-8)

Sec. 11-9. Damaging vehicle of fire division; injuring firefighters.

(a) It shall be unlawful for any person to damage or deface, or to attempt or conspire to damage or deface, any fire division emergency vehicle.

(b) It shall be unlawful to injure, or to attempt or conspire to injure, fire division personnel while they are performing duties in the course of their employment.
(Code 1980, § 10-6; Code 1995, § 11-9)

State law reference—Damaging property, Code of Virginia, § 18.2-137 et seq.

Sec. 11-10. Blocking hydrants and connections.

It shall be unlawful to damage, deface, obscure from view, obstruct or restrict access to any fire hydrant or any fire division connection for the pressurization of fire suppression systems, including fire hydrants and fire division connections on private property.

(Code 1980, § 10-7; Code 1995, § 11-10)

State law reference—Authority to prohibit parking near fire hydrants, Code of Virginia, § 46.2-1306; damaging property, Code of Virginia, § 18.2-137 et seq.

Sec. 11-11. Use of hydrants.

No person shall use or operate any fire hydrant intended for use of the fire division unless such person secures a permit from the department of public utilities.

(Code 1980, § 10-8; Code 1995, § 11-11)

Sec. 11-12. Division of fire to recommend location of hydrants and mains; notification of division when hydrants are placed in or removed from service.

The division of fire shall recommend the location or relocation of new or existing fire hydrants and the placement or replacement of new or inadequate water mains located on private property when necessary to provide adequate fire flow and distribution patterns. A fire hydrant shall not be placed into or removed from service until the division of fire is notified.

(Code 1980, § 10-9; Code 1995, § 11-12)

Sec. 11-13. Private fire protection system required for certain uses.

The owners of new and existing shipyards, oil storage plants, lumberyards, amusement or exhibition parks, educational and institutional complexes, places of public assembly, and other uses involving high fire or life hazards which are located more than 150 feet from a public street or which require a quantity of water which the department of public utilities determines is beyond the capabilities of the public water distribution system shall provide properly placed fire hydrants or fire suppression systems. The division of fire may require the installation of a fire hose and equipment in accordance with approved standards and may require the establishment of a trained fire brigade. Private hydrants or fire suppression systems shall not be placed in or removed from service unless approved by the division of fire.

(Code 1980, § 10-10; Code 1995, § 11-13)

Sec. 11-14. Obstructing or tampering with hydrant or fire appliance.

No person shall obstruct, remove, tamper with or otherwise disturb any fire hydrant or fire appliance required by the Statewide Fire Prevention Code, except for the purpose of extinguishing fires, training, testing, recharging or making necessary repairs, or for other reasons approved by the division of fire.

Whenever a fire appliance is removed as permitted in this section, it shall be replaced or repaired as directed by the fire chief or his designee.

(Code 1980, § 10-11; Code 1995, § 11-14)

Sec. 11-15. Sale of unapproved or defective fire extinguishers.

No person shall sell, trade, loan or give away any fire extinguisher that is not approved by the division of fire as to form, type, kind or contents or which is not in proper working order. The requirements of this section shall not apply to the sale, trade or exchange of obsolete or damaged equipment for junk if such units are permanently disfigured or marked as junk.

(Code 1980, § 10-12; Code 1995, § 11-15)

Sec. 11-16. Parking or storage of vehicles used to transport inflammable liquid prohibited in residential areas; exceptions.

It shall be unlawful for any person to park or store any truck, trailer or other vehicle designed or used to transport gasoline, kerosene, fuel oil or other inflammable liquid on the streets, alleys, public rights-of-way or private property in any residential area, except while making a delivery or being used under a permit of the division of fire.

(Code 1980, § 10-14; Code 1995, § 11-16)

Cross reference—Stopping, standing and parking, § 22-151 et seq.; zoning, ch. 24.

Sec. 11-17. Burning of leaves.

(a) Notwithstanding any other provision of this Code, it shall be unlawful for any person to burn leaves in the open in any area designated by the board of supervisors for leaf pickup service without charge by the county on a scheduled basis. In areas where scheduled leaf pickup service is not provided free of charge by the county, leaf burning is permitted between 8:00 a.m. and 8:00 p.m. from October 15 to February 14, except on hard-surfaced roadways of any street maintained by the county. Between February 15 and April 30, leaf burning is permitted in areas where scheduled leaf pickup service is not provided free of charge by the county between 4:00 p.m. and 8:00 p.m., except on hard-surfaced roadways of any streets maintained by the county.

(b) Notice of leaf pickup service areas shall be by publication of a description of the areas and schedules for free leaf pickup service at least once a week for two successive weeks in a newspaper having general circulation in the county.

(Code 1980, § 10-15.1; Code 1995, § 11-17; Ord. No. 982, § 1, 10-14-1998)

Cross reference—Environment, ch. 10; burning leaves, trash or other materials on hard-surfaced roadways prohibited, § 18-5.

State law reference—Regulations for the open burning of wood, brush, etc., Code of Virginia, §§ 10.1-1142, 10.1-1158.

Sec. 11-18. Safety requirements for open burning; state burning permits.

It shall be unlawful for any person to burn, or to procure another to burn, brush, grass, leaves, debris or other inflammable material unless the person has either cut and piled the material to be burned or has carefully cleared around the material to be burned, or has taken other precautions necessary to prevent the

spread of fire and controls the fire until it has completely burned out or been extinguished. No one shall burn any materials without obtaining all permits required by state law, including the Virginia Statewide Fire Prevention Code.

(Code 1980, § 10-16; Code 1995, § 11-18)

Sec. 11-19. Open burning prohibited during drought conditions.

(a) Whenever the fire chief declares that a drought condition exists or that forest lands, brush lands and fields have become so dry or parched as to create an extraordinary fire hazard in part or all of the county, it shall be unlawful for any person to burn brush, grass, leaves, trash, debris or any other inflammable material or to ignite or maintain any open fire. The fire chief's declaration shall remain effective until the fire chief declares the condition to have terminated.

(b) When any such declaration is issued, amended or rescinded, the fire chief shall promptly post a copy of the declaration, amendment or rescission at the front door of the county courthouse and at each fire station in the area of the county in which the emergency has been declared. In addition, the fire chief shall publish the declaration, amendment or rescission in a newspaper of general circulation.

(Code 1980, § 10-18; Code 1995, § 11-19; Ord. No. 982, § 2, 10-14-1998)

Cross reference—Fires in parks, § 14-47; water shortages, § 23-264 et seq.

Sec. 11-20. Possession, sale, storage or use of fireworks prohibited.

(a) This section is adopted pursuant to authority granted localities by Code of Virginia, § 27-97, and Virginia Statewide Fire Prevention Code section 101.5 to adopt fire prevention regulations that are more restrictive than the Virginia Statewide Fire Prevention Code.

(b) No person shall store, possess, offer for sale, expose for sale, sell at retail or use or explode any fireworks, as that term is defined in the Virginia Statewide Fire Prevention Code, except that a person may conduct a supervised public display of fireworks pursuant to a permit granted by the fire marshal.

(c) Applications for permits shall be made in writing at least 60 days before the date of the supervised public display of fireworks. The sale, possession, discharge and distribution of fireworks for such display shall be lawful only under the terms and conditions and for the purpose set forth in the permit. A permit shall not be transferable nor extend beyond the date or dates set forth therein.

(d) For purposes of this section, the term "fireworks" shall include "permissible fireworks" as that term is defined in the Virginia Statewide Fire Prevention Code.

(e) For purposes of this section, "fireworks" shall not include automobile flares, paper caps containing not more than an average of 0.25 grams (16 mg) of explosive content per cap, or any toy pistols, toy canes, toy guns, and other devices using such caps.

(Code 1995, § 11-20; Ord. No. 1060, § 2, 11-25-2003)

Chapter 12 - MASSAGE ESTABLISHMENTS

***Cross reference—**Obscenity and nudity, § 13-84 et seq.; adult businesses, § 14-181 et seq.; license tax, § 20-350 et seq.

ARTICLE I. IN GENERAL

Sec. 12-1. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Beauty salon means an establishment not located in a residence which provides one or more of the following services in exchange for consideration: hair care, skin care, makeovers, facials, manicures, pedicures or body waxing.

Care facility means a hospital, nursing home, convalescent care facility, assisted living facility, life care facility or group care facility.

Certified massage therapist means any person who administers a massage to a patron, in exchange for consideration, and who is qualified as a certified massage therapist pursuant to the requirements of Code of Virginia, §§ 54.1-3000 and 54.1-3029.

Health club means an establishment which provides health and fitness equipment and programs for its patrons' use. A health club may be located in a hotel or motel but not in a guest room in a hotel or motel.

Massage.

(1) The term "massage" means the treatment of soft tissues for therapeutic purposes by the application of massage and body work techniques based on the manipulation or application of pressure or stroking, kneading, rubbing, tapping, pounding, vibrating, or manipulating the external parts of the body with the hands or with the aid of any mechanical or electrical apparatus or instrument, with or without such supplementary aids as rubbing alcohol, liniment, antiseptics, oils, powers, creams, lotions, ointments, or similar preparations or by the application of air, liquid or vapor baths of any kind.

(2) The term "massage" shall not include placing hands on, touching, fondling or massaging the sexual or genital parts of another or exposing one's sexual or genital parts to any other persons.

(3) The term "massage" also shall not include the diagnosis or treatment of illness or disease or any service or procedure for which a license to practice medicine, nursing, chiropractic therapy, physical therapy, occupational therapy, acupuncture, or podiatry is required by law.

Massage establishment means a fixed place of business where a certified massage therapist gives a patron a massage.

Patron means the person receiving the massage.

Public gathering means any event occurring in the county that is open to the general public and involves more than 50 persons.

Seated massage means a massage of the upper body or feet while the massage patron is fully clothed and seated in a chair.

Sexual or genital parts means the genitals, pubic area, buttocks or anus of any person and the breasts of a female person.

Tanning salon means an establishment which has as it primary business the provision of tanning services in exchange for consideration.

(Code 1980, § 13-1; Code 1995, § 12-1; Ord. No. 983, § 1, 11-24-1998)

Cross reference—Definitions and rules of construction, § 1-2.

Sec. 12-2. Exemptions from chapter provisions.

This chapter shall not apply to the following classes of individuals while engaged in the performance of the duties of their respective professions:

(1) Physicians, surgeons, chiropractors and osteopaths who are duly licensed to practice their respective professions in the state and their employees acting under their direction and supervision in connection with the practice of medicine, chiropractic or osteopathy by recognized means.
(2) Physical therapists who are duly licensed to practice physical therapy by the state.
(3) Employees of nursing homes and hospitals which are duly licensed by the state, provided that the employees are acting at the direction and under the supervision of licensed health care professionals.
(4) Nurses who are registered under the laws of the state.
(5) Trainers of any amateur, semiprofessional or professional athlete or athletic team.
(6) Barbers and beauticians who are duly licensed under the laws of the state and who administer massage only to the scalp, face, neck or shoulders.
(Code 1980, § 13-9; Code 1995, § 12-2; Ord. No. 983, § 2, 11-24-1998)

Sec. 12-3. Display of certificate.

Each certified massage therapist shall conspicuously post his current certificate issued by the state board of nursing in a public area at his massage establishment.

(Code 1980, § 13-4; Code 1995, § 12-3; Ord. No. 983, § 3, 11-24-1998)

Sec. 12-4. Unlawful acts by certified massage therapists or patrons.

(a) It shall be unlawful for a certified massage therapist to:
(1) Place his hands upon, to touch with any part of his body, to fondle in any manner, or to massage a sexual or genital part of a patron;
(2) Expose his sexual or genital parts or any portion thereof to a patron;
(3) Expose the sexual or genital parts or any portion thereof of a patron; or
(4) Fail to conceal with a fully opaque covering the sexual or genital parts of his body while in the presence of a patron.
(b) It shall be unlawful for a patron to:
(1) Place his hands upon, to touch with any part of his body, to fondle in any manner, or to massage a sexual or genital part of a certified massage therapist;
(2) Expose his sexual or genital parts or any portion thereof to a certified massage therapist;
(3) Expose the sexual or genital parts or any portion thereof of a certified massage therapist; or
(4) Fail to conceal with a fully opaque covering the sexual or genital parts of his body while in the presence

of a certified massage therapist.
(Code 1980, §§ 13-2, 13-8(b), 13-22; Code 1995, § 12-7; Ord. No. 983, § 7, 11-24-1998)

Secs. 12-5—12-26. Reserved.

ARTICLE II. WHEN AND WHERE MASSAGE MAY BE GIVEN

Sec. 12-27. When and where massage may be given.

(a) It shall be unlawful for any person to give a massage in exchange for consideration within the county unless:

(1) The massage is given for medical, relaxation, remedial or hygienic purposes; and

(2) The person giving the massage is a certified massage therapist.

(b) A certified massage therapist may give a massage in the county only at the following locations and under the following conditions, provided that, regardless of location, the certified massage therapist shall possess his certificate issued by the state board of nursing:

(1) At a massage establishment;

(2) At the regular place of business, not located in a residence, of the massage patron during the regular business hours of such business, provided that a certified massage therapist may only give a seated massage at this location;

(3) At a beauty salon;

(4) At a care facility;

(5) At a health club;

(6) At a public gathering;

(7) At a tanning salon; and

(8) Except as otherwise prohibited in this section, at a residence.

(Code 1980, § 13-15; Code 1995, § 12-52; Ord. No. 983, § 15, 11-24-1998)

State law reference—Qualifications for a certified massage therapist, Code of Virginia, § 54.1-3029.

Chapter 13 - OFFENSES

***Cross reference—**Court costs, §§ 2-126 et seq.; repair, removal or security of buildings and other structures harboring illegal drug use, § 10-1; Repair, removal or security of buildings and other structures harboring a bawdy place, § 10-4; noise, § 10-67 et seq.; unnecessary noise in operation of vehicle, § 22-36.

ARTICLE I. IN GENERAL

Secs. 13-1—13-18. Reserved.

ARTICLE II. CONDUCT

Sec. 13-19. Authority to regulate assemblies.

(a) The chief of police or the county manager or his designee is empowered to regulate, restrict or prohibit any assembly of persons or the movement of persons or vehicles when there exists an imminent threat of any civil commotion or disturbance in the nature of a riot which constitutes a clear and present danger thereof.

(b) Any person violating any regulation, restriction or prohibition promulgated by the chief of police or the county manager or his designee pursuant to subsection (a) of this section shall be deemed guilty of a misdemeanor.

(Code 1980, § 15-1; Code 1995, § 13-31)

Cross reference—Parades, § 22-19 et seq.

State law reference—Authority of county to delegate such authority, Code of Virginia, § 15.2-925.

Sec. 13-20. Disorderly conduct.

(a) A person is guilty of disorderly conduct if, with the intent to cause public inconvenience, annoyance or alarm, or recklessly creating a risk thereof, he:

(1) In any street, highway, public building or while in or on a public conveyance or public place, engages in conduct having a direct tendency to cause acts of violence by the persons at whom, individually, such conduct is directed;

(2) Willfully or being intoxicated, whether willfully or not, and whether such intoxication results from self-administered alcohol or other drug of whatever nature, disrupts any funeral, memorial service, or meeting of the governing body of any political subdivision of this state or a division or agency thereof, or of any school, literary society or place of religious worship, if the disruption prevents or interferes with the orderly conduct of the funeral, memorial service or meeting, or has a direct tendency to cause acts of violence by the persons at whom, individually, the disruption is directed; or

(3) Willfully or while intoxicated, whether willfully or not, and whether such intoxication results from self-administered alcohol or other drug of whatever nature, disrupts the operation of any school or any activity conducted or sponsored by any school, if the disruption prevents or interferes with the orderly conduct of the operation or activity, or has a direct tendency to cause acts of violence by the persons at whom, individually, the disruption is directed.

(b) However, the conduct prohibited under subsections (a)(1) through (3) of this section shall not be deemed to include the utterance or display of any words or to include conduct made punishable by provisions of the Code of Virginia, title 18.2 (Code of Virginia, § 18.2-1 et seq.), other than Code of Virginia, § 18.2-415.

(c) The person in charge of any such building, place, conveyance, meeting, operation or activity may eject therefrom any person who violates any provision of this section, with the aid, if necessary, of any persons

who may be called upon for such purpose.
(Code 1980, § 15-5; Code 1995, § 13-32; Ord. No. 1094, § 1, 3-13-2007)

State law reference—Similar provisions, Code of Virginia, § 18.2-415.

Sec. 13-21. Providing false information on school registration forms.

Any person who knowingly gives false information on a form used for the purpose of student registration or placement in the county school system, except false statements as to the age, punishable as provided in Code of Virginia, § 22.1-264, shall be guilty of a misdemeanor; provided that such form shall state that the giving of false information on the form is a class 4 misdemeanor.

(Code 1980, § 15-6; Code 1995, § 13-33)

State law reference—Penalty for class 4 misdemeanor, Code of Virginia, § 18.2-11.

Sec. 13-22. Obstructing free passage.

(a) *Purpose.* The purpose of this section is to ensure the free and safe passage of pedestrians and vehicles within public rights-of-way, buildings and facilities, and within places open to the public, while preserving the rights of citizens to engage in free speech and assembly protected by the First Amendment to the Constitution of the United States.
(b) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Loiter means to stand around or remain, or to park or remain parked in a motor vehicle at a public place or any other place open to the public and to engage in any conduct prohibited under this law. Loiter also means to collect, gather, congregate, or be a member of a group or a crowd of people who are gathered together in any public place or any other place open to the public and to engage in any conduct prohibited under this law.

Place open to the public means any place open to the public or any place to which the public is invited or may reasonably expect to be invited and in, on, or around any privately-owned place of business, private parking lot or private institution, including shopping centers, malls, places of worship and cemeteries, or any place of amusement and entertainment, whether or not a charge of admission or entry thereto is made. It includes the elevator, lobby, halls, corridors and areas open to the public of any store, office, or apartment building.

Public place means any public street, road, highway, alley, land, sidewalk, crosswalk or other public way, any public resort, place of amusement, park or playground, any public building or grounds appurtenant thereto, school buildings, school grounds, public parking lot, or any other publicly-owned property.

(c) *Prohibited conduct.* It shall be unlawful for any person to loiter at, on or in a public place or place open to the public in the following manner:
(1) To unreasonably hinder, impede or obstruct the free passage of pedestrians or vehicles.
(2) To threaten or do physical harm to another person.
(3) To threaten or do physical harm to public or private property.
(d) *Lawful assembly.* Nothing herein shall be construed to prohibit a lawful assembly, picket, parade or procession.
(Code 1980, § 15-7; Code 1995, § 13-34; Ord. No. 1099, § 1, 3-27-2007)

State law reference—Authority to prohibit loitering, Code of Virginia, § 15.2-926.

Sec. 13-23. Public intoxication.

(a) It shall be unlawful for any person to be intoxicated in public, whether such intoxication results from alcohol, narcotic drug or other intoxicant or drug of whatever nature. Any person violating this section shall, upon conviction, be guilty of a class 4 misdemeanor.

(b) A law-enforcement officer may authorize the transportation, by police or otherwise, of public inebriates to a court-approved detoxification center in lieu of arrest; however, no person shall be involuntarily detained in such center.

(Code 1980, § 15-11; Code 1995, § 13-35; Ord. No. 1062, § 1, 2-24-2004; Ord. No. 1095, § 1, 3-13-2007)

State law reference—Similar provisions, Code of Virginia, § 18.2-388.

Sec. 13-24. Solicitation.

(a) In this section, the term "prohibited sexual acts" means adultery, fornication or any act in violation of Code of Virginia, § 18.2-361.

(b) Any person who offers money or its equivalent to another for the purpose of engaging in prohibited sexual acts as defined in subsection (a) of this section and thereafter does any substantial act in furtherance thereof shall be guilty of solicitation of prostitution and shall be guilty of a misdemeanor.

(Code 1980, § 15-12; Code 1995, § 13-36)

State law reference—Prostitution, Code of Virginia, § 18.2-346 et seq.

Sec. 13-25. Unauthorized resale of tickets prohibited.

It shall be unlawful for any person to resell for profit any ticket for admission to any sporting event, theatrical production, lecture, motion picture, state fair or any other event open to the public for which tickets are ordinarily sold, except in the case of religious, charitable or educational organizations where all or a portion of the admission price reverts to the sponsoring group and the resale for profit of such ticket is authorized by the sponsor of the event and the manager or owner of the facility in which the event is being held. Violation of this section shall constitute a class 3 misdemeanor.

(Code 1980, § 15-12.1; Code 1995, § 13-38; Ord. No. 906, § 1, 8-9-1995)

State law reference—Authority to so provide, Code of Virginia, § 15.2-969.

Sec. 13-26. Trespass after having been forbidden to do so; penalties.

(a) If any person without authority of law goes upon or remains upon the lands, buildings or premises of another, or any portion or area thereof, after having been forbidden to do so, either orally or in writing, by the owner, lessee, custodian, or other person lawfully in charge thereof, or after having been forbidden to do so by a sign posted by such persons or by the holder of any easement or other right-of-way authorized by the instrument creating such interest to post such signs on such lands, structures, premises or portion or area thereof at a place where it may be reasonably seen, or if any person, whether he is the owner, tenant or otherwise entitled to the use of such land, building or premises, goes upon, or remains upon such land, building or premises after having been prohibited from doing so by a court of competent jurisdiction by an order issued pursuant to Code of Virginia, §§ 16.1-253, 16.1-253.1, 16.1-253.4, 16.1-278.2—16.1-278.6, 16.1-278.8, 16.1-278.14, 16.1-278.15, 16.1-279.1, 19.2-152.8, 19.2-152.9 or 19.2-152.10, or an ex parte order issued pursuant to Code of Virginia, § 20-103, and, after having been served with such order, he shall be guilty of a

class 1 misdemeanor. This section shall not be construed to affect in any way the provisions of Code of Virginia, §§ 18.2-132—18.2-136.

(b) Any owner of real property may, in writing on a form prescribed by the chief of police, designate the county division of police as a "person lawfully in charge thereof" as that term is used in subsection (a) of this section, for the purpose of forbidding another to go or remain upon the lands, buildings or premises of such owner. Such designation shall include a legal address, detailed description of the lands, buildings or premises to which it applies; shall be signed by a person who can demonstrate that he is the owner of the property, or is legally authorized to act for the property owner; shall include a provision holding the county harmless and indemnifying the county for any claims arising from or in connection with the enforcement of this section; and shall be kept on file in the office of the chief of police or in such other location within the division of police as the chief of police deems appropriate.

(c) A property owner's designation of the division of police as a person lawfully in charge of the owner's property becomes effective when the chief of police or his designee delivers in person or mails to the property owner a copy of the property owner's designation which has been signed by the chief of police or his designee. A copy of the designation signed by the chief of police or his designee shall be kept on file as described in subsection (b) of this section. The decision whether to accept any designation is solely within the discretion of the chief of police or his designee, who may base his decision on such factors including, but not limited to, resource levels of the division of police and the proper allocation of resources.

(d) Either the property owner or the chief of police or his designee may rescind or reject the designation of the division of police as a person lawfully in charge of the owner's property totally, partially or temporarily at any time by written notification, which notification shall be kept on file with the property owner's designation as described in subsection (b) of this section.

(e) Such designation of the division of police as a person lawfully in charge of the property shall be limited to the sole purpose of enforcing this section.

(f) In any prosecution under this section, a certified copy of the property owner's designation of the division of police as a person lawfully in charge of the property, along with a certified copy of attestation by the chief of police or his designee that (i) the chief of police or his designee has accepted the designation; (ii) the designation has not been rescinded by the property owner or rejected by the chief of police or his designee; and (iii) the designation is in writing and on file in the office of the chief of police or in such other location within the division of police as the chief of police deems appropriate, shall be admissible in any court in a prosecution under this section as evidence of the facts therein stated, without proof of seal of signature of the person whose name is signed to it.

(Code 1995, § 13-39; Ord. No. 1041, § 1, 2-25-2003)

State law reference—Trespass, Code of Virginia, § 18.2-119; authority to provide for designation of police to enforce trespass violations, Code of Virginia, § 15.2-1717.1.

Secs. 13-27—13-55. Reserved.

ARTICLE III. WEAPONS

*__Cross reference—__Firearms and other dangerous devices prohibited in parks and recreation areas, § 14-41; concealed handgun permits, § 15-51.

*__State law reference—__Local control of firearms restricted, Code of Virginia, § 15.2-915 et seq.; shooting along streets, etc., generally, Code of Virginia, § 18.2-286 et seq.

Sec. 13-56. Commercial district defined.

As used in this article, the term "commercial district" shall mean any business, office, office service, or

institutional district as so classified and defined by chapter 24.

(Code 1995, § 13-68; Ord. No. 1081, § 2, 11-8-2005)

Sec. 13-57. Discharging pneumatic guns.

(a) For purposes of this section, the term "pneumatic gun" means any implement, designed as a gun, that will expel a BB or a pellet by action of pneumatic pressure. "Pneumatic gun" includes a paintball gun that expels by action of pneumatic pressure plastic balls filled with paint for the purpose of marking the point of impact.

(b) It shall be unlawful for any person to discharge any pneumatic gun from or across any public street, public sidewalk, public alley or public land or public place in the county.

(c) Nothing in this section is designed to prevent organized groups from erecting, maintaining and using properly constructed rifle or pistol ranges which meet the requirements of chapter 24 and are approved by the chief of police as to safety. Commercial or private areas designated for use of pneumatic paintball guns may be established and operated for recreational use. Equipment designed to protect the face and ears shall be provided to participants at such recreational areas, and signs must be posted to warn against entry into the paintball area by persons who are unprotected or unaware that paintball guns are in use.

(d) Nothing in this section is designed to prohibit the use of pneumatic guns on or within private property with permission of the owner or legal possessor thereof when conducted with reasonable care to prevent a projectile from crossing the bounds of the property.

(e) It shall be unlawful and constitute a class 4 misdemeanor for any person to violate any of the provisions of this section.

(Code 1980, § 15-13; Code 1995, § 13-61)

State law reference—Authority to regulate discharge of pneumatic guns, Code of Virginia, § 15.2-915.4; discharging pneumatic guns across street or road, Code of Virginia, § 18.2-286.

Sec. 13-58. Discharging weapons near school property.

(a) As used in this section, the term "school property" includes real property owned by, used by or held for any public or private school.

(b) No person shall discharge any rifle, shotgun, pistol, revolver, pellet gun or other firearm within 100 yards of school property, or use BB guns, crossbows, spearguns or bows and arrows within 300 feet of school property.

(c) No person shall discharge any rifle, shotgun, pistol, revolver, pellet gun, BB gun or other firearm, crossbow, speargun or bow and arrow on school property; except that bows and arrows may be used when part of an organized program under the supervision of an employee of the school or the county.

(d) This section shall not be applicable to law enforcement officials engaged in the discharge of their duties. This section shall not apply in any national or state park or forest, or wildlife management area.

(e) The violation of this section is a class 4 misdemeanor.

(Code 1980, § 15-14.1; Code 1995, § 13-62)

State law reference—Authority to prohibit such discharge of firearm near school, Code of Virginia, § 29.1-527; authority to regulate discharge of pneumatic guns, Code of Virginia, § 15.2-915.4; penalty for class 4 misdemeanor, Code of Virginia, § 18.2-11.

Sec. 13-59. Discharging firearms.

(a) it shall be unlawful for any person to discharge any firearm from, on or across any street, sidewalk, alley, roadway or public land or public place in the county or upon, from or across any land located within the boundaries of any residential or industrial district as so classified and defined by chapter 24 or any commercial district. This section shall not apply to any law enforcement officer in the performance of his official duties or to any other person whose such willful act is otherwise justifiable or excusable at law in the protection of his life or property, or is otherwise specifically authorized by law. Nothing in this section is designed to prevent organized groups from erecting, maintaining and using properly constructed rifle or pistol ranges which meet the requirements of chapter 24 and are approved by the chief of police as to safety.

(b) This section shall not apply to the killing of deer pursuant to Code of Virginia, § 29.1-529 with firearms. Such exemption shall apply on land of at least five acres that is zoned for agricultural use.

(c) Violation of this section shall constitute a class 4 misdemeanor.

(Code 1980, § 15-14; Code 1995, § 13-63)

State law reference—Authority to regulate discharge of firearms, etc., Code of Virginia, § 15.2-1209; discharging firearms across street or road, Code of Virginia, § 18.2-286.

Sec. 13-60. Hunting with firearms near primary or secondary highway.

(a) No person shall hunt or attempt to hunt with a firearm any game bird or game animal while such hunting or attempting to hunt is on or within 100 yards of any primary or secondary highway in the county.

(b) For the purpose of this section, the terms "hunt" and "attempt to hunt" shall not include the necessary crossing of such highways for the bona fide purpose of going into or leaving a lawful hunting area.

(c) Violation of this section shall be a class 3 misdemeanor.

(Code 1980, § 15-14.4; Code 1995, § 13-65)

State law reference—Authority to so provide, Code of Virginia, § 29.1-526.

Sec. 13-61. Shooting arrows from bows.

(a) The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Arrow means a shaft-like projectile intended to be shot from a bow.

Bow includes all compound bows, crossbows, longbows and recurve bows having a peak draw weight of ten pounds or more. The term "bow" does not include bows having a peak draw weight of less than ten pounds or that are designed or intended to be used principally as toys.

(b) Except as provided in subsection (c) of this section, it shall be unlawful for any person to shoot an arrow from a bow from, on or across any street, sidewalk, alley, roadway or public land or public place in the county or outdoors upon, from or across any land located within the boundaries of any residential or industrial district as so classified and defined by chapter 24 or any commercial district.

(c) The following activities shall be permitted:

(1) The shooting of arrows from bows on school property when part of an organized program under the supervision of an employee of the school or the county. As used in this subsection, the term "school" includes real property owned by, used by, or held for any public or private school.

(2) The shooting of arrows from bows in county parks as permitted by section 14-29.

(3) The shooting of arrows from bows at archery ranges which meet the requirements of chapter 24.

(d) The exemption in this subsection does not authorize the shooting of an arrow in or across any road, or within the right-of-way thereof. Subsection (b) of this section does not apply to the killing of deer pursuant to

Code of Virginia, § 29.1-529 on land of at least two acres that is zoned for agricultural use.

(e) Violation of this section shall constitute a class 4 misdemeanor.

(Code 1995, § 13-67; Ord. No. 1081, § 1, 11-8-2005)

State law reference—Shooting arrow across road, Code of Virginia, § 18.2-286; authority to prohibit shooting of arrows in certain locations, Code of Virginia, § 15.2-1209; penalty for class 4 misdemeanor, Code of Virginia, § 15.2-11.

Secs. 13-62—13-83. Reserved.

ARTICLE IV. OBSCENITY AND NUDITY

***Cross reference—**Massage establishments, ch. 12; adult businesses, § 14-181 et seq.

***State law reference—**Obscenity, Code of Virginia, § 18.2-372 et seq.; locality may adopt ordinances paralleling certain statutory provisions, Code of Virginia, § 15.2-926.2.

Sec. 13-84. 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:

Obscene means that which, considered as a whole, has as its dominant theme or purpose an appeal to the 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 the description or representation of such matters, and which, taken as a whole, does not have serious literary, artistic, political or scientific value.

(Code 1980, § 15-15; Code 1995, § 13-91)

Cross reference—Definitions and rules of construction, § 1-2.

State law reference—Similar provisions, Code of Virginia, § 18.2-372.

Sec. 13-85. Exceptions to article.

Nothing contained in this article shall be construed to apply to:

(1) 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.

(2) 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.

(3) 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.

(Code 1980, § 15-25; Code 1995, § 13-93)

State law reference—Similar provisions, Code of Virginia, § 18.2-383.

Sec. 13-86. Obscene items enumerated.

Obscene items shall include:

(1) Any obscene book;

(2) Any obscene leaflet, pamphlet, magazine, booklet, picture, painting, drawing, bumper sticker, photograph, film, negative, slide, motion picture or videotape 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 a perceivable form.

(Code 1980, § 15-16; Code 1995, § 13-94)

State law reference—Similar provisions, Code of Virginia, § 18.2-373.

Sec. 13-87. Manufacture, sale or distribution of obscene items prohibited.

(a) It shall be unlawful for any person knowingly to:

(1) Prepare any obscene item for the purposes of sale or distribution;

(2) Print, copy, manufacture, produce or reproduce any obscene item for purposes of sale or distribution;

(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 his possession with intent to sell, rent, lend, transport or distribute any obscene item. Possession in public or in a public place of any obscene item shall be deemed prima facie evidence of a violation of this section.

(b) For the purposes of this section, the term "distribute" shall mean to deliver in person, by mail, by messenger or by any other means by which obscene items may pass from one person to another.

(Code 1980, § 15-17; Code 1995, § 13-95)

State law reference—Similar provisions, Code of Virginia, § 18.2-374.

Sec. 13-88. Obscene exhibitions and performances prohibited.

It shall be unlawful for any person knowingly to:

(1) Produce, promote, prepare, present, manage, direct, carry on or participate in any obscene exhibitions or performances, 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

(2) 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 or to fail to post prominently therein the name and address of a person resident in the locality who is the manager of such theater, garden, building, structure, room or place.

(Code 1980, § 15-18; Code 1995, § 13-96)

State law reference—Similar provisions, Code of Virginia, § 18.2-375.

Sec. 13-89. Distribution of advertisements for obscene items or performances.

It shall be unlawful for any person knowingly to prepare, print, publish or circulate, or cause to be

prepared, printed, published or circulated, any notice or advertisement of any obscene item proscribed in section 13-86, or of any obscene performance or exhibition proscribed in section 13-88, stating or indicating where such obscene item, exhibition or performance may be purchased, obtained, seen or heard.

(Code 1980, § 15-19; Code 1995, § 13-97)

State law reference—Similar provisions, Code of Virginia, § 18.2-376.

Sec. 13-90. Posting obscene material; posting of advertisements for obscene items or performances.

It shall be unlawful for any person knowingly to 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 proscribed in section 13-86, or any obscene exhibition or performance proscribed in section 13-88, or knowingly to permit such placard, writing or picture to be displayed on property belonging to or controlled by him.

(Code 1980, § 15-20; Code 1995, § 13-98)

State law reference—Similar provisions, Code of Virginia, § 18.2-377.

Sec. 13-91. Coercing acceptance of obscene articles or publications.

It shall be unlawful for any person, as a condition to any sale, allocation, consignment or delivery for resale of any paper, magazine, book, periodical or publication, to require that the purchaser or consignee receive for resale any other article, book or other publication which is obscene; nor shall any person deny or threaten to deny any franchise or impose or threaten to impose any penalty, financial or otherwise, by reason of the failure or refusal of any person to accept such articles, books or publications, or by reason of the return thereof.

(Code 1980, § 15-21; Code 1995, § 13-99)

State law reference—Similar provisions, Code of Virginia, § 18.2-378.

Sec. 13-92. Employing or permitting minor to assist in offense.

It shall be unlawful for any person knowingly to hire, employ, use or permit any minor to do or assist in doing any act or thing constituting an offense under this article.

(Code 1980, § 15-22; Code 1995, § 13-100)

State law reference—Similar provisions, Code of Virginia, § 18.2-379.

Sec. 13-93. Production of obscene photographs or motion pictures.

A person shall be guilty of a class 3 misdemeanor if the person knowingly:

(1) Photographs himself or any other person for purposes of preparing an obscene film, photograph, negative, slide or motion picture for purposes of sale or distribution; or

(2) Models, poses, acts or otherwise assists in the preparation of any obscene film, photograph, negative, slide or motion picture for purposes of sale or distribution.
(Code 1980, § 15-24; Code 1995, § 13-102)

State law reference—Similar provisions, Code of Virginia, § 18.2-382.

Sec. 13-94. Showing previews of certain motion pictures.

It shall be unlawful for any person to exhibit any trailer or preview of any motion picture which has a motion picture industry rating which would not permit persons in the audience viewing the feature motion picture to see the complete motion picture from which the trailer or preview is taken.

(Code 1980, § 15-28; Code 1995, § 13-105)

State law reference—Similar provisions, Code of Virginia, § 18.2-386.

Sec. 13-95. Indecent exposure.

Every person who intentionally makes an obscene display or exposure of his person, or the private parts thereof, in any public place, or in any place where others are present, or procures another to so expose himself, shall be guilty of a misdemeanor. No person shall be deemed to be in violation of this section for breastfeeding a child in any public place or any place where others are present.

(Code 1980, § 15-29; Code 1995, § 13-106)

State law reference—Similar provisions, Code of Virginia, § 18.2-387.

Sec. 13-96. Public nudity.

(a) As used in this section, the term "state of nudity" means a state of undress so as to expose the human male or female genitals, pubic area or buttocks or to cover any of them with less than a fully opaque covering, or the showing of the female breast or any portion thereof below the top of the nipple, or the covering of the breast or any portion thereof below the top of the nipple with less than a fully opaque covering.
(b) Every person who knowingly, voluntarily and intentionally appears in public or in a public place or in a place open to the public or open to public view in a state of nudity, or employs, encourages or procures another person so to appear, shall be guilty of a misdemeanor punishable by confinement in jail for not more than six months or a fine of not more than $500.00, or both.
(c) Nothing contained in this section shall be construed to apply to the exhibition, presentation, showing or performance of any play, ballet, drama, tableau, production or motion picture in any theater, concert hall, museum of fine arts, school, institution of higher learning or other similar establishment which is primarily devoted to such exhibitions, presentations, shows or performances as a form of expression of opinion, communication, speech, ideas, information, art or drama as differentiated from commercial or business advertising, promotion or exploitation of nudity for the purpose of advertising, promoting, selling or serving products or services or otherwise advancing the economic welfare of a commercial or business enterprise, such as a hotel, motel, bar, nightclub, restaurant, tavern, or dance hall.
(d) No person shall be in violation of this section for breast feeding a child in any public place or any place where others are present.
(Code 1980, § 15-33; Code 1995, § 13-107; Ord. No. 1025, § 1, 3-12-2002)

Editor's note—

This section survived constitutional challenge in *Boyd v. County of Henrico,* 42 Va. App. 495, 592 S.E.2d 768 (2004).

State law reference—Indecent exposure, Code of Virginia, § 18.2-387.

Sec. 13-97. Unlawful acts relating to juveniles.

(a) The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

(1) *Juvenile* means a person less than 18 years of age.

(2) *Nudity* means a state of undress so as to expose the human male or female genitals, pubic area or buttocks with less than a full opaque covering, or the showing of the female breast with less than a fully opaque covering of any portion thereof below the top of the nipple, or the depiction of covered or uncovered male genitals in a discernibly turgid state.

(3) *Sexual conduct* means acts of masturbation, homosexuality, sexual intercourse or physical contact with a person's clothed or unclothed genitals, pubic area, buttocks or, if such person is female, breast.

(4) *Sexual excitement* means the condition of human male or female genitals when in a state of sexual stimulation or arousal.

(5) *Sadomasochistic abuse* means flagellation or torture by or upon a person clad in undergarments, a mask or bizarre costume, or the condition of being fettered, bound or otherwise physically restrained on the part of one so clothed.

(6) *Harmful to juveniles* means that quality of any description or representation, in whatever form, of nudity, sexual conduct, sexual excitement or sadomasochistic abuse, when it:

a. Predominantly appeals to the prurient, shameful or morbid interest;

b. Is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable material for juveniles; and

c. Is utterly without redeeming social importance for juveniles.

(7) *Knowingly* means having general knowledge of, or reason to know, or a belief or ground for belief which warrants further inspection or inquiry of both:

a. The character and content of any material described in this section which is reasonably susceptible of examination by the defendant; and

b. The age of the juvenile; provided, however, that an honest mistake shall constitute an excuse from liability under this section if the defendant made a reasonable bona fide attempt to ascertain the true age of such juvenile.

(8) *Video or computer game* means an object or device that stores recorded data or instructions, receives data or instructions generated by a person who uses it, and, by processing the data or instructions, creates an interactive game capable of being played, viewed, or experienced on or through a computer, television gaming system, console, or other technology.

(b)

(1) It shall be unlawful for any person knowingly to sell, rent or loan to a juvenile, or to knowingly display for commercial purpose in a manner whereby juveniles may examine and peruse:

a. Any book, picture, photography, drawing, sculpture, video, motion picture film, CD-ROM, DVD-ROM similar visual representation or image of a person or portion of the human body which depicts sexually explicit nudity, sexual conduct or sadomasochistic abuse and which is harmful to juveniles;

b. Any book, pamphlet, magazine, printed matter however reproduced, or sound recording which contains any matter enumerated in subsection (b)(1)a. of this section, or explicit and detailed verbal descriptions or narrative accounts of sexual excitement, sexual conduct or sadomasochistic abuse and which, taken as a

whole, is harmful to juveniles.

(2) However, if a person uses services of an Internet service provider or an electronic mail service provider in committing acts prohibited under this subsection, such Internet service provider or electronic mail service provider shall not be held responsible for violating this subsection.

(c) It shall be unlawful for any person knowingly to sell to a juvenile an admission ticket or pass to or knowingly to admit a juvenile to premises whereon there is exhibited a motion picture, show or other presentation which, in whole or in part, depicts sexually explicit nudity, sexual conduct or sadomasochistic abuse and which is harmful to juveniles, or to exhibit any such motion picture at any such premises which are not designed to prevent viewing from any public way of such motion picture by juveniles not admitted to any such premises.

(d) It shall be unlawful for any juvenile falsely to represent to any person mentioned in subsection (b) of this section or subsection (c) of this section, or to his agent, that such juvenile is 18 years of age or older, with the intent to procure any material set forth in subsection (b) of this section, or with the intent to procure such juvenile's admission to any motion picture, show or other presentation, as set forth in subsection (c) of this section.

(e) It shall be unlawful for any person knowingly to make a false representation to any person mentioned in subsection (b) or (c) of this section, or to his agent, that he is the parent or guardian of any juvenile, or that any juvenile is 18 years of age, with the intent to procure any material set forth in subsection (b) of this section, or with the intent to procure such juvenile's admission to any motion picture, show or other presentation, as set forth in subsection (c) of this section.

(f) No person shall sell, rent, or loan any item described in subsection (b)(1)a or (b)(1)b of this section to any individual who does not demonstrate his age in accordance with the provisions of Code of Virginia, § 18.2-371.2(C).

(Code 1980, §§ 15-31, 15-32; Code 1995, § 13-108; Ord. No. 995, § 1, 11-9-1999)

State law reference—Similar provisions, Code of Virginia, §§ 18.2-390, 18.2-391.

Secs. 13-98—13-124. Reserved.

ARTICLE V. CURFEW

***State law reference—**Localities may impose curfew on minors between 10:00 p.m. and 6:00 a.m., Code of Virginia, § 15.2-926.

DIVISION 1. GENERALLY

Secs. 13-125—13-146. Reserved.

DIVISION 2. MINORS

Sec. 13-147. Duty of parent or guardian.

(a) *Purpose.* The purpose of this division is to:

(1) Promote the general welfare and protect the general public through the reduction of juvenile violence and crime within the county;

(2) Promote the safety and well-being of the county's youngest citizens, persons 16 years of age and under, whose inexperience renders them particularly vulnerable to becoming participants in unlawful drug activities, and to being victimized by older perpetrators of crime; and

(3) Foster and strengthen parental responsibility for children.

(b) *Definitions.* The following words and phrases as used in this chapter shall have the meanings ascribed to

them in this section:

Curfew or *curfew hours* refers to the hours of 11:00 p.m. through 6:00 a.m.

Emergency refers to unforeseen circumstances, or the status or condition resulting therefrom, requiring immediate action to safeguard life, limb or property. The term includes, but is not limited to, fires, natural disasters, automobile accidents or other similar circumstances.

Minor refers to any person 16 years of age and under who has not been emancipated by court order entered pursuant to Code of Virginia, § 16.1-333.

Officer means any police or other law enforcement officer charged with the duty of enforcing the laws of the Commonwealth of Virginia and the Code.

Parent refers to:

(1) A person who is a minor's biological or adoptive parent and who has legal custody of a minor (including either parent, if custody is shared under a court order or agreement);

(2) A person who is the biological or adoptive parent with whom a minor regularly resides;

(3) A person judicially appointed as a legal guardian of the minor; and/or

(4) A person 18 years of age or older standing in loco parentis (as indicated by a written authorization in the possession of a minor from an individual listed in subsection (1), (2), or (3) of this definition), for the person to assume the care or physical custody of the child.

Person refers to an individual, not to any association, corporation, or any other legal entity.

Public place refers to any place to which the public or a substantial group of the public has access, including, but not limited to: streets, highways, roads, parking lots, sidewalks, alleys, avenues, parks, and/or the common areas of schools, hospitals, apartment houses, office buildings, transportation facilities, shopping centers and stores.

Remain refers to the following actions:

(1) To linger or stay at or upon a place; or

(2) To fail to leave a place when requested to do so by an officer or by the owner, operator, or other person in control of that place.

(c) *Exceptions to curfew.* It shall be unlawful for a parent of any minor to permit, allow or encourage such minor to remain in any public place in the county during curfew, unless accompanied by the parent of such minor. This section shall not apply to minors who are engaged in the following activities:

(1) Attending, or going to or returning from without detour or stop, an activity supervised by adults and sponsored by a school, civic, religious or other public organization or agency, or by another similar organization or entity;

(2) Going to or returning from an employment activity without detour or stop;

(3) Moving about in the event of an emergency; or

(4) Exercising First Amendment or other rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech, and the right of assembly.

(Code 1980, § 15-2; Code 1995, § 13-151; Ord. No. 1096, § 1, 3-13-2007)

State law reference—Authority to adopt, Code of Virginia, § 15.2-926.

Sec. 13-148. Duty of managers of public places.

It shall be unlawful for the proprietor, manager or other person having charge or control of any public place, except a theater, opera house or motion picture show, provided there is conspicuously posted at all times at the box office or place for the purchase of tickets of admission and at the place of entrance thereto a notice containing substantially the provisions of section 13-149, to permit, allow or encourage any minor to remain in or around such place during curfew unless accompanied by a parent.

(Code 1980, § 15-3; Code 1995, § 13-152; Ord. No. 1096, § 2, 3-13-2007)

Sec. 13-149. Duty of minors.

It shall be unlawful for any minor to remain in any public place in the county during curfew hours, except as provided in section 13-147, unless accompanied by a parent.

(Code 1980, § 15-4; Code 1995, § 13-153; Ord. No. 1096, § 3, 3-13-2007)

Chapter 14 - PARKS AND RECREATION

***Cross reference—**County property, § 2-106 et seq.; fires in parks, § 14-47; streets, sidewalks and other public property, ch. 18.

***State law reference—**Authority to operate or establish parks, recreation areas and swimming pools, or system of hiking, biking and horseback riding trails, Code of Virginia, § 15.2-1806.

ARTICLE I. IN GENERAL

Secs. 14-1—14-30. Reserved.

ARTICLE II. PARK RULES

***State law reference—**Authority to operate or establish parks, recreation areas and swimming pools, or system of hiking, biking and horseback riding trails, Code of Virginia, § 15.2-1806.

Sec. 14-31. 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:

Director means the director of the division of recreation and parks or his designee.

Park means all property owned, maintained or operated by the county for public recreational use.

(Code 1980, § 15.1-2; Code 1995, § 14-31)

Cross reference—Definitions and rules of construction, § 1-2.

Sec. 14-32. Penalty.

Any person who violates any of the provisions of this article shall be deemed to be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than $100.00.

(Code 1980, § 15.1-28; Code 1995, § 14-32)

Sec. 14-33. Applicability of article.

This article shall apply to all park and recreational property owned, maintained or operated by the county.

(Code 1980, § 15.1-1; Code 1995, § 14-33)

Sec. 14-34. Persons exempted from article.

Notwithstanding any other provision in this article to the contrary, it shall not be a violation of this article if a person engaging in an otherwise prohibited activity is either an employee of the county acting within the scope of his employment, or if the person engaging in the otherwise prohibited activity is an agent or an independent contractor to the county acting within and pursuant to the scope of his duties.

(Code 1980, § 15.1-27; Code 1995, § 14-34)

Sec. 14-35. Hours of operation.

No person, except a bona fide camper with prior written approval from the director, or a law enforcement officer or county employee in the course of his respective employment, shall enter or remain in any park except during such hours as shall be designated and posted by the county as the hours of operation.

(Code 1980, § 15.1-16; Code 1995, § 14-35)

Cross reference—Camping permits, § 14-46.

Sec. 14-36. Damaging park property.

(a) No person shall in any manner pick, pull, pull up, tear, tear up, dig, dig up, cut, cut down, break, burn, injure, deface, disturb, destroy, mutilate, disfigure, remove, scar, take or gather in any manner, in whole or in part, any part of any park, building, sign, equipment or other property, including, but not limited to, any tree, flower, fern, shrub, vine, turf, plant, rock, artifact, fossil or mineral found, growing or being upon the land of any park.

(b) Notwithstanding any other provision in this section to the contrary, the director may issue permits in writing to permit collecting, for scientific or educational purposes, trees, flowers, ferns, shrubs, vines, turf, plants, rocks, artifacts, fossils or minerals, or any part thereof, in any park.

(Code 1980, § 15.1-3; Code 1995, § 14-36)

State law reference—Damage to public buildings, vegetation, etc., Code of Virginia, §§ 18.2-138, 18.2-140.

Sec. 14-37. Protection of wildlife.

(a) No person shall capture, pursue, molest, injure, attempt to injure, kill or attempt to kill any animal in any park.

(b) No person shall disturb the nest of any animal in any park.

(Code 1980, §§ 15.1-4, 15.1-5; Code 1995, § 14-37)

Cross reference—Animals, ch. 5.

Sec. 14-38. Use of park refuse containers.

No person shall deposit, dump, place or abandon any garbage, refuse or trash, as defined in section 17-1, not generated in a park, in any park refuse container.

(Code 1980, § 15.1-6; Code 1995, § 14-38)

Sec. 14-39. Pollution of waters.

No person shall bathe or wash any dog, other animal, vehicle or clothing in any stream, lake or other water of any park, or throw, cast, lay, drop, discharge, direct, deposit or abandon into any stream, lake or other water of any park, or in any storm sewer or drain flowing into such water, any substance, matter or thing, in whatever form, which may directly or indirectly result in the pollution of such waters.

(Code 1980, § 15.1-7; Code 1995, § 14-39)

Cross reference—Environment, ch. 10.

State law reference—Authority to prevent pollution of waters, Code of Virginia, § 15.2-1200.

Sec. 14-40. Sewage disposal.

No person shall dispose of sewage or dishwater within any park except by transferring the sewage or dishwater to a receptacle provided by the county for such purposes or by storing it in a completely closed container.

(Code 1980, § 15.1-18; Code 1995, § 14-40)

Cross reference—Sanitary sewage disposal, § 23-29 et seq.

Sec. 14-41. Dangerous devices.

No person, other than any law enforcement officer, firefighter or county security officer in the course of his respective employment, shall have in his possession, in any park, any air or gas-powered gun, slingshot, bow and arrow, crossbow, dart device, boomerang or any other device, other than a firearm, designed for high-speed missile projection, except in areas designated and posted by the county as areas in which one or more of these devices are permitted for recreational use.

(Code 1980, § 15.1-8; Code 1995, § 14-41; Ord. No. 1040, § 1, 2-25-2003; Ord. No. 1070, § 1, 8-10-2004)

Cross reference—Weapons, § 13-61 et seq.

Sec. 14-42. Motor vehicles.

(a) *Prohibited vehicles.* Except by the express authorization of the board of supervisors, the county manager or the county manager's designee:

(1) No person shall operate within any park a motorized vehicle of a type not licensable by the state for regular use upon public highways, except that motorized golf carts furnished by the county may be operated within areas designated and posted by the county for their use.

(2) No person shall operate within any park a farm tractor, other farm machinery or any type of vehicle used primarily for earth-moving operations, whether or not licensable by the state for regular use upon public highways.

(b) *Mopeds.* No person shall operate any type of motor vehicle or motor-assisted bicycle commonly referred to as a moped in areas of any park other than established roadways or parking lots.

(c) *Parking.* No person shall park a motor vehicle or motor-assisted bicycle in areas of any park other than those designated and posted by the county as parking areas, and any violation shall be punishable as provided in section 22-162.

(d) *Repair of vehicles.* No person shall repair or otherwise maintain any motor vehicle or motor-assisted bicycle within any park, except for minimum repair or maintenance of a disabled vehicle when such repair or maintenance is necessary to make such vehicle operable.

(Code 1980, §§ 15.1-9—15.1-12; Code 1995, § 14-42)

Cross reference—Traffic and vehicles, ch. 22.

Sec. 14-43. Commercial enterprises.

(a) No person shall sell or offer for sale, hire or lease or let out any object or merchandise, property, privilege, service or any other thing, or engage in any business or erect any building, booth, tent, stall or any other structure whatsoever, except for bona fide camping purposes, within any park without prior written

permission from the director.

(b) No person to whom property of any park has been entrusted for personal use shall hire, lease, let out or sell such property to any other person.

(Code 1980, § 15.1-13; Code 1995, § 14-43)

Sec. 14-44. Advertisements and announcements.

No person shall erect or post within any park any sign, notice or advertisement of any nature, nor shall any person operate any musical instrument, radio, talking machine, phonograph, tape recorder or drum, or make any noise, for the purpose of attracting attention to any exhibition of any kind within a park, without prior written permission from the director.

(Code 1980, § 15.1-14; Code 1995, § 14-44)

Cross reference—General noise ordinance, § 10-72 et seq.

Sec. 14-45. Control of animals; riding horses.

(a) No person shall have within the park any animal unless it is either caged, securely penned or on a leash not more than ten feet in length, except that owners or custodians with dogs who are within a county-designated off-leash, fenced dog exercise area shall not be subject to these requirements.

(b) No person shall ride a horse in any park except in areas designated and posted by the county for horseback riding.

(Code 1980, § 15.1-15; Code 1995, § 14-45)

Cross reference—Animals, ch. 5.

Sec. 14-46. Camping.

No person shall set up an overnight camp or lodging site in any park except with prior written approval of the director, and in areas designated and posted by the county as camping areas.

(Code 1980, § 15.1-17; Code 1995, § 14-46)

Sec. 14-47. Fires.

(a) No person shall kindle, build, maintain or use a fire other than in grills, and in places provided or designated by the county for such purposes, except by prior written permission from the director.

(b) Any fire within the confines of any park shall be continuously under the care and supervision of a competent person 16 years of age or older from the time such fire is kindled until the time it is extinguished.

(c) No person shall throw away or discard a lighted match, cigarette, cigar or other burning object in any park, without first extinguishing it.

(Code 1980, §§ 15.1-19—15.1-21; Code 1995, § 14-47)

Cross reference—Fire prevention and protection, ch. 11.

Sec. 14-48. Use of picnic facilities.

Persons with reservations issued by the director shall have priority in the use of picnic facilities. Failure to relinquish picnic facilities to a person with such a reservation shall be unlawful and shall constitute trespassing.

(Code 1980, § 15.1-22; Code 1995, § 14-48)

Sec. 14-49. Regulation of sports and games.

No person shall engage in any sports activity or game in any park or recreational property except at such times and in such areas as may be designated and posted by the director for such purpose.

(Code 1980, § 15.1-23; Code 1995, § 14-49; Ord. No. 895, § 1, 5-24-1995)

Sec. 14-50. Fishing.

No person shall fish in park water except in those areas designated and posted by the county for such purpose. Persons fishing must possess a valid fishing license as provided in the Code of Virginia.

(Code 1980, § 15.1-24; Code 1995, § 14-50)

Sec. 14-51. Swimming.

No person shall swim, wade or bathe in any water or boat launch in any park except at such times and at such places as the director may designate.

(Code 1980, § 15.1-25; Code 1995, § 14-51)

Sec. 14-52. Use of restrooms and dressing rooms.

No person over the age of six years shall, in any park, use a washroom, restroom, bathhouse or dressing room designated and posted by the county for use by members of the opposite sex.

(Code 1980, § 15.1-26; Code 1995, § 14-52)

Secs. 14-53—14-69. Reserved.

ARTICLE III. BOATS AND BOATING

***State law reference—**Boating generally, Code of Virginia, § 29.1-700 et seq.; authority to adopt regulations concerning vessel operation on waters within territorial limits, Code of Virginia, § 29.1-744.

DIVISION 1. GENERALLY

Secs. 14-70—14-99. Reserved.

DIVISION 2. NO WAKE AREAS

***State law reference—**No wake zones authorized, Code of Virginia, § 29.1-744(D).

Sec. 14-100. Prohibited acts.

No person shall operate a motorboat or vessel in any creek, cove or body of water referred to in this article at such a speed as to create a wake, swell or displacement wave or one capable of causing damage to the life, limb or property of any person on the water or shore when a sign has been posted on land or in the water indicating "no wake."

(Code 1980, § 15-34; Code 1995, § 14-100)

Sec. 14-101. Penalty.

Any person who shall violate any provision of this division shall be guilty of a class 4 misdemeanor.

(Code 1980, § 15-39; Code 1995, § 14-101)

State law reference—-Penalties, Code of Virginia, § 29.1-746; class 4 misdemeanor, Code of Virginia, § 18.2-11.

Sec. 14-102. Designation of areas.

The areas in the county in or on the waterways within the county which are designated as no wake areas are as follows: those areas of the James River situated in the county where the placement of "no wake" signs has been authorized by the state board of game and inland fisheries.

(Code 1980, § 15-35; Code 1995, § 14-102)

Sec. 14-103. Placement or removal of signs by private persons.

Any person who owns land in the county adjoining, adjacent or contiguous to a cove on the James River may apply to the county manager for a "no wake" sign to be placed or removed within a cove or upon land adjoining a cove. The county manager shall approve, disapprove or approve with modifications the application and forward it to the director of the board of game and inland fisheries, who shall approve, disapprove or approve with modifications within 30 days the placement and type of marker to be used or the removal of "no wake" buoys or other markers. The cost of the purchase and placement or the removal of the buoys or markers shall be borne by the person requesting the placement or removal of the buoys or markers. Any buoy or marker which is not placed in conformance with the regulations of the board of game and inland fisheries or which is not properly maintained may be removed by the department of game and inland fisheries. "No wake" buoys or other markers placed prior to July 1, 2001, shall only be removed when no longer required for the safe and efficient operation of vessels.

(Code 1980, § 15-36; Code 1995, § 14-103)

Sec. 14-104. Placement or removal of signs by county manager.

The county manager is hereby authorized to place or remove or cause to be placed or removed no wake signs at such locations as may be approved by the state board of game and inland fisheries.

(Code 1980, § 15-37; Code 1995, § 14-104)

Sec. 14-105. Temporary suspension of regulations.

Subject to the written approval of the county manager and the director of the state board of game and inland fisheries, the division of recreation and parks is authorized to suspend enforcement of the provisions of this division for purposes of conducting ski or boat shows sponsored by the division of recreation and parks.

(Code 1980, § 15-38; Code 1995, § 14-105)

Chapter 15 - POLICE

***Cross reference—**Police alarm systems, § 3-19 et seq.; court costs, § 2-126 et seq.

***State law reference—**Police, Code of Virginia, § 15.2-1701 et seq.

ARTICLE I. IN GENERAL

Secs. 15-1—15-18. Reserved.

ARTICLE II. DIVISION OF POLICE

***Cross reference—**Administration, ch. 2; officers and employees, § 2-48 et seq.

DIVISION 1. GENERALLY

Sec. 15-19. Physical examinations of police officers.

The county manager or his authorized representative is hereby authorized and directed to employ such physicians and establish such procedures as may be necessary for the performance of the physical examination of every police officer who shall enter the service of the division of police of the county.

(Code 1980, § 16-1; Code 1995, § 15-31)

State law reference—Pensions and retirement of police officers, Code of Virginia, § 51.1-807 et seq.; disabilities resulting from activities in discharge of duty, Code of Virginia, § 51.1-813.

Sec. 15-20. Employment of off-duty police officers and deputy sheriffs.

Upon individual application to, and approval by, the chief of police or the sheriff, as appropriate, police officers and deputy sheriffs may engage in off-duty employment, including employment which may occasionally require such officers to use their police powers in the performance of such employment, subject to such rules, regulations and conditions applying to such off-duty employment as the chief of police and sheriff, respectively, may prescribe for their departments.

(Code 1995, § 15-32; Ord. No. 948, § 1, 5-14-1997)

Secs. 15-21—15-43. Reserved.

DIVISION 2. RECORDS, PERMITS AND SERVICES

Sec. 15-44. Conformance with state law.

The provisions of this division shall be implemented in such a manner that the provisions of the Government Data Collection and Dissemination Practices Act, Code of Virginia, § 2.2-3800 et seq., the provisions of the Virginia Freedom of Information Act, Code of Virginia, § 2.2-3700 et seq., and the provisions of Code of Virginia, title 16.1, ch. 11, art. 12 (Code of Virginia, § 16.1-299 et seq.) and Code of Virginia, §§ 19.2-388—19.2-390, will not be violated.

(Code 1980, § 16-2; Code 1995, § 15-51)

Sec. 15-45. Disposition of fees.

All fees for services performed in accordance with this division shall be paid into the general fund of the county.

(Code 1980, § 16-8; Code 1995, § 15-52)

Sec. 15-46. - Records of arrests and disposition of cases.

(a) There shall be kept in the division of police such record of arrests and disposition of cases based thereon as the director of public safety shall require. The director may make such factual information contained in such record available to any governmental law enforcement officer or agent or authorized representatives of the armed forces of the United States, and such information shall be made available to such persons without charge. He may make such information available to other persons who may apply therefor in writing on forms prescribed by the director upon the payment of a fee of $5.00 to defray the cost of providing such service; provided that the director receives written authorization from the party who is the subject of the investigation resulting in the request for information. The director shall be authorized to exempt organizations from paying the $5.00 fee if, in his opinion, such organization provides services free of charge to the division of police which are reasonably adequate to offset the revenue to be derived from the fee imposed in this section. The director may waive the requirement of receiving written authorization upon terms approved by the county attorney designed to comply with title VI of the Consumer Credit Protection Act, 15 USC 1601 et seq.

(b) The director shall not make any such information available unless he is satisfied that the requesting party has a bona fide reason for making such a request.

(Code 1980, § 16-3; Code 1995, § 15-53)

State law reference—Arrest records, exceptions, Code of Virginia, §§ 2.2-3706, 15.2-1722; fee for records, Code of Virginia, § 2.2-3704.

Sec. 15-47. Records of offenses reported.

There shall be kept in the division of police such record of offenses reported and the disposition thereof as the director of public safety shall require. The director may make such factual information contained in such record available to any governmental law enforcement officer or agent or authorized representatives of the armed forces of the United States, and such information shall be made available without charge to such persons. He may make such information available to all other persons who apply therefor in writing on forms prescribed by the director upon payment of a fee of $10.00 to defray the cost of providing such service; provided, however, that such information shall not contain the identity of any suspects or persons charged with the offense. The director shall not make any such information available unless he is satisfied that the requesting party has a bona fide reason for making such a request and the director receives written authorization from the party who is the subject of the investigation resulting in the request for information. The director may waive the requirement of receiving written authorization upon terms approved by the county attorney designed to comply with title VI of the Consumer Credit Protection Act, 15 USC 1601 et seq.

(Code 1980, § 16-4; Code 1995, § 15-54)

State law reference—Arrest records, exceptions, Code of Virginia, §§ 2.2-3706, 15.2-1722; fee for records, Code of Virginia, § 2.2-3704.

Sec. 15-48. Fingerprinting.

Unless otherwise provided in this Code or in the Code of Virginia, a fee of $10.00 for the first card and $5.00 for each successive card shall be charged for recording fingerprint impressions on fingerprint cards when requested by any person. Such fee shall be used to aid in defraying the cost of providing such service. No fee shall be charged an applicant for county employment, nor shall a fee be charged for such service performed at the request of an agency of the county government or another law enforcement officer or agent or authorized representative of the armed forces of the United States.

(Code 1980, § 16-5; Code 1995, § 15-55; Ord. No. 1082, § 1, 11-8-2005)

State law reference—Authority to fingerprint certain persons and set fees, Code of Virginia, § 19.2-392.

Sec. 15-49. Photographs.

(a) There shall be kept in the division of police files of photographs made during the course of police investigations. The director may make copies of such photographs available to parties involved in civil litigation and their attorneys. No such copies shall be made available until all criminal charges have been disposed of in the various courts and the period of time set for appeals has expired. Copies shall not be furnished until a charge of $10.00 per copy has been paid.

(b) Nothing contained in this section shall require the division of police to cause photographs to be made of every report investigated. This section is intended only to provide for furnishing of copies of those photographs which may be available.

(Code 1980, § 16-6; Code 1995, § 15-56)

State law reference—Authority to set fees for photographs of traffic accidents, Code of Virginia, § 46.2-381.

Sec. 15-50. Traffic accident reports.

(a) There shall be kept in the division of police such record of traffic accidents as the director of public safety shall require. The director may make copies of such reports available to any person directly involved or injured in a particular accident, or as a result thereof, their attorney or other authorized representative, any authorized representative of any insurance carrier reasonably anticipating exposure to civil liability as a consequence of the accident or any party who suffered property damage as a result thereof. The fee shall be $5.00 per copy, to defray the cost of providing such service.

(b) Copies of accident reports furnished to other governmental units shall be made without charge.

(c) The provisions of this section shall only apply to the standard report form provided by the state department of motor vehicles and shall not be construed to include any supplemental reports made by the investigating police officer or statements made by witnesses.

(Code 1980, § 16-7; Code 1995, § 15-57)

Cross reference—Traffic and vehicles, ch. 22.

State law reference—Accident reports, copies, Code of Virginia, § 46.2-380; accident reports required by county, Code of Virginia, § 46.2-381.

Sec. 15-51. Concealed handgun permit.

(a) A fee of $35.00 shall be charged for conducting an investigation pursuant to Code of Virginia, § 18.2-308 of an applicant for a concealed handgun permit.

(b) No fee shall be charged for the issuance of such permit to a person who has retired from service as:

(1) A magistrate in the Commonwealth;

(2) A special agent with the Alcoholic Beverage Control Board or as a law-enforcement officer with the Department of State Police, the Department of Game and Inland Fisheries, or a sheriff or police department, bureau or force of any political subdivision of the Commonwealth, after completing 15 years of service or after reaching age 55;

(3) A law-enforcement officer with the United States Federal Bureau of Investigation, Bureau of Alcohol, Tobacco and Firearms, Secret Service Agency, Drug Enforcement Administration, United States Citizenship and Immigration Services, Customs Service, Department of State Diplomatic Security Service, U.S. Marshals Service or Naval Criminal Investigative Service, after completing 15 years of service or after reaching age 55;

(4) A law-enforcement officer with any police or sheriff's department within the United States, the District of Columbia or any of the territories of the United States, after completing 15 years of service; or

(5) A law-enforcement officer with any combination of the agencies listed in subsections (b)(2) through (b)(4) of this section, after completing 15 years of service.

(Code 1995, § 15-58; Ord. No. 902, § 1, 7-12-1995; Ord. No. 971, § 1, 3-25-1998; Ord. No. 1115, § 1, 10-23-2007)

Cross reference—Weapons, § 13-56 et seq.

State law reference—When carrying concealed weapons lawful, Code of Virginia, § 18.2-308.

Secs. 15-52—15-75. Reserved.

ARTICLE III. UNCLAIMED PERSONAL PROPERTY

***Cross reference—**Disposition of unclaimed bicycles and mopeds, § 22-284.

***State law reference—**Authority of the county to dispose of unclaimed property, Code of Virginia, § 15.2-1719.

Sec. 15-76. 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:

Unclaimed personal property means 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 (Code of Virginia, § 55-210.1 et seq.).

(Code 1980, § 16-20; Code 1995, § 15-81)

State law reference—Similar provisions, Code of Virginia, § 15.2-1719.

Sec. 15-77. When sale or retention by division of police authorized.

In accordance with Code of Virginia, § 15.2-1719, whenever unclaimed personal property has been in the possession of the division of police and unclaimed for a period of more than 60 days, the chief of police or his duly authorized agent may cause the property to be sold at public sale or retained for use by the division of police.

(Code 1980, § 16-19; Code 1995, § 15-82; Ord. No. 947, § 1, 5-14-1997)

State law reference—Authority to so provide, Code of Virginia, § 15.2-1719.

Secs. 15-78—15-103. Reserved.

ARTICLE IV. DEALERS IN PRECIOUS METALS AND GEMS

***Cross reference—** License tax, § 20-350 et seq.

***State law reference—** Dealers in precious metals, Code of Virginia, § 54.1-4100 et seq.; local ordinances regulating dealers in precious metals and gems, Code of Virginia, § 15.2-4111.

Sec. 15-104. 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:

Coin means any piece of gold, silver or other metal fashioned into a prescribed shape, weight and degree of fineness, stamped by authority of a government with certain marks and devices, and having a certain fixed value as money.

Dealer means any person engaged in the business of purchasing secondhand precious metals or gems; removing in any manner precious metals or gems from manufactured articles not then owned by the person; or buying, acquiring or selling precious metals or gems removed from manufactured articles. The term "dealer" includes all employers and principals on whose behalf a purchase is made, and any employee or agent who makes any purchase for or on behalf of his employer or principal. The definition of "dealer" shall not include persons engaged in the following:

(1) Purchases of precious metals or gems directly from other dealers, manufacturers, wholesalers for retail or wholesale inventories, provided that the selling dealer has complied with the provisions of this article.
(2) Purchases of precious metals or gems from a qualified fiduciary who is disposing of the assets of an estate being administered by the fiduciary.
(3) Acceptance by a retail merchant of trade-in merchandise previously sold by the retail merchant to the person presenting that merchandise for trade-in.
(4) Repairing, restoring or designing jewelry by a retail merchant, if such activities are within his normal course of business.
(5) Purchases of precious metals or gems by industrial refiners and manufacturers, insofar as such purchases are made directly from retail merchants, wholesalers or dealers, or by mail originating outside the state.
(6) Persons regularly engaged in the business of purchasing and processing nonprecious scrap metals which incidentally may contain traces of precious metals recoverable as a byproduct.

Gem means any item containing precious or semiprecious stones customarily used in jewelry.

Precious metals means any item except coins composed in whole or in part of gold, silver, platinum or platinum alloys.

(Code 1980, § 12-148.1; Code 1995, § 15-110)

State law reference—Similar provisions, Code of Virginia, § 54.1-4100.

Sec. 15-105. Penalties.

(a) *Criminal penalty.* Any person violating any of the provisions of this article 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) *Revocation of permit.* Upon the first conviction by any court of a person for violation of any provision of this article, the chief of police may revoke his permit to engage in business as a dealer under this article for a period of one full year from the date the conviction becomes final. Such revocation shall be mandatory upon a second conviction.
(Code 1980, § 12-148.10; Code 1995, § 15-111)

Cross reference—Definitions and rules of construction, § 1-2.

State law reference—Similar provisions, Code of Virginia, § 54.1-4110; penalty for misdemeanors, Code of Virginia, § 18.2-11.

Sec. 15-106. Exemptions.

(a) The chief of police or his designee may waive by written notice implementation of any one or more of the provisions of this article, except section 15-113, for particular 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.
(b) The provisions of this article do not apply to the sale or purchase of coins.
(c) The provisions of this article do not apply to any bank, branch thereof, trust company or bank holding company, or any wholly owned subsidiary thereof, engaged in buying and selling gold and silver bullion.
State law reference—Similar provisions, Code of Virginia, § 54.1-4109.

Sec. 15-107. Permit.

(a) *Required.* No person shall engage in the county in the activities of a dealer without first obtaining a permit from the chief of police.
(b) *Application; issuance; fee.* To obtain a permit, the dealer shall file with the chief of police an application form which shall include the dealer's full name, aliases, address, age, date of birth, sex, fingerprints and photograph; the name, address and telephone number of the applicant's employer, if any; and the location of the dealer's place of business. Upon filing this application and the payment of an application fee of $200.00, the dealer shall be issued a permit by the chief of police or his designee, provided that the applicant has not been convicted of a felony or a crime of moral turpitude within seven years prior to the date of application. The permit shall be denied if the applicant has been denied a permit or has had a permit revoked under any ordinance similar in substance to this article.
(c) *Duration; renewal.* The permit shall be valid for 12 months from the date thereof and may be renewed in the same manner as such permit was initially obtained, with an annual permit fee of $200.00. No permit shall be transferable.
(d) *Inspection of weighing devices.* Before a permit may be issued, the dealer must have all weighing devices used in the business inspected and approved by local or state weights and measures officials and present written evidence of such approval to the chief of police.
(e) *Notification of business closings; location of business.* If the business of the dealer is not operated without interruption, with Saturdays, Sundays and recognized holidays excepted, the dealer shall notify the chief of police of all closings 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.
(Code 1980, § 12-148.9; Code 1995, § 15-112)

State law reference—Similar provisions, Code of Virginia, § 54.1-4108.

Sec. 15-108. Bond or letter of credit required.

(a) Every dealer shall secure a permit as required by section 15-107, and each dealer, at the time of obtaining this permit and before the permit shall be operative, shall enter into a recognizance to the county secured by a corporate surety authorized to do business in the state, in the penal sum of $10,000.00, conditioned upon due observance of the terms of this article. In lieu of a bond, a dealer may cause to be issued by a bank authorized to do business in the state a letter of credit in favor of the county for $10,000.00.

(b) A single bond upon an employer or principal may be written or a single letter of credit issued to cover all employees and all transactions occurring at a single location.

(Code 1980, § 12-148.7; Code 1995, § 15-113)

State law reference—Similar provisions, Code of Virginia, § 54.1-4106.

Sec. 15-109. Private action for recovery on bond or letter of credit.

Any person aggrieved by the misconduct of any dealer who has violated the provisions of this article may maintain an action for recovery in any court of proper jurisdiction against the dealer and his surety. Recovery against the surety shall be only for that amount of the judgment which is unsatisfied by the dealer.

(Code 1980, § 12-148.8; Code 1995, § 15-114)

State law reference—Similar provisions, Code of Virginia, § 54.1-4107.

Sec. 15-110. Records of transactions; furnishing of copies of records to police.

(a) Every dealer shall keep at his place of business an accurate and legible record of each purchase of precious metals or gems and of each transaction involving the removal of precious metals or gems from any manufactured article not then owned by the dealer. The records shall be retained by the dealer for at least 24 months and shall set forth the following:

(1) A complete description of all precious metals or gems purchased from each seller. The description shall include all names, initials, serial numbers or other identifying marks or monograms on each item purchased, the true weight or carat of any gem and the price paid for each item.

(2) The date, time and place of receiving the items purchased.

(3) 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 seller or of the person for whom the service of removal of precious metals or gems from any manufactured article not then owned by the dealer is performed.

(4) Verification of the identification 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.

(5) A statement of ownership from the seller.

(6) A receipt bearing the legible handwritten signature of the seller or the person for whom the service of removal is performed, acknowledging such sale or service.

(7) A digital image of the form of identification used by the person involved in the transaction, and a digital image of precious metals and gems purchased from each seller.

(8) A digital image of the seller or of the person for whom the service of removal of precious metals or gems is performed. The photograph shall show, at a minimum, the part of the body from the chest to the top of the head of such person. The photograph shall be no smaller than 1½ inches by 1½ inches in size.

(b) The information required by subsections (a)(1) through (3) and (a)(6) of this section shall appear on each bill of sale for all precious metals and gems purchased by the dealer.

(c) Every dealer shall also furnish to the chief of police, within 24 hours of the time of purchase or service of removal, in an electronic format prescribed by the chief of police, the information required by subsections (a)(1) through (8), together with any bill of sale.
(Code 1980, § 12-148.2; Code 1995, § 15-115)

State law reference—Similar provisions, Code of Virginia, § 54.1-4101.

Sec. 15-111. Examination of records and property; seizure of stolen property.

Every dealer or his employee shall admit to his place of business during regular business hours the chief of police or his designee or any law-enforcement officer of the state or federal government. The dealer or his employee shall permit the officer to:

(1) Examine all records required by this article and any article listed in a record which is believed by the officer to be missing or stolen; and
(2) Search for and take into possession any article known to him to be missing, or known or believed by him to have been stolen.
(Code 1980, § 12-148.2:1; Code 1995, § 15-116)

State law reference—Similar provisions, Code of Virginia, § 54.1-4101.1.

Sec. 15-112. Credentials and statement of ownership required from sellers.

No dealer shall purchase precious metals or gems without first ascertaining the identity of the seller by requiring an identification issued by a government agency with a picture of the seller thereon and at least one other corroborating means of identification, and obtaining a statement of ownership from the seller.

(Code 1980, § 12-148.3; Code 1995, § 15-117)

State law reference—Similar provisions, Code of Virginia, § 54.1-4102.

Sec. 15-113. Prohibited purchases.

(a) No dealer shall purchase precious metals or gems from any seller who is under 18 years of age.
(b) No dealer shall purchase precious metals or gems from any seller who the dealer believes or has reason to believe is not the owner of such items, unless the seller has written and duly authenticated authorization from the owner permitting and directing such sale.
(Code 1980, § 12-148.4; Code 1995, § 15-118)

State law reference—Similar provisions, Code of Virginia, § 54.1-4103.

Sec. 15-114. Retention of purchases and serviced items by dealer.

A dealer shall retain all precious metals or gems purchased for a minimum of 15 calendar days from the date on which a copy of the bill of sale is received by the chief of police. Until the expiration of this retention period, the dealer shall not sell, alter or dispose of the purchased items in whole or in part or remove them from the county. 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 15 calendar days after receiving such article and precious metals or gems.

(Code 1980, § 12-148.5; Code 1995, § 15-119)

State law reference—Similar provisions, Code of Virginia, § 54.1-4104.

Sec. 15-115. Records of sales.

Each dealer shall maintain for at least 24 months an accurate and legible record of the name and address of the person to whom he sells any precious metal or gem in its original form after the waiting period required by section 15-114. This record shall also show the name and address of the seller from whom the dealer purchased such item.

(Code 1980, § 12-148.6; Code 1995, § 15-120)

State law reference—Similar provisions, Code of Virginia, § 54.1-4105.

Secs. 15-116—15-143. Reserved.

ARTICLE V. PAWNBROKERS

***Cross reference—**License tax, § 20-50 et seq.

***State law reference—**Pawnbrokers, Code of Virginia, § 54.1-4000 et seq.

Sec. 15-144. 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:

Pawnbroker means any natural person who lends or advances money or other things for profit on the pledge and possession of personal property or other valuable things, other than securities or written or printed evidences of indebtedness or title, or who deals in the purchasing of personal property or other valuable things on condition of selling the property or other things back to the seller at a stipulated price.

(Code 1980, § 12-148.11; Code 1995, § 15-150; Ord. No. 979, § 1, 8-12-1998)

State law reference—Similar provisions, Code of Virginia, § 54.1-4000.

Sec. 15-145. Penalties.

(a) *Criminal penalty.* Any licensed pawnbroker who violates any of the provisions of this article, except as otherwise provided in section 15-146, shall be guilty of a class 4 misdemeanor.

(b) *Suspension or revocation of license.* In addition to the penalty provided in subsection (a) of this section, the court may revoke or suspend the pawnbroker's license for second and subsequent offenses.

(c) *Violation of Virginia Consumer Protection Act.* Any violation of this article shall constitute a prohibited practice in accordance with Code of Virginia, § 59.1-200, and shall be subject to any and all of the enforcement provisions of the Virginia Consumer Protection Act (Code of Virginia, § 59.1-196 et seq.).

(Code 1980, § 12-148.17; Code 1995, § 15-151; Ord. No. 979, § 2, 8-12-1998)

Cross reference—Definitions and rules of construction, § 1-2.

State law reference—Similar provisions, Code of Virginia, § 54.1-4014; penalty for class 4 misdemeanor, Code of Virginia, § 18-11.

Sec. 15-146. License.

(a) *Required.* No natural person shall engage in the business of a pawnbroker without first obtaining a license from the chief of police.

(b) *Application; issuance.* Prior to the issuance of the license, the applicant shall furnish to the chief of police an order of the circuit court issued pursuant to Code of Virginia, § 54.1-4001, as amended, authorizing the county to issue the license, and evidence of a bond meeting the requirements set out in section 15-151. In addition, the applicant shall complete an application on a form furnished by the chief of police which shall require the applicant to furnish:

(1) His full name, aliases, address, date of birth, driver's license number, sex, fingerprints and photograph;

(2) The name, address and telephone number of the applicant's employer;

(3) A sworn statement or affirmation disclosing any criminal convictions or any pending criminal charges whether within or without the Commonwealth;

(4) The proposed location of the applicant's place of business;

(5) A statement of whether the applicant will purchase, sell or take possession of firearms; and

(6) Certification from the director of planning or his designee that operation of the business of a pawnbroker at the proposed location is a permitted use of the premises.

Upon furnishing the court order, filing the application and paying an application fee of $200.00, the applicant shall be issued a license by the chief of police. The license may be denied if the applicant has been denied a license or has had a license revoked under any ordinance similar in substance to this article.

(c) *Duration; renewal; transfer.* The license shall be valid for 12 months from the date thereof, and may be renewed in the same manner as the initial license was obtained, with an annual license fee of $200.00. No license shall be transferable.

(d) *Location of business.* The license shall designate the building in which the licensee shall carry on business. No person shall engage in the business of a pawnbroker in any location other than the one designated in his license, except with consent of the circuit court which authorized issuance of the license and upon written notification of the chief of police.

(e) *Penalty.* Any natural person who violates the provisions of this section shall be guilty of a class 1 misdemeanor. Each day's violation shall constitute a separate offense.

(Code 1980, § 12-148.12; Code 1995, § 15-152; Ord. No. 979, § 3, 8-12-1998)

State law reference—License issuance, requirements, Code of Virginia, § 54.1-4001.

Sec. 15-147. Limitation on number of pawnshops.

Not more than ten places in the county shall be licensed where the business of a pawnbroker may be conducted, none of which shall be located closer than one mile to any other.

(Code 1980, § 12-148.13; Code 1995, § 15-153)

State law reference—Authority to establish limitation on number of pawnshops, Code of Virginia, § 54.1-4002.

Sec. 15-148. Records of transactions; credentials of persons pawning goods.

(a) Every pawnbroker shall keep at his place of business an accurate and legible record of each loan or transaction occurring in the course of his business, including transactions in which secondhand goods, wares or merchandise are purchased for resale. The account shall be recorded at the time of the loan or transaction on a form approved by the chief of police and shall include:

(1) A description, serial number, and a written statement of ownership signed by the pledgor of the goods, articles or things pawned or pledged or received on account of money loaned thereon or purchased for

resale;

(2) The time, date and place of the transaction;

(3) The amount of money loaned thereon at the time of the pledge or paid as the purchase price;

(4) The rate of interest to be paid on such loan;

(5) The fees charged by the pawnbroker, itemizing each fee charged;

(6) The full name, residence address, telephone number and driver's license number or other form of identification of the person pawning or pledging or selling the goods, articles or things, together with a particular description, including the height, weight, date of birth, race, gender, hair and eye color, and any other identifying marks of such person;

(7) Verification of the identification by the exhibition of a government-issued identification card bearing a photograph of the person pawning, pledging or selling the goods, article, or thing, 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 digital image of the form of identification used by the person involved in the transaction;

(9) As to loans, the terms and conditions of the loan, including the period for which any such loan may be made; and

(10) All other facts and circumstances respecting such loan or purchase.

(b) A pawnbroker may maintain at his place of business an electronic record of each transaction involving goods, articles or things pawned or pledged or purchased. If maintained electronically, a pawnbroker shall retain the electronic records for at least one year after the date of the transaction and make such electronic records available to any duly authorized law-enforcement officer upon request.

(c) For each loan or transaction, a pawnbroker may charge a service fee for making the daily electronic reports to the appropriate law-enforcement officers required by section 15-149, creating and maintaining the electronic records required under this section, and investigating the legal title to property being pawned or pledged or purchased. Such fee shall not exceed five percent of the amount loaned on such item or paid by the pawnbroker for such item or $3.00, whichever is less.

(d) No goods, article, or thing shall be pawned or pledged or received on account of money loaned or purchased for resale if the original serial number affixed to the goods, article, or thing has been removed, defaced, or altered.

(e) Every pawnbroker shall comply with regulations promulgated by the superintendent of state police specifying:

(1) The nature of the particular description for the purposes of subsection (a)(6) of this section; and

(2) The nature of identifying credentials of the person pawning, pledging, or selling the goods, article, or thing. Such identifying credentials shall be examined by the pawnbroker and an appropriate record thereof retained.

(Code 1980, § 12-148.14; Code 1995, § 15-154; Ord. No. 979, § 4, 8-12-1998)

State law reference—Similar provisions, Code of Virginia, § 54.1-4009.

Sec. 15-149. Daily reports to police; content.

Every pawnbroker shall prepare a daily report of all goods, articles or things pawned or pledged with him or sold to him that day and file such report by noon of the following day with the chief of police. The report shall include the pledgor's or seller's name, residence and driver's license number or other form of identification, a photograph or digital image of the form of identification used by the pledgor or seller, and a description of the goods, articles or things pledged or sold. A pawnbroker shall compile and maintain the daily report in an electronic format and shall file the required daily reports electronically with the

appropriate law-enforcement officer through use of any electronic means of reporting approved by the law-enforcement officer.

(Code 1980, § 12-148.15; Code 1995, § 15-155; Ord. No. 979, § 5, 8-12-1998)

State law reference—Similar provisions, Code of Virginia, § 54.1-4010.

Sec. 15-150. Examination of records and property; seizure of stolen goods.

(a) Every pawnbroker and every employee of the pawnbroker shall admit to the pawnbroker's place of business, during regular business hours, any duly authorized county law-enforcement officer, the chief of police or his designee or any law-enforcement official of the state or federal government. The pawnbroker or employee shall permit the officer to:

(1) Examine all records required by this article or Code of Virginia, title 54.1, ch. 40 (Code of Virginia, § 54.1-4000 et seq.), as amended, and any article listed in a record which is believed by the officer to be missing or stolen; and

(2) Search for and seize any article known to him to be missing, or known or believed by him to have been stolen.

(b) However, the officer shall not take possession of any article without providing to the pawnbroker a receipt.

(Code 1980, § 12-148.16; Code 1995, § 15-156; Ord. No. 979, § 6, 8-12-1998)

State law reference—Similar provisions, Code of Virginia, § 54.1-4011.

Sec. 15-151. Bond required; private action on bond.

(a) No natural person shall be licensed as a pawnbroker or engage in the business of a pawnbroker without having in existence a bond with surety in the minimum amount of $50,000.00 to secure the payment of any judgment recorded under the provisions of subsection (b) of this section.

(b) Any person who recovers a judgment against a licensed pawnbroker for the pawnbroker's misconduct may maintain an action in his own name upon the bond of the pawnbroker if the execution issued upon such judgment is wholly or partially unsatisfied.

(Code 1995, § 15-157; Ord. No. 979, § 7, 8-12-1998)

State law reference—Similar provisions, Code of Virginia, § 54.1-4003.

Sec. 15-152. Memorandum to be given pledgor; fee; lost ticket charge.

Every pawnbroker shall at the time of each loan deliver to the person pawning or pledging anything a memorandum or note, signed by him, containing the information required by section 15-148. A lost-ticket fee of $5.00 may be charged, provided that the pawner is notified of the fee on the ticket.

State law reference—Similar provisions, Code of Virginia, § 54.1-4004.

Sec. 15-153. Sale of goods pawned.

No pawnbroker shall sell any pawn or pledge item until it has been in his possession for the minimum term set forth in the memorandum, but not less than 30 days, plus a grace period of 15 days and a statement of ownership is obtained from the pawner. If a motor vehicle is pawned, the owner of the motor vehicle shall comply with the requirements of Code of Virginia, § 46.2-637. In the event of default by the pawner, the pawnbroker must comply with the requirements of Code of Virginia, § 46.2-633. Otherwise, the pawnbroker

must comply with the requirements of Code of Virginia, § 46.2-636 et seq. All sales of items pursuant to this section may be made by the pawnbroker in the ordinary course of his business.

State law reference—Similar provisions, Code of Virginia, § 54.1-4005.

Sec. 15-154. Interest chargeable.

(a) No pawnbroker shall ask, demand or receive a greater rate of interest than ten percent per month on a loan of $25.00 or less, or seven percent per month on a loan of more than $25.00 and less than $100.00, or five percent per month on a loan of $100.00 or more, secured by a pledge of tangible personal property. No loan shall be divided for the purpose of increasing the percentage to be paid the pawnbroker. Loans may be renewed based on the original loan amount. Loans may not be issued that compound the interest or storage fees from previous loans on the same item.

(b) An annual percentage rate computed and disclosed under the provisions of the federal Truth in Lending Act shall not be deemed a violation of this section.

State law reference—Similar provisions, Code of Virginia, § 54.1-4008.

Sec. 15-155. Property pawned or purchased not to be disfigured or changed.

No property received on deposit or pledged or purchased by any pawnbroker shall be disfigured or its identity destroyed or affected in any manner:

(1) So long as it continues in pawn or in the possession of the pawnbroker while in pawn; or

(2) In an effort to obtain a serial number or other information for identification purposes.

State law reference—Similar provisions, Code of Virginia, § 54.1-4012.

Sec. 15-156. Care of tangible personal property; evaluation fee.

(a) Pawnbrokers shall store, care for and protect all of the tangible personal property in the pawnbroker's possession and protect the property from damage or misuse. Nothing in this article shall be construed to mean that pawnbrokers are insurers of pawned property in their possession.

(b) A pawnbroker may charge a monthly storage fee for any items requiring storage, which fee shall not exceed five percent of the amount loaned on such item.

State law reference—Similar provisions, Code of Virginia, § 54.1-4013.

Secs. 15-157—15-180. Reserved.

ARTICLE VI. ADULT BUSINESSES

***Cross reference—**Massage establishments, ch. 12; obscenity and nudity, § 13-84 et seq.; license tax, § 20-350 et seq.

Sec. 15-181. Definitions.

The following words, terms and phrases, when used in this article shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning:

Adult bookstore or *adult video store* means an establishment having as a substantial or significant portion of its stock-in-trade books, magazines, other periodicals, videotapes, computer disks, CD-ROMs, DVD-ROMs, virtual reality devices or similar media that are distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.

Adult business means any adult bookstore, adult video store, adult model studio, adult motel, adult movie theater, adult nightclub, adult store, business providing adult entertainment, or any other establishment that regularly exploits an interest in matter relating to specified sexual activities or specified anatomical areas or regularly features live entertainment intended for the sexual stimulation or titillation of patrons.

Adult entertainment means dancing, modeling or other live entertainment if the entertainment is characterized by an emphasis on specified sexual activities or specified anatomical areas or is intended for the sexual stimulation or titillation of patrons; or the showing of films, motion pictures, videotapes, slides, photographs, CD-ROMs, DVD-ROMs, or other media that are characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.

Adult merchandise means magazines, books, other periodicals, videotapes, films, motion pictures, photographs, slides, CD-ROMs, DVD-ROMs, virtual reality devices, or other similar media that are characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas; instruments, devices or paraphernalia either designed as representations of human genital organs or female breasts, or designed or marketed primarily for use to stimulate human genital organs; or, lingerie or leather goods marketed or presented in a context to suggest their use for sadomasochistic practices.

Adult model studio means a commercial establishment, including a lingerie store or novelty store, in which a person performs or simulates specified sexual activities, exposes specified anatomical areas, or engages in other performances intended for the sexual stimulation or titillation of patrons.

Adult motel means a motel, hotel, or similar commercial establishment that:

(1) Provides patrons with closed-circuit television transmissions, films, motion pictures, videocassettes, slides, or other photographic reproductions that are characterized by the depiction or description of specified sexual activities or specified anatomical areas and advertises the availability of this sexually-oriented type of material by means of a sign visible from the public right-of-way, or by means of any off-premises advertising, including, but not limited to, newspapers, magazines, pamphlets or leaflets, radio or television;

(2) Offers a sleeping room for rent for a time period of less than ten hours; or

(3) Allows a tenant or occupant to subrent the sleeping room for a time period of less than ten hours.

Adult movie theater means an enclosed building regularly used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas for observation by patrons, excluding movies that have been rated "G," "PG," "PG-13," or "R" by the Motion Picture Association of America.

Adult nightclub means a restaurant, bar, club, or similar establishment that regularly features adult entertainment.

Adult store means an establishment having adult merchandise as a substantial or significant portion of its stock-in-trade.

Employee means an individual working or performing services for any adult business, including any independent contractor who provides services on behalf of any adult business to the patrons of such business, whether or not the individual receives any remuneration, gratuity, or tips of any kind, or pays the permittee or manager for the right to perform or entertain in the adult business.

Live entertainment means entertainment provided in person including, but not limited to, musical

performances, music played by disc jockeys, public speaking, dramatic performances, dancing, modeling, or comedy performances.

Specified anatomical areas means less than completely and opaquely covered human genitals, pubic region, buttock, or female breast below a point immediately above the top of the areola; or human male genitals in a discernibly turgid state, even if completely and opaquely covered.

Specified sexual activities means human genitals in a state of sexual stimulation or arousal; sexual intercourse or sodomy; or fondling or other erotic touching of human genitals, pubic region, buttock or female breast, including masturbation.

(Code 1995, § 15-157; Ord. No. 992, § 1, 10-12-1999; Ord. No. 1024, § 1, 3-12-2002)

Cross reference—Definitions and rules of construction, § 1-2.

Sec. 15-182. Permit required from chief of police—Application; issuance; duration; renewal.

(a) Every person either operating or desiring to operate an adult business, in addition to obtaining any required business license from the director of finance, shall apply to the chief of police, or his designee, for a permit to conduct such activity. Each such application shall be accompanied by a fee in the amount of $200.00.

(b) Information required on and with the permit application shall include, but not be limited to, the following:

(1) The applicant's full name, age, sex, race, weight, height, hair and eye color, address, telephone number, date and place of birth and social security number.

(2) Names and addresses of references.

(3) Whether the applicant has been convicted of any felony or misdemeanor and, if so, the nature of the offense, when and where convicted and the penalty or punishment assessed.

(4) Whether the applicant holds or has held, in the name of this business or any other, any other permits under this article or a similar adult use ordinance from another locality within the past five years, and, if so, the names and locations of such other permitted businesses.

(5) Whether the applicant has been denied a permit or has had a permit revoked under any statute or ordinance requiring a permit to operate an adult business and, if so, when and where the denial or revocation occurred.

(6) Photograph and fingerprints of applicant.

(7) Name, including any fictitious names, and address of the business for which a permit is sought.

(8) A criminal records check of the applicant shall be provided by the applicant with the application, along with the applicant's written authorization to investigate whether the information provided by the applicant is true.

(9) A description of the intended business activity and, if adult entertainment is to be provided, a detailed description of such entertainment.

(10) Written declaration, dated and signed by the applicant, certifying that the information contained in the application is true and correct.

(c) For a corporation, partnership or other legal entity, the term "applicant" includes each officer, director, partner or principal of the entity and the managers of the business.

(d) The chief of police or his designee shall act on the application within 30 days of the filing of an application containing all the information required by this section, unless information requested from other law enforcement agencies is not received within that 30-day period, in which case the chief of police or his

designee shall have an additional 30 days to act on the application. Upon the expiration of the applicable time period, unless the applicant requests and is granted a reasonable extension of time, the applicant may, at its option, begin operating the business for which the permit is sought, unless and until the chief of police or his designee notifies the applicant of a denial of the application and states the reasons for denial.

(e) The applicant shall be issued a permit unless the county's investigation or the information furnished by the applicant shows any of the following:

(1) The applicant has failed to provide information required by this article or has falsely answered a question.

(2) The applicant has been convicted of a felony within the past five years.

(3) The applicant has been convicted of a crime of moral turpitude or a crime involving the obscenity laws within the past three years.

(4) The applicant has been denied a permit or has had a permit revoked within the past 12 months under any statute or ordinance requiring a permit to operate an adult business.

(5) Failure of the applicant's business to comply with the county's business license, zoning, building, plumbing, utility, health, electric or fire prevention codes, or with any other applicable county or state laws or regulations.

(6) The application fee has not been paid.

(f) If the application is denied, the chief of police or his designee shall notify the applicant of the denial and state the reasons for the denial.

(g) The permit shall be valid for 12 months from the date thereof and may be renewed in the same manner as it was initially obtained. The application fee for a renewal permit shall be $100.00. No permit shall be transferable.

(h) Any changes in the ownership or principals of the business entity to which the permit is issued or in the managers of the business will automatically make the permit void. Such changes shall be reported to the chief of police or his designee, and a new application may be submitted for review.

(Code 1995, § 15-159; Ord. No. 992, § 1, 10-12-1999; Ord. No. 1024, § 2, 3-12-2002)

Sec. 15-183. Same—Grounds for revocation.

The chief of police or his designee may revoke any permit issued pursuant to this article for the following:

(1) Fraud, misrepresentation or any false or misleading statement contained in the application.

(2) Conviction of the permittee for any felony, crime involving moral turpitude, or crime involving the obscenity laws after the permit is issued.

(3) The permittee or an employee of the permittee has knowingly allowed possession, use or sale of illegal controlled substances in or on the premises.

(4) The permittee or an employee of the permittee has knowingly allowed prostitution on the premises.

(5) The permittee has refused to allow an inspection of the adult business premises as authorized by this article.

(6) On two or more occasions within a 12-month period, employees of the adult business at the time of the offenses committed an offense in or on the permitted premises for which a conviction has been obtained constituting:

a. Aiding, abetting or harboring a runaway child;

b. Prostitution or promotion of prostitution;

c. Exposing minors to harmful materials;

d. Dissemination of obscenity;

e. Sexual assault; or

f. Violation of section 13-96.

(7) The permittee is convicted of violations regarding any taxes or fees related to the adult business.

(8) The permittee has failed to operate or manage an adult business in a peaceful and law-abiding manner.

(9) The permittee or an employee of the permittee, except a permittee or employee of a permittee of an adult motel, has knowingly allowed any act of sexual intercourse, sodomy, oral copulation, masturbation, or other sexual activity to occur in or on the permitted premises.

(10) The permittee has been operating an adult business not approved under the applicable permit.

(11) The permittee has failed to comply with the provisions of this article.

(12) The permittee's business fails to comply with other applicable county or state laws or regulations.

(Code 1995, § 15-160; Ord. No. 992, § 1, 10-12-1999; Ord. No. 1024, § 3, 3-12-2002)

Sec. 15-184. Procedure upon denial of an application or revocation of a permit.

(a) If the chief of police or his designee denies an application or revokes a permit, he shall notify the applicant or permittee in writing of such action, the reasons therefor, and the right to request a hearing. To receive a hearing, the applicant or permittee must make a written hearing request which must be received by the chief of police or his designee within ten days of the date of the notice of denial or revocation. If a timely hearing request is not received by the chief of police or his designee, the decision of the chief of police or his designee shall be final. If a hearing is properly requested, it shall be held within ten days from receipt of the hearing request. The hearing shall be presided over by the chief of police or his designee. The applicant or permittee shall have the right to present evidence and argument or to have counsel do so. Within five days of the hearing, the chief of police or his designee shall render his decision which shall be final. A permittee must discontinue operation of its business when the decision to revoke the permit becomes final.

(b) When an imminent threat of substantial harm to public health or safety requires such action, the chief of police or his designee may immediately revoke a permit issued under this article by so stating in a written notice to the permittee. When action is taken pursuant to this subsection, the permittee shall immediately discontinue operation of its business, but shall have the right to a hearing as stated in subsection (a) of this section.

(Code 1995, § 15-160.1; Ord. No. 1024, § 4, 3-12-2002)

Sec. 15-185. Availability of prompt judicial review.

After denial of an initial or renewal application or after revocation of a permit by the chief of police or his designee, the applicant or permittee may seek prompt judicial review of such administrative action in the circuit court of the county. Any such request for judicial review shall be filed within 30 days of when the administrative action becomes final. The county will facilitate the applicant's obtaining prompt review.

(Code 1995, § 15-161; Ord. No. 992, § 1, 10-12-1999; Ord. No. 1024, § 5, 3-12-2002)

Sec. 15-186. Inspection.

(a) In addition to any existing legal authority, representatives of county departments shall have the authority to inspect an adult business for the purpose of determining compliance with the provisions of this article.

(b) The provisions of subsection (a) of this section shall not apply to sleeping rooms of an adult motel which are currently being rented by a customer.

(Code 1995, § 15-162; Ord. No. 1024, § 6, 3-12-2002)

Sec. 15-187. Regulations pertaining to adult businesses providing adult entertainment.

(a) For purposes of this section, adult entertainment is defined as dancing, modeling or other live entertainment if the entertainment is characterized by an emphasis on specified sexual activities or specified anatomical areas or is intended for the sexual stimulation or titillation of patrons.

(b) No person shall provide adult entertainment for patrons of an adult business except upon a stage located in an area open to all patrons of the business. The stage shall be at least 18 inches above the level of the floor and separated by a distance of at least three feet from the nearest area occupied by patrons. No patron shall be permitted within three feet of the stage while the stage is occupied by an entertainer.

(c) The adult business shall provide separate dressing room facilities for female and male entertainers which shall not be occupied or used in any way by anyone other than them.

(d) The adult business shall provide entertainers access between the stage and the dressing rooms which is completely separated from the patrons. If separate access is not physically feasible, the establishment shall provide a walk aisle at least four feet wide for entertainers between the dressing room area and the stage with a railing, fence or other barrier separating the patrons and the entertainers which prevents any physical contact between patrons and entertainers.

(e) No entertainer shall have physical contact with any patron and no patron shall have physical contact with any entertainer while in or on the premises of the adult business.

(f) No patron shall directly pay or give any gratuity to any entertainer. A patron who wishes to pay or give a gratuity to an entertainer shall place the gratuity in a container that is at all times located separately from the entertainers for the purpose of preventing any physical contact between a patron and an entertainer. No entertainer shall solicit any gratuity from any patron.

(g) Patrons must be at least 18 years of age.

(h) No operator or manager of an adult business shall cause or allow an entertainer to contract to or engage in any entertainment such as a "couch," a "straddle," or "lap" dance with a patron while in or on the premises of an adult business. No entertainer shall contract to or engage in a "couch," "straddle," or "lap" dance with a patron while in or on the establishment premises. For purposes of this subsection, the term "couch," "straddle," or "lap" dance is defined as an employee of the establishment intentionally touching any patron while engaged in any specified sexual activity or other activity intended for the sexual stimulation or titillation of patrons, or the exposure of any specified anatomical area.

(i) This section shall not apply to an employee of an establishment who, while acting as a waiter, waitress, host, hostess, or bartender, comes within three feet of a patron. No employee shall engage in any specified sexual activity or other activity intended for the sexual stimulation or titillation of patrons, or expose any specified anatomical area while acting as a waiter, waitress, host, hostess, or bartender.

(Code 1995, § 15-163; Ord. No. 1024, § 7, 3-12-2002)

Sec. 15-188. Regulations pertaining to adult motels.

(a) Evidence that a sleeping room in a hotel, motel or similar commercial establishment has been rented and vacated two or more times in less than ten hours creates a rebuttable presumption that the establishment is an adult motel as that term is defined in section 15-181.

(b) No person who is in control of a sleeping room in a hotel, motel or similar commercial establishment that does not have an adult business permit shall rent or subrent a sleeping room to a person, and within ten hours from the time the room is rented, rent or subrent the same sleeping room again.

(c) For purposes of subsection (b) of this section, the terms rent or subrent mean the act of permitting a room to be occupied for any form of consideration.

(Code 1995, § 15-164; Ord. No. 1024, § 8, 3-12-2002)

Sec. 15-189. Transfer of permit prohibited.

(a) A permittee shall not operate an adult business at any place other than at the address designated in the approved permit.
(b) A permittee shall not transfer its permit to another person.
(Code 1995, § 15-165; Ord. No. 1024, § 9, 3-12-2002)

Sec. 15-190. Public nudity prohibited.

Nothing in this article shall be construed to permit any conduct which violates section 13-96.

(Code 1995, § 15-166; Ord. No. 1024, § 10, 3-12-2002)

Sec. 15-191. Violations of article provisions.

Except as permitted in section 15-182(d), operation of an adult business without a permit is prohibited.

(Code 1995, § 15-167; Ord. No. 1024, § 11, 3-12-2002)

Chapter 16 - PUBLIC PROCUREMENT

***Cross reference—** Administration. ch 2; checks and warrants, § 2-74 et seq.; county property, § 2-106 et seq.

***State law reference—** Public procurement procedures, Code of Virginia, § 2.2-4300 et seq.; purchases based on competition, Code of Virginia, § 15.2-1236; purchase and sale of real property, Code of Virginia, § 15.2-1800.

ARTICLE I. IN GENERAL

Sec. 16-1. Purpose.

The purpose of this chapter is to supplement the provisions of the Virginia Public Procurement Act (Code of Virginia, § 2.2-4300 et seq.) by enunciating the county's policies pertaining to governmental procurement from nongovernmental sources, to encourage competition among vendors and contractors, to provide for the fair and equitable treatment of all persons involved in public purchasing by the county, to maximize the purchasing value of public funds in procurement so that high quality goods and services may be obtained at the lowest possible price, and to increase public confidence in procurement practices by providing safeguards for maintaining a procurement system of quality and integrity.

(Code 1980, § 17-1; Code 1995, § 16-1)

Sec. 16-2. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Act and *public procurement act* mean the Virginia Public Procurement Act, Code of Virginia, § 2.2-4300 et seq.

Business means any corporation, limited liability company, general or limited partnership, individual, sole proprietorship, joint stock company, joint venture or other nongovernmental legal entity.

Contract means all types of county agreements, regardless of what they may be called, for the procurement of goods, services, insurance or construction.

Contractor means any business having a contract with the county or a using agency thereof.

County means the County of Henrico, the County School Board of Henrico County or the Henrico Area Mental Health & Developmental Services Board, as appropriate.

Emergency. An emergency shall exist when a breakdown in an essential service occurs or under any other circumstances when supplies are needed for immediate use in work which may vitally affect the safety, health or welfare of the public.

Employee means an individual drawing a salary, wages or other compensation from the county, whether elected or not; or any noncompensated individual performing personal services for the county or any department, division, office, section, agency, commission, council, bureau, board or other entity established by the executive or legislative branch of the county.

Insurance means a contract whereby, for a stipulated consideration, one party undertakes to compensate the other for loss on a specified subject by specified perils.

Invitation to bid means all documents, whether attached or incorporated by reference, utilized for soliciting sealed bids.

Request for proposal means all documents, whether attached or incorporated by reference, utilized for soliciting proposals.

Using agency means any department, division, office, section, agency, commission, council, bureau, board or other unit in the county government requiring goods, services, insurance or construction as provided for in this chapter.

(Code 1980, § 17-3; Code 1995, § 16-2)

Cross reference—Definitions and rules of construction, § 1-2.

State law reference—Similar provisions, Code of Virginia, § 2.2-4301.

Sec. 16-3. Applicability of state law.

This chapter should be read in conjunction with the public procurement act to apply to contracts for the procurement of goods, services, insurance and construction entered into by the county involving every expenditure for public purchasing, irrespective of its source. The provisions of the act shall apply except where modified by alternative policies and procedures enumerated in this chapter.

(Code 1980, § 17-2; Code 1995, § 16-3)

Sec. 16-4. Purchasing division established.

There is hereby created a purchasing division within the department of finance, to operate under the direction and supervision of the purchasing director.

(Code 1980, § 17-4; Code 1995, § 16-4)

Sec. 16-5. Reserved.

Sec. 16-6. Powers and duties of purchasing director.

(a) The purchasing director shall serve as the principal public purchasing official for the county and shall be responsible for the procurement of goods, services, insurance and construction in accordance with this chapter, as well as the management and disposal of goods.

(b) In accordance with this chapter, the purchasing director shall:

(1) Purchase or supervise the purchasing of all goods, services, insurance and construction needed by the county;

(2) Sell, trade or otherwise dispose of surplus goods belonging to the county;

(3) Establish and maintain programs for specifications development, contract administration, inspection and acceptance, in cooperation with the public agencies using the goods, services and construction;

(4) Not issue any order for delivery on a purchase, except in an emergency, until the director of finance or his designee shall have certified, after preaudit, that there is to the credit of the using agency concerned a sufficient unencumbered appropriation balance, in excess of all unpaid obligations, to defray the amount of such order; and

(5) Perform such other functions and duties as the director of finance may assign.

(Code 1980, § 17-7(a), (b); Code 1995, § 16-6)

Sec. 16-7. Delegation of authority by purchasing director.

The purchasing director may delegate authority to purchase certain goods, services, insurance or construction to other county officials if such delegation is deemed necessary for the effective procurement of those items.

(Code 1980, § 17-8; Code 1995, § 16-7)

Sec. 16-8. Establishment of operational procedures.

Consistent with this chapter, the purchasing director shall adopt operational procedures relating to the execution of the director's duties.

(Code 1980, § 17-11; Code 1995, § 16-8)

State law reference—Authority to adopt rules and regulations regarding purchases, Code of Virginia, § 15.2-1235.

Sec. 16-9. Purchases for volunteer rescue squads.

The purchasing director shall have authority to sell supplies, materials and equipment to volunteer rescue squads within the county at the same cost as the cost of such supplies, materials and equipment to the county.

(Code 1980, § 17-9; Code 1995, § 16-9)

Sec. 16-10. Unauthorized purchases.

Except as otherwise provided in this chapter, no official, elected or appointed, or any employee shall purchase or contract for any goods, services, insurance or construction within the purview of this chapter other than by and through the purchasing director, and any purchase order or contract made contrary to the provisions of this section is not approved and the county shall not be bound thereby. Any person responsible for such purchase shall be held personally liable for such purchase, and, if already paid for out of county funds, the amount may be recovered in the name of the county in an appropriate action instituted therefor.

(Code 1980, § 17-10; Code 1995, § 16-10)

Sec. 16-11. Disposal of obsolete or unusable property.

The purchasing director shall sell, transfer, trade or otherwise dispose of all materials, supplies, equipment or other personal property of the county which has become obsolete or unusable. For purposes of this chapter, personal property shall be deemed "obsolete and unusable" when the continued use of such property by the county is no longer cost effective.

(Code 1980, § 17-12; Code 1995, § 16-11; Ord. No. 939, § 1, 1-22-1997)

State law reference—Disposal of personal property, Code of Virginia, § 15.2-1236.

Sec. 16-12. Sale of surplus property.

(a) All sales of property pursuant to this chapter shall be accomplished by means of competitive bids, public auction, firm price offered to all persons wishing to participate in the sale, or negotiated sale to other units of local government. The purchasing director shall use whichever method the director believes will raise the

highest revenue for the county.

(b) In cases where surplus property is offered for sale at a firm price, the property shall be offered first to taxpayers and residents of the county before it is offered to the general public.

(Code 1980, § 17-13; Code 1995, § 16-12; Ord. No. 939, § 2, 1-22-1997; Ord. No. 1076, § 1, 9-13-2005)

Secs. 16-13—16-42. Reserved.

ARTICLE II. BIDDING AND AWARD OF CONTRACTS

Sec. 16-43. Award of contracts generally.

(a) The purchasing director shall award all contracts on behalf of the board of supervisors except for:

(1) Contracts for construction which are expected to exceed $100,000.00;

(2) Contracts for professional services which are expected to exceed $60,000.00; and

(3) Contracts where the purchasing director, in consultation with the county manager, has determined that an award by the board of supervisors is appropriate and the request for proposal or invitation to bid states that the award of the proposed contract will be made by the board of supervisors.

(b) The purchasing director shall award all contracts on behalf of the school board except for:

(1) Contracts for construction which are expected to exceed $100,000.00;

(2) Contracts for professional services which are expected to exceed $60,000.00; and

(3) Contracts where the purchasing director, in consultation with the superintendent of schools, has determined that an award by the school board is appropriate and the request for proposal or invitation to bid states that the award of the proposed contract will be made by the school board.

(c) The purchasing director shall award all contracts on behalf of the Henrico Area Mental Health & Developmental Services Board except for:

(1) Contracts for services for clients; and

(2) Contracts for goods for direct client use.

(d) The board of supervisors, school board or Henrico Area Mental Health & Developmental Services Board, as appropriate, shall award all contracts not awarded by the purchasing director.

(Code 1980, § 17-7(d); Code 1995, § 16-31)

Sec. 16-44. Receiving and processing of bids for construction.

The purchasing director shall advertise, receive, open and tabulate any and all bids for construction in accordance with the requirements and conditions set forth in the invitation to bid. The director shall then transmit all such bids, with the tabulation of the bids, to the board of supervisors or school board, as appropriate, through the county manager or superintendent of schools, as appropriate, in all cases where the board of supervisors or school board will award the contract as provided in section 16-43.

(Code 1980, § 17-7(c); Code 1995, § 16-32)

Sec. 16-45. Exceptions to requirement for competitive procurement.

(a) The county may enter into contracts without competition for the purchase of goods or services which are produced by or are available through state contracts or the state warehouse, or which are produced by nonprofit sheltered workshops or other nonprofit organizations that offer transitional or supported employment services serving the handicapped, or Virginia Correctional Enterprises.

(b) The county may enter into contracts for legal services, expert witnesses and other services associated

with litigation or regulatory proceedings without competitive sealed bidding or competitive negotiation.

(c) The county may enter into contracts up to the amounts set forth in Code of Virginia § 2.2-4303(G) or its successor for goods, professional services, non-professional services, transportation-related construction, and non-transportation-related construction without competitive sealed bidding or competitive negotiation under procedures established in writing by the purchasing director. However, the county must use competitive sealed bidding or competitive negotiation for construction of a new building or an addition or improvement to an existing building when the county will use more than $50,000.00 in state funds.

(d) If an emergency occurs during office hours, the using agency shall immediately notify the purchasing director, who shall either purchase directly or authorize the purchase of the needed goods and services. If any emergency occurs during a time when the purchasing department is closed, the using agency may purchase any goods or services needed to meet such existing emergency; provided that the head of the using agency shall send as soon as practicable to the purchasing director a requisition and a copy of the delivery receipt together with a written explanation of the circumstances of the emergency.

(Code 1980, § 17-14; Code 1995, § 16-33; Ord. No. 939, § 3, 1-22-1997)

State law reference—Exceptions to competitive sealed bidding authorized, Code of Virginia, § 2.2-4303(G).

Sec. 16-46. Modification of contracts.

A public contract may include provisions for modification of the contract during performance, but no fixed-price contract may be increased by more than 15 percent of the amount of the contract or $10,000.00, whichever is greater, without the advance written approval of the awarding authority.

(Code 1980, § 17-15; Code 1995, § 16-34)

State law reference—Modifications of contract authorized, Code of Virginia, § 2.2-4309(A).

Sec. 16-47. Debarment.

(a) *Generally.* The purchasing director may, in the public interest, debar a prospective contractor for any of the causes listed in subsection (b) of this section, using the procedures described in subsection (d) of this section. The existence of a cause for debarment under subsection (b) of this section, however, does not necessarily require that the contractor be debarred. The seriousness of the contractor's acts or omissions and any mitigating factors should be considered in making any debarment decision.

(b) *Causes.* The purchasing director may debar a prospective contractor for any of the following causes:

(1) Conviction of or civil judgment for:

a. Commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public contract or subcontract;

b. Violation of federal or state antitrust statutes relating to the submission of offers;

c. Commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements or receiving stolen property; or

d. Commission of any other offense indicating a lack of business integrity or business honesty that seriously and directly affects the present responsibility of a government contractor or subcontractor.

(2) Violation of the terms of a government contract or subcontract so serious as to justify debarment, such as willful failure to perform in accordance with the terms of one or more contracts or a history of failure to perform, or of unsatisfactory performance of, one or more contracts.

(3) Any other cause of so serious or compelling a nature that it affects the present responsibility of a government contractor or subcontractor.

(c) *Reports and investigations.* The purchasing director shall establish procedures for the prompt reporting,

investigation and referral of matters appropriate for that official's consideration.

(d) *Debarment procedures.* The following procedures governing the debarment decision-making process are designed to be as informal as practicable, consistent with principles of fundamental fairness:

(1) *Notice to contractor.* Debarment shall be initiated by advising the prospective contractor and any specifically named affiliate, by certified mail, return receipt requested, that debarment is being considered. Such notice shall include the reasons for the proposed debarment in terms sufficient to put the contractor on notice of the conduct or transaction upon which it is based.

(2) *Period of debarment.* Debarment shall be for a period commensurate with the seriousness of the cause, as determined by the purchasing director in the director's sole discretion.

(3) *Submission of statement by contractor; hearing.* The prospective contractor may submit to the purchasing director, within 30 days after receipt of notice, in person, in writing or through a representative, information and argument to the proposed debarment, including any additional specific information that raises a genuine dispute over the material fact. If the proposed debarment is based upon a cause other than those specified in subsection (b)(1) of this section, an informal hearing allowing the examination and cross examination of witnesses shall be provided if so requested by the prospective contractor. In such cases, the purchasing director shall conduct the hearing and shall render a decision within 15 days thereafter, or within 15 days after receipt of written information and argument if no hearing is requested or required to be held.

(4) *Appeals.* The decision of the purchasing director shall be final unless the prospective contractor appeals by instituting legal action as provided in the public procurement act.

(Code 1980, § 17-16; Code 1995, § 16-35; Ord. No. 939, § 4, 1-22-1997)

State law reference—Authority to adopt debarment procedure, Code of Virginia, § 2.2-4321.

Sec. 16-48. Negotiation with lowest responsible bidder.

Unless canceled or rejected, a responsive bid from the lowest responsible bidder shall be accepted as submitted, except that, if the bid from the lowest responsible bidder exceeds available funds, the county may negotiate with the apparent low bidder to obtain a contract price within available funds. If the county wishes to negotiate with the apparent low bidder to obtain a contract price within available funds, negotiations shall be conducted in accordance with the following procedures:

(1) The using agency shall provide the purchasing director with a written determination that the apparent low bid exceeds available funds. Such determination shall be confirmed in writing by the director of finance or his designee. The using agency shall also provide the purchasing director with a suggested reduction in scope for the proposed purchase.

(2) The purchasing director shall advise the lowest responsible bidder, in writing, that the proposed purchase exceeds available funds. The director shall further suggest a reduction in scope for the proposed purchase and invite the lowest responsible bidder to amend its bid proposal based upon the proposed reduction in scope.

(3) Repetitive informal discussions with the lowest responsible bidder for purposes of obtaining a contract within available funds shall be permissible.

(4) The lowest responsible bidder shall submit an addendum to its bid, which addendum shall include the change in scope for the proposed purchase, the reduction in price and the new contract value.

(5) If the proposed addendum is acceptable to the county, the county may award a contract within funds available to the lowest responsible bidder based upon the amended bid proposal.

(6) If the county and the lowest responsible bidder cannot negotiate a contract within available funds, all bids shall be rejected.

(Code 1980, § 17-17; Code 1995, § 16-36)

State law reference—Negotiation with lowest responsible bidder, Code of Virginia, § 2.2-4318.

Sec. 16-49. Repealed.

Chapter 17 - SOLID WASTE

***Cross reference—**Trash, garbage, refuse and litter, § 10-97 et seq.; water and sewers, ch. 23.

***State law reference—**Solid waste management, Code of Virginia, § 10.1-1408.1 et seq.; hazardous waste management, Code of Virginia, § 18.1-1426 et seq.; authority to regulate garbage collection and disposal, Code of Virginia, § 15.2-931 et seq.; authority to provide collection service, Code of Virginia, § 15.2-928.

ARTICLE I. IN GENERAL

Sec. 17-1. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Commercial waste means waste material from a commercial enterprise, including wholesale, retail and service establishments, such as office buildings, stores, markets, theaters, hotels and warehouses, or from enterprises providing services for a fee, such as yard services, refuse collection services, etc.

County household refuse disposal area means the Springfield Road Public Use Area or the Charles City Road Public Use Area.

Director means the director of public utilities.

Garbage means all organic waste material, including offal and animal, poultry and vegetable wastes.

Highway means all streets, avenues, boulevards, roads, alleys, walkways, lanes, viaducts, bridges and approaches thereto, and all other public ways in the county. The term "highway" shall also mean the entire width thereof between abutting property lines.

Institution means any public or private establishment which educates, instructs, treats for health purposes or otherwise provides service to the community.

Litter means all waste material, disposable packages or containers, except the wastes of the primary processes of mining, logging, sawmilling, farming or manufacturing.

State law reference—Similar provisions, Code of Virginia, § 10.1-1414.

Litter receptacle means a container acceptable to the department of waste management for the depositing of litter.

Private property means property owned by a person that is not used or held out for use by the public.

Public property means any area that is used or held out for use by the public, whether owned or operated by public or private interests.

Recyclable material means any material, such as glass bottles and jars, aluminum cans, steel cans, newspapers, mixed paper, plastic bottles and jugs, placed in or around containers for collection or at collection sites for recycling by a recycling program authorized by the county.

Recycling means the process of separating a given waste material from the waste stream and processing

it so that it may be used again as a raw material for a product, which may or may not be similar to the original product.

Refuse means garbage and trash.

Scavenging means the removal of material from county landfills and household refuse disposal areas without permission.

Single-family residential unit means a group of rooms, including cooking accommodations, occupied exclusively by one or more persons living as a single housekeeping unit.

Supercan means a county refuse container of approximately 95 gallon volume.

Trash means all inorganic waste material, including rubbish, cans, bottles, paper, cardboard, mattresses, furniture, appliances and other discarded inorganic matter.

Trees and *tree stumps* mean branches, limbs and parts of trees, bushes or shrubbery larger than four inches in diameter.

Vehicle means every device capable of being moved upon a public highway and in, upon or by which any person or property may be transported upon a public highway, except devices moved by human power or used exclusively upon stationary rails or tracks.

(Code 1980, § 11-1; Code 1995, § 17-1; Ord. No. 910, § 1, 11-8-1995)

Cross reference—Definitions and rules of construction, § 1-2.

Sec. 17-2. Unlawful removal of recyclable material.

It shall be unlawful for any unauthorized person to remove recyclable material placed in or around a container or at a collection site for recycling by a recycling program authorized by the county. Each unlawful removal of recyclable material shall constitute a separate class 1 misdemeanor.

(Code 1995, § 17-2; Ord. No. 910, § 2, 11-8-1995)

State law reference—Local recycling and waste disposal, powers and penalties, Code of Virginia, § 15.2-928.

Secs. 17-3—17-22. Reserved.

ARTICLE II. COUNTY HOUSEHOLD REFUSE DISPOSAL AREAS

***Cross reference—**Streets, sidewalks and other public property, ch. 18.

***State law reference—**Authority operate landfills, Code of Virginia, § 15.2-928; authority to acquire land for public utilities and services, Code of Virginia, § 15.2-2109.

Sec. 17-23. Use generally.

County household refuse disposal areas shall be available for the disposal of refuse and litter subject to the following provisions:

(1) *Hours of operation; general conditions for use.* County household refuse disposal areas shall be available for the disposal of refuse and litter during such hours and under such conditions as the county manager may

direct.

(2) *Use of county household refuse disposal areas.* Use of the county household refuse disposal areas is limited to county residents disposing of refuse or litter generated at their residence. Residents may dispose of refuse or litter at a charge of $3.00 per trip. Residents may purchase a book of 15 discount coupons for $40.00 or a book of ten discount coupons for $27.00. A resident may bring up to four automobile or truck tires no larger than 31 inches in diameter from his residence to the county household refuse disposal area at no additional charge and may bring additional tires, not exceeding 31 inches in diameter, for a charge of $1.00 per tire. The director may refuse to accept tires in quantities which present a hazard to county household refuse disposal area operations. A resident may also dispose of household appliances or items containing chlorofluorocarbon (CFC) or hydrochlorofluorocarbon (HCFC) in the county household refuse disposal area upon payment of an additional fee of $15.00 per appliance or item. The resident must provide a driver's license or other form of identification providing proof of county residency satisfactory to the supervisor or the cashier.

(3) *Scavenging.* It shall be unlawful to engage in scavenging in county household refuse disposal areas.

(4) *Penalty.* Any person violating any of the provisions of this section shall be punished by a fine not exceeding $100.00. Each day that any violation of this section continues shall constitute a separate offense.

(Code 1980, § 11-2; Code 1995, § 17-31; Ord. No. 967, § 1, 2-25-1998)

Sec. 17-24. Disposal of certain substances prohibited.

It shall be unlawful for any person to deposit, or place for deposit by others, any of the following materials in county household refuse disposal areas:

(1) Hazardous waste as defined by the state hazardous waste management regulations;

(2) Materials creating a hazard to county personnel, county operations, the general public or the environment;

(3) Automobiles; or

(4) Liquids, fluids or sludges.

(Code 1980, § 11-3; Code 1995, § 17-32)

Sec. 17-25. Dumping waste on premises other than county household refuse disposal areas or private sanitary landfills.

It shall be unlawful for any person to dispose of refuse or litter within the county other than in a county household refuse disposal area or in a privately operated sanitary landfill permitted under chapter 24 or other provisions of law. This section shall not apply to occupants of single-family residences or family farms disposing of their own garbage, trash or refuse if such occupants have paid the fees, rates and charges of other single-family residences or family farms in the same service area.

(Code 1980, § 11-4; Code 1995, § 17-33)

Cross reference—Trash, garbage, refuse and litter, § 10-97 et seq.; putting glass or other hazardous material on streets, § 22-38.

State law reference—Authority to so provide, Code of Virginia, § 15.2-931; littering, Code of Virginia, §§ 10.1-1424, 33.1-345(7), 33.1-346, 15.2-733, 46.2-1156.

Sec. 17-26. Landfilling with imperishable materials on land other than sanitary landfills.

Any person may use imperishable materials such as stone, bricks, tile, sand, gravel, soil, asphalt, concrete products and like materials for landfilling purposes upon any lot or parcel in the county with the

consent of the owner. For the purposes of this section, the term "landfilling purposes" shall refer to deposits of material to fill land so as to permit practical use or development of the property in the future. Any such fills must be compacted as filled and must be covered with not less than six inches of soil within 30 days after fills or partial fills are completed or abandoned.

(Code 1980, § 11-7; Code 1995, § 17-34)

Secs. 17-27—17-55. - Reserved.

ARTICLE III. COUNTY COLLECTION SERVICE

Sec. 17-56. Operational regulations and service areas.

(a) The county shall have the right to extend refuse service within its boundaries where economically feasible.

(b) The county manager shall prescribe rules and regulations for county refuse collection, including selection of areas for county service.

(Code 1980, § 11-12(c), (d); Code 1995, § 17-61)

Sec. 17-57. Collection service for property adjacent to collection area.

Any property owner whose property is adjacent to an area where refuse service is furnished by the county may obtain refuse collection by the county if the director determines adequate resources are available. The county may terminate refuse collection to adjacent properties upon 30 days notice if the director determines such services are not economically feasible or adequate resources are not available.

(Code 1980, § 11-10; Code 1995, § 17-62)

Sec. 17-58. Charges.

(a) *Single-family residences.* The county shall provide a Supercan to each single-family residential unit receiving county refuse collection service.

(b) *Additional cans.* A single-family residential unit may obtain additional Supercans for an additional one-time fee of $65.00 per Supercan. Customers may also use a privately-purchased container for refuse as long as the container is of 95 gallon capacity, is constructed of heavy duty plastic, has wheels, and has a lifting bar in the front of the container. If at any point the county determines that a privately-purchased container is incompatible with the county's refuse collection equipment, the county shall notify the customer that the container will not be serviced.

(c) *Charge for residential refuse collection.* The bimonthly charge for county refuse collection shall be $30.00 per single-family residential unit, regardless of the number of Supercans or privately-purchased containers used at the residential unit.

(d) *Other premises.* Businesses or other establishments receiving county refuse collection service must use Supercans to dispose of refuse, and they may obtain an unlimited number of Supercans from the county for their use. The bimonthly charge for their refuse collection shall be $30.00 per Supercan.

(e) *Property of county.* Supercans supplied by the county shall remain the property of the county and may not be removed when county refuse collection service is discontinued.

(Code 1980, § 11-12(a), (b); Code 1995, § 17-63; Ord. No. 1043, § 1, 5-27-2003; Ord. No. 1120, § 1, 4-22-2008)

Sec. 17-59. Bulky waste and vacuum leaf collection.

(a) The county shall provide collection of residential bulky waste, such as discarded appliance, television sets, furniture, brush and bagged leaves, under rules and regulations prescribed by the county manager at a charge of $43.00 per collection. There shall be an additional charge of $15.00 for each appliance that contains or contained HCFC or CFC.

(b) The county shall provide vacuum leaf collection under rules and regulations prescribed by the county manager at a charge of $30.00 per stop.

(c) Notwithstanding subsections (a) and (b) of this section, there shall be no charges for elderly or disabled persons who qualify for tax relief under section 20-78.

(Code 1980, § 11-11; Code 1995, § 17-64; Ord. No. 919, § 1, 5-8-1996; Ord. No. 938, § 1, 11-26-1996; Ord. No. 940, § 1, 1-22-1997; Ord. No. 1043, § 2, 5-27-2003; Ord. No. 1103, § 1, 4-24-2007)

Sec. 17-60. Overdue bills; discontinuance of service.

(a) All charges for refuse service shall be due within 30 days of billing, and a $1.00 service charge shall be added to all delinquent bills. The director shall notify the owner or tenant in writing that the bill is delinquent, that the owner or tenant may contest the bill by contacting the director, and that all utility service shall be discontinued if the delinquent bill is not paid within 15 days of the notice. If the delinquent bill is not paid within 15 days of the date of this notice, refuse service shall be discontinued and the supply of water to the premises shall be disconnected unless the health officer certifies that shutting off the water will endanger the health of the occupants of the premises or the health of others.

(b) Once disconnected and discontinued, the supply of water and refuse service shall not be restored until the outstanding balance and a charge of $35.00 for reconnecting water service is paid in full or until the director has approved other payment arrangements. If the owner or tenant vacates property with a delinquent utility bill, the outstanding balance may be transferred to any other property within the county where the owner or tenant has utility service if the owner or tenant has been notified as provided in this section. If the outstanding balance is not paid within the time specified, water and refuse service at the property to which the balance has been transferred may be discontinued.

(c) In cases of delinquent bills where the county supplies sewer but not water service to the property, sewer service to the premises may be disconnected using the same procedures, and sewer and refuse service shall not be restored until the outstanding balance and the cost of disconnecting and reconnecting sewer service shall have been paid in full.

(Code 1980, § 11-14; Code 1995, § 17-65)

Cross reference—Billing procedures, § 23-331.

Chapter 18 - STREETS, SIDEWALKS AND OTHER PUBLIC PROPERTY

***Cross reference—**Ordinances naming, renaming, opening, accepting or vacating streets, alleys, easements or rights-of-way saved from repeal, § 1-10(a)(9); County property, § 2-106 et seq.; use of county property for private purposes, § 2-106; property numbering and street naming system, § 6-77 et seq.; erosion and sediment control, § 10-27 et seq.; parks and recreation, ch. 14; sanitary landfills, § 17-23 et seq.; utility easements, § 19-166; street name signs, § 19-167; traffic and vehicles, ch. 22; obstruction of streets by railroad, § 22-37; placing glass or other hazardous material on street, § 22-38; specific street regulations, § 22-73 et seq.; riding bicycles on sidewalks or crosswalks prohibited, § 22-350.

***State law reference—**Highways, bridges and ferries, Code of Virginia, § 33.1-1 et seq.; local streets and alleys, Code of Virginia, § 15.2-2000 et seq.; local authority over highways, bridges and ferries, Code of

Virginia, § 33.1-224 et seq.

ARTICLE I. IN GENERAL

Sec. 18-1. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

County standards and specifications means the current design standards and specifications for roads, streets, drainage, water and sewer construction and improvements in the county, on file in the office of the director.

Director means the director of public works/county engineer or designee.

(Code 1980, § 18-11; Code 1995, § 18-1)

Cross reference—Definitions and rules of construction, § 1-2.

Sec. 18-2. Adoption of state road and bridge specifications.

The current edition of the Road and Bridge Specifications of the Virginia Department of Transportation, and all amendments thereto, is hereby adopted by reference insofar as it is not inconsistent with this Code.

(Code 1980, § 18-12; Code 1995, § 18-2)

Sec. 18-3. Obstruction of roads, ditches or drains; gated subdivisions.

It shall be a class 1 misdemeanor to erect, construct, place or maintain any bumps, fences, gates, chains, bars, pipes, wood or metal horses, basketball goals or other sporting equipment, or any other type obstruction, in a road, a ditch made to drain the road, or an off drain from ditches except in gated subdivisions permitted in chapter 24.

(Code 1980, § 18-1; Code 1995, § 18-3; Ord. No. 1064, § 1, 3-9-2004)

Cross reference—Water and sewer, ch. 23.

State law reference—Cutting trees, obstructing roads, etc., Code of Virginia, § 33.1-345.

Sec. 18-4. Installation of unapproved culvert pipe.

It shall be unlawful to install culvert pipe in roads or ditches for walkways, driveways or other purposes unless the director has approved it as to size and type or as a substitute for standard pipe.

(Code 1980, § 18-2; Code 1995, § 18-4)

Cross reference—Buildings, ch. 6; stormwater management, § 10-196 et seq.; water and sewer, ch. 23.

Sec. 18-5. Burning leaves, trash or other materials on hard-surfaced roadway.

It shall be unlawful to burn leaves, trash or other materials on the hard-surfaced roadway of any street maintained by the county.

(Code 1980, § 18-3; Code 1995, § 18-5)

Cross reference—Environment, ch. 10; burning of leaves, § 11-17.

Sec. 18-6. Parking vehicles dripping oil or fuel on asphalt roadway.

It shall be unlawful to park a car, truck or other motorized vehicle on any asphalt surface if it leaks or drips oil or fuel.

(Code 1980, § 18-4; Code 1995, § 18-6)

Cross reference—Stopping, standing and parking, § 22-151 et seq.

Sec. 18-7. Obstruction of vision at intersections.

It shall be unlawful to have a wall, fence, planting or structure obstruct vision within 20 feet of the intersection of two street right-of-way lines, as measured at elevations greater than 30 inches above the curb level or the centerline of the street grade. Where a desirable tree obstructs vision at the time of street dedication, the tree shall be trimmed or removed to provide the sight distance required by the director.

(Code 1980, § 18-6; Code 1995, § 18-7)

Cross reference—Street design standards, § 19-121 et seq.; traffic and vehicles, ch. 22.

Sec. 18-8. Hauling houses, oversize loads or heavy loads.

It shall be unlawful to haul houses, oversized loads, or loads in excess of the weight permitted in chapter 22, article III, division 3 on any street, right-of-way, easement or area dedicated for public use unless the hauler has obtained a permit from the director or the Virginia Department of Motor Vehicles and provided a satisfactory certificate of liability insurance to cover any damage.

(Code 1980, § 18-7; Code 1995, § 18-8)

Sec. 18-9. Construction of street entrances.

It shall be unlawful to construct a commercial or private entrance to county streets without the director's approval or in violation of county standards and specifications.

(Code 1980, § 18-8; Code 1995, § 18-9)

Sec. 18-10. Damaging right-of-way, pavement or curb and gutter.

(a) The holder of any building permit shall be liable for all damage to the county right-of-way, pavement and curb and gutter within 50 feet of the property line due to construction on the property. The permit holder shall be liable from issuance of the building permit until issuance of the certificate of occupancy, even if the county is unable to identify the person causing the damage.

(b) If two or more permit holders are liable for damage under subsection (a) of this section, they shall have equal liability unless they agree which permit holder is responsible.

(c) The responsible permit holder shall timely correct all damage to the director's satisfaction. Any permit holder who fails to do so shall be subject to the penalties prescribed in section 1-13.

(Code 1980, § 18-10; Code 1995, § 18-10)

Secs. 18-11—18-38. Reserved.

ARTICLE II. WORK IN PUBLIC STREETS AND RIGHTS-OF-WAY

DIVISION 1. GENERALLY

Sec. 18-39. Permit required.

It shall be unlawful to do any work in a public street, right-of-way, easement or other area dedicated to public use before submitting a plan and specifications and receiving a permit from the director.

(Code 1980, § 18-21; Code 1995, § 18-61)

State law reference—Authority to require permit, Code of Virginia, § 56-15.

Sec. 18-40. Permit application form; inspection fees.

Applications for all public utility work shall be made in triplicate upon a form provided by the director. The application shall be accompanied by a check or bond guarantee for payment of inspection fees as follows:

Poles, each		$0.25
Guys, each		0.25
Wire crossings, each		2.50
Pipelines:		
	Crossings (excavated), each	2.50
	Crossings (driven), each	2.50
	Parallel to highway, up to 100 feet	2.50
	101 feet to 500 feet	5.00
	501 feet to 1,000 feet	7.50
	Over 1,000 feet	As determined by the director.

(Code 1980, § 18-23; Code 1995, § 18-62)

Sec. 18-41. Application for permit by letter.

When the work to be done under this article is routine and limited in scope, the permit application may consist of a letter describing the work to be done and a sketch showing the location and extent of the work.

(Code 1980, § 18-25; Code 1995, § 18-63)

Sec. 18-42. Bond.

Any person performing work under section 18-39 who has not filed a performance bond in the amount of at least $1,000.00 shall furnish bond in an amount determined by the director.

(Code 1980, § 18-24; Code 1995, § 18-64)

Sec. 18-43. Conformance with plans and director's instructions; notification of director on completion of work.

All construction or repair work in a public street, right-of-way, easement or other area dedicated to public use shall conform to the approved plans and specifications and to the director's written instructions. The director may waive the requirement of formal plans and specifications if the work is so routine and limited that detailed plans and specifications are not necessary for its proper execution. The director shall be notified immediately when the work is ready for inspection.

(Code 1980, § 18-22; Code 1995, § 18-65)

Secs. 18-44—18-74. Reserved.

DIVISION 2. USE FOR WATER AND SEWAGE SYSTEMS

***Cross reference—**Water and sewer, ch. 23.

Sec. 18-75. Application for approval.

Any person who wishes to occupy or use any street, bridge, park or other public place, or any public easement in order to construct or establish a water or sewage system or to extend an existing water or sewage system shall apply to the board of supervisors with the following information:

(1) The location of the proposed system.
(2) A description of the system, including the source of the water supply or the means of sewage disposal.
(3) The ownership of the property to be served and, if owned by other than the applicant, a statement as to the terms, conditions and costs under which the service is to be provided.
(4) A statement of the efforts made to acquire service through a county water or sewer system.
(5) The provisions under which the system can be acquired by the county, either by gift or otherwise.
(6) The need for the system, the public interest to be served, and the explanation as to why the county cannot provide the system.
(7) Any other pertinent information that the board of supervisors may require.
(Code 1980, § 18-26; Code 1995, § 18-81)

Sec. 18-76. Criteria for approval; road permit.

The board of supervisors may grant or deny the request for permission to construct, establish or extend a water or sewage system based on the facts submitted in the application and the county's comprehensive plan for providing water or sewage facilities for the area. Approval of the application by the board of supervisors shall not eliminate the requirement to obtain a road permit from the director for any work otherwise requiring a permit.

(Code 1980, § 18-27; Code 1995, § 18-82)

Chapter 19 - SUBDIVISIONS

***Cross reference—**Planning commission, § 2-19 et seq.; buildings and building regulations, ch. 6; erosion and sediment control, § 10-27 et seq.; zoning ch. 24.

***State law reference—**Subdivisions generally, Code of Virginia, § 15.2-2240 et seq.; authority to adopt regulations, Code of Virginia, § 15.2-2240; mandatory provisions of subdivision ordinances, Code of Virginia, § 15.2-2241.

ARTICLE I. IN GENERAL

Sec. 19-1. Purpose.

The purpose of this chapter is to:

(1) Promote public health, safety and welfare;
(2) Improve the orderly layout and use of land;
(3) Avoid undue concentration of population and overcrowding of land;
(4) Lessen congestion in streets and highways;
(5) Provide for proper ingress and egress;
(6) Ensure proper legal description and monumenting of subdivided land;
(7) Provide for adequate light and air;
(8) Provide for transportation, water, sewage facilities, drainage, schools, parks, playgrounds and other public needs;
(9) Increase safety from fire, flood and other dangers;
(10) Facilitate proper resubdivision of lots or parcels of land;
(11) Preserve outstanding natural or cultural features and historic sites and structures;
(12) Protect and improve the water quality of the Chesapeake Bay and its tributaries; and
(13) Promote development in accordance with the comprehensive plan.
(Code 1980, § 19-1; Code 1995, § 19-1)

Sec. 19-2. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Alley means a public way designed to provide vehicular access to or from the rear or side of property.

Board means the board of supervisors.

Buffer means a natural or landscaped area or screening device intended to provide a horizontal distance and open space, to preserve vegetation, to lessen the impact and adverse relationship between dissimilar, unrelated or incompatible land uses or to provide an area of natural or planted vegetation to protect Chesapeake Bay Preservation Areas and county and state waters from degradation due to land disturbances or uses.

Chesapeake Bay Preservation Area means any land designated by the county pursuant to section 24-106.3. Chesapeake Bay Preservation Areas shall consist of resource protection areas (RPAs) and resource management areas (RMAs).

Commercial use means any use in a business, office, office service, or institutional district as classified and defined in chapter 24.

County engineer means the director of public works/county engineer or designee.

Dam means a manmade structure across a watercourse used to restrain water.

Dam break inundation zone means the area downstream of a dam that would be inundated or otherwise directly affected by the failure of the dam. The dam break inundation zone shall be as shown on the dam break inundation zone map filed with the state department of conservation and recreation.

Dead area means any area in or adjoining a proposed subdivision which might be left undeveloped because of topography or other features.

Family subdivision means a single division of a lot or parcel for the purpose of sale or gift to a member of the immediate family of the owner. For the purpose of this chapter, the term "member of the immediate family" is defined as any person who is a natural or legally defined offspring, stepchild, spouse, sibling, grandchild, grandparent, or parent of the owner.

Expressway means a public way designed to handle heavy volumes of vehicular traffic with limited access.

Floodplain means any land area susceptible to being inundated by water from any source other than a dam break.

Geodetic Control Network means the system of survey monuments installed by the county to create a common coordinate reference for control points used in making measurements.

Impounding structure means a dam or a manmade structure outside a watercourse used or to be used to retain or store waters or other materials as defined by Code of Virginia, § 10.1-604.

(1) The term "impounding structure" includes:
a. All dams that are 25 feet or greater in height and that create an impoundment capacity of 15 acre-feet or greater; and
b. All dams that are six feet or greater in height and that create an impoundment capacity of 50 acre-feet or greater.
(2) The term "impounding structure" shall not include:
a. Dams licensed by the State Corporation Commission that are subject to a safety inspection program;
b. Dams owned or licensed by the United States government;
c. Dams operated primarily for agricultural purposes which are less than 25 feet in height or which create a maximum impoundment capacity smaller than 100 acre-feet;
d. Water or silt retaining dams approved pursuant to Code of Virginia, § 45.1-222 or 45.1-225.1; or
e. Obstructions in a canal used to raise or lower water.

Intersection means the area where two or more streets join.

Major street means a street carrying arterial traffic with direct access to abutting property and having intersections at grade.

Minor street means a street providing access to abutting property without large volumes of through traffic.

Resource management area or *RMA* means that component of the Chesapeake Bay Preservation Area not classified as the resource protection area, as more fully described in section 24-106.3.

Resource protection area or *RPA* means that component of the Chesapeake Bay Preservation Area consisting of lands at or near the shoreline that have intrinsic water quality value due to the ecological and biological processes they perform or that are sensitive to impacts which may result in significant degradation to the quality of state waters, as more fully described in section 24-106.3.

Reverse corner lot means a lot bordering on two streets that intersect at an angle not greater than 135 degrees which is turned, with reference to an adjoining lot, to front on the intersecting street.

Street means a highway, street, avenue, boulevard, road, lane or alley, or any public way.

Subdivide means the process of dividing land so as to establish a subdivision.

Subdivider means the person who subdivides land.

Subdivision.

(1) The term "subdivision" means a division of a lot or parcel of land situated wholly or partly within the county into three or more lots or parcels for the purpose of transferring ownership or building development. The term shall also include any division of a lot or parcel of land:

a. If a new street or an extension of an existing street is involved in such division; or

b. If a lot or parcel of land was created by a division or subdivision occurring after July 28, 1987.

(2) The term "subdivision" shall not include a family subdivision unless the subdivision requires a new public street or extension of an existing public street, a new water distribution line, or a new sanitary sewer main.

(3) The term "subdivision" shall not include division of the lot or parcel of land for commercial, business, industrial or office development for which a plan of development (POD) has been approved in accordance with the provisions of chapter 24; provided, however, that any new public street or extension of an existing public street which is involved in such division shall be included within the term "subdivision."

Toll road means an expressway requiring the payment of a toll for use.

Tree protection plan means a plan for the protection and replacement of trees in accordance with section 24-106.2.

Virginia State Plane Coordinate System means the Virginia Coordinate System of 1983 as described in Code of Virginia, § 55-287 et seq.

(Code 1980, § 19-2; Code 1995, § 19-2; Ord. No. 997, § 1, 2-22-2000; Ord. No. 1116, § 2, 11-27-2007; Ord. No. 1138, § 1, 11-10-2009)

Cross reference—Definitions and rules of construction, § 1-2.

State law reference—Definitions, Code of Virginia, § 15.2-2201; mandatory that subdivision ordinance contain provisions similar to the single lot exception in the definition of subdivision in this section, Code of Virginia, §§ 15.2-2241(10), 15.2-2244.

Sec. 19-3. Penalty; injunctive relief.

The violation of any provision of this chapter shall be punished by a fine of not more than $500.00 for each lot or parcel of land subdivided, transferred or sold. The county may also seek equitable relief to enjoin any violation of this chapter.

(Code 1980, § 19-46; Code 1995, § 19-3)

State law reference—Mandatory that subdivision ordinance contain provisions for administration and enforcement, Code of Virginia, § 15.2-2241(A)9; penalties, Code of Virginia, § 15.2-2254.

Sec. 19-4. Granting of exceptions.

(a) *Generally.* When the planning commission, as agent for conditional plat approval, or the director of planning, as agent for final plat approval, finds that extraordinary hardship may result from development of a particular parcel in strict compliance with this chapter, either may grant an exception, provided:

(1) The exception substantially complies with the provisions of this chapter, does not defeat the chapter's purposes, and protects the public interest;

(2) The exception will not be detrimental to public safety, health or welfare or injurious to surrounding property or improvements;

(3) The conditions on which the exception request is based are unique to the property, are not generally applicable to other property and do not create mere inconvenience; and

(4) The exception is not based exclusively on financial considerations.

(b) *Exceptions to water quality standards.* Requests for exceptions to the water quality provisions of section 24-106.3, pertaining to Chesapeake Bay preservation, shall be filed with the county engineer in accordance with section 24-106.3(l).

(c) The planning commission may approve double frontage lots on minor streets of less than 60 feet of right-of-way or stem lots which do not meet the minimum lot width and frontage requirements of chapter 24, provided:

(1) The applicant meets the enumerated tests contained in subsection (a) of this section;

(2) The lots meet all other requirements of chapter 24; and

(3) The requirements of section 19-133 are met.

(Code 1980, § 19-47; Code 1995, § 19-4; Ord. No. 989, § 1, 8-10-1999)

State law reference—Exceptions authorized, Code of Virginia, § 15.2-2242(1).

Secs. 19-5—19-26. Reserved.

ARTICLE II. PLAT APPROVAL PROCEDURE

DIVISION 1. GENERALLY

Sec. 19-27. Agents for approval.

The planning commission shall be the agent of the board of supervisors for conditional approval of subdivision plats, and the director of planning shall be the agent for final approval.

(Code 1980, § 2-6; Code 1995, § 19-31)

Sec. 19-28. Extension of approvals to address housing crisis.

(a) Notwithstanding the time limits for validity set out in this article, any approved subdivision plat valid

and outstanding as of January 1, 2017, shall remain valid until July 1, 2020. Any other plan or permit associated with such plat extended by this subsection shall likewise be extended until July 1, 2020.

(b) The extension of validity provided in subsection (a) of this section shall not be effective unless any performance bonds and agreements or other financial guarantees of completion of public improvements in or associated with the proposed development are continued in force.

(Ord. No. 1138, § 2(19-38), 11-10-2009)

State law reference—Similar provisions, Code of Virginia, § 15.2-2209.1.

Secs. 19-29—19-59. Reserved.

DIVISION 2. PRELIMINARY PLAT

***State law reference—**Authority to require preliminary plat, Code of Virginia, § 15.2-2260.

Sec. 19-60. When required.

Except for family subdivisions as provided in sections 19-97 through 19-101, whenever an owner or developer desires to subdivide land into more than 50 lots, he shall submit and obtain the planning commission's conditional approval of a preliminary plat meeting the requirements of this chapter and other chapters of this Code in effect at the time the plat is submitted. The subdivider shall submit the number of copies required by the director of planning with an application for conditional approval by the planning commission. The subdivider shall have the option of submitting for conditional approval a preliminary plat for 50 or fewer lots that meets the same requirements.

(Code 1980, §§ 19-3, 19-4; Code 1995, § 19-51)

Sec. 19-61. Application for approval.

The subdivider shall provide the following information with the application for conditional approval of a preliminary plat:

(1) *Vicinity map.* The vicinity map on the preliminary plat shall indicate the location of the proposed subdivision in relation to existing community facilities. It shall include the subdivision name and location, main traffic arteries, schools, parks and playgrounds, scale, north arrow and date.

(2) *Preliminary plat.* The preliminary plat shall show the proposed layout of streets, lots and other features in relation to existing topography. The preliminary plat shall have a horizontal scale of 100 feet to the inch or other scale approved by the director of planning, and it shall be prepared by a registered professional engineer, certified landscape architect or registered land surveyor authorized to do business in the state. The plat shall clearly show the following:

a. The subdivision name and location and the boundary lines of the land to be subdivided.

b. The name and address of the subdivider and record owner of the land to be subdivided, the source of title with deed book references, and the name of the person who prepared the plat.

c. The location and names of adjoining subdivisions or of the owners of adjoining parcels of land.

d. The location, width and names of all streets proposed for the subdivision; and the location, width and names of all existing or platted streets in the subdivision and within 300 feet of the subdivision.

e. The location, width and purpose of other rights-of-way and easements.

f. The topography at vertical intervals of at least two feet; the location of physical features, such as buildings, streams, drainage ditches, floodplains, mapped dam break inundation zones, wetlands and Chesapeake Bay Preservation Areas; data showing base flood elevations as defined in section 24-3; features of the property

controlled by proffered conditions; and other information required by article II of chapter 10, chapter 18, chapter 23 and chapter 24.

g. The exact boundaries of all property to be dedicated for public use, all property to be reserved for the common use of residents, and all property otherwise reserved, along with the purposes and reasons for the reservations.

h. The layout, lot lines, lot numbers, block letters and approximate dimensions of proposed lots.

i. The proposed use of the property and the zoning of the property and adjacent land.

j. Scale of the plat, north arrow (true meridian, where practicable), date of the plat, and tax parcel number.

k. The proposed building setback lines and buildable area plans, dwelling placement and orientation for any stem, flag or cul-de-sac lots.

l. Four points with coordinates in the Virginia State Plane Coordinate System. All features shown on the plan must be drawn to scale based upon the four points.

m. Any monument of the Geodetic Control Network located on the property.

(3) *Traffic study.* Information required for review under Code of Virginia, § 15.2-2222.1.

(Code 1980, § 19-41; Code 1995, § 19-52; Ord. No. 989, § 2, 8-10-1999; Ord. No. 997, § 2, 2-22-2000; Ord. No. 1116, § 3, 11-27-2007; Ord. No. 1138, § 3, 11-10-2009)

State law reference—Mandatory provisions of subdivision ordinances, Code of Virginia, § 15.2-2241(A).

Sec. 19-62. Review of plat; action by planning commission.

The planning commission shall review preliminary plats as required by state law. A preliminary plat shall be deemed submitted when it contains all the information required by this chapter.

(1) *Real property used for residential and noncommercial and nonindustrial uses.* If state agency review is not required, the planning commission shall hold a public hearing and act within 60 days of submission. If state agency review is required, the director of planning shall forward the plat within ten business days of submission to each state agency which must review it under state law. Upon receipt of approvals from all reviewing agencies, the planning commission shall hold a public hearing and act on the preliminary plat within 45 days of approval. In every case, the planning commission shall identify all deficiencies in the plat in writing by reference to specific duly adopted ordinances, regulations, or policies and shall identify modifications or corrections that will permit approval of the plat. The planning commission shall not be required to approve a preliminary plat in less than 60 days from submission, and all actions on the preliminary plat shall be completed within 90 days of submission unless the Virginia Department of Transportation requires additional time for review as provided in Code of Virginia, § 15.2-2222.1. The applicant may request an extension of these timelines.

(2) *Real property used for commercial or industrial uses.* In addition to the requirements of subsection (a) of this section, the following requirements apply to plats for real property used for commercial or industrial uses:

a. In its review of a resubmitted plat that has been previously disapproved, the planning commission shall only consider deficiencies it identified in its previous review that have not been corrected and deficiencies that arise as a result of the corrections made to address previously identified deficiencies unless there are changes, errors or omissions in the applicant's plat filings after the initial submission of the plat.

b. The planning commission shall identify such deficiencies by reference to specific duly adopted ordinances, regulations, or policies and shall identify modifications or corrections that will permit approval of the plat.

c. The plat shall be deemed approved if the planning commission fails to approve or disapprove a resubmitted plat within 45 days of resubmission.

d. Notwithstanding the planning commission's approval or deemed approval of a proposed plat, any

deficiency that if left uncorrected would violate local, state or federal law, regulations, mandatory department of transportation engineering and safety requirements, or other mandatory engineering and safety requirements, shall not be treated as approved.

e. Should any resubmission include a material revision of infrastructure or physical improvements from the earlier submission or if a material revision in the resubmission creates a new required review by the Virginia Department of Transportation or other state agency, the planning commission may consider deficiencies appearing in the resubmission because of such material revision or physical improvements.

(3) *Approval or disapproval.* If the planning commission approves the preliminary plat, it shall grant conditional approval.

(Code 1980, § 19-5; Code 1995, § 19-53; Ord. No. 1138, § 4, 11-10-2009)

State law reference—Preliminary plat approval, Code of Virginia, §§ 15.2-2258, 15.2-2259.

Sec. 19-63. Approval or disapproval to be noted on plat.

The action of the planning commission shall be noted on two copies of the preliminary plat. One copy shall be returned to the subdivider and the other shall be retained by the director of planning.

(Code 1980, § 19-6; Code 1995, § 19-54)

Sec. 19-64. Effect of approval; expiration of approval.

(a) Conditional approval of a preliminary plat does not constitute or guarantee approval of the final plat. It approves the layout of the preliminary plat for use in preparation of the final plat, and the final plat must conform to the preliminary plat as approved. Once a preliminary plat is approved, it shall be valid for a period of five years, provided the subdivider submits a final subdivision plat for all or a portion of the property within one year of such approval or such longer period allowed by the director of planning or the planning commission pursuant to subsection (b) of this section, and thereafter diligently pursues approval of the final subdivision plat. The term "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 years following such preliminary subdivision plat approval, and upon 90 days' written notice by certified mail to the subdivider, the planning commission may revoke such approval upon a specific finding of facts that the subdivider has not diligently pursued approval of the final subdivision plat.

(b) If no section of the preliminary plat has been recorded within one year of conditional approval, the director of planning may grant the subdivider's request for extension of conditional approval for up to one year. The director of planning may grant extensions as long as the total of all extensions does not exceed 60 months from the date of conditional approval.

(c) The planning commission shall act on extension requests in the following cases:

(1) If the subdivider appeals a denial of the director of planning;

(2) If the director of planning requests planning commission action because of changes in conditions affecting the subdivision plans; or

(3) If the subdivider requests an extension of approval for a period more than 60 months from the date of conditional approval.

(Code 1980, § 19-7; Code 1995, § 19-55; Ord. No. 997, § 3, 2-22-2000; Ord. No. 1138, § 5, 11-10-2009)

State law reference—Duration of approval of preliminary plat, Code of Virginia, § 15.2-2260(F).

Sec. 19-65. Development in dam break inundation zone.

(a) The owner of each impounding structure in the county shall prepare a map of the dam break inundation zone for the impounding structure and submit the map to the director of planning and the state department of conservation and recreation.

(b) For any subdivision containing three or more residential units or any business or industrial use other than agricultural production proposed within the boundaries of a mapped dam break inundation zone, the director of planning shall review the dam break inundation zone map, notify the dam owner, and, within ten days, forward a request to the state department of conservation and recreation to make a determination of the potential impacts of the proposed subdivision on the spillway design flood standards required of the dam. Upon receipt of the determination of the state department of conservation and recreation or if the county has not received comments within 45 days of the department's receipt of the county's request, the director of planning shall complete the county's review of the proposed subdivision.

(c) If the state department of conservation and recreation determines that a proposed subdivision is wholly or partially within a dam break inundation zone and would change the spillway design flood standards of an impounding structure, the subdivider must submit an engineering study meeting state standards to the state department of conservation and recreation prior to final approval of the subdivision. Following the completion of the engineering study, and prior to any development within the dam break inundation zone, the subdivider shall change the proposed subdivision so that it does not alter the spillway design flood standards of the dam or shall pay 50 percent of the contract-ready costs for necessary upgrades to an impounding structure attributable to the subdivision, together with administrative fees required by state law. The payment shall be made to the Virginia Dam Safety, Flood Prevention and Protection Assistance Fund as provided by state law.

(d) Dam break inundation zone maps are only required for dams that meet the requirements for an impounding structure. The requirements of this subsection shall not apply to any subdivision proposed downstream of a dam for which a dam break inundation zone map is not on file with the county at the time of the official submission of a subdivision plat to the county. However, the director of planning may map the dam break inundation zone and recover the costs of such mapping from the owner of an impounding structure for which a dam break inundation zone map is not on file with the county and a map has not been prepared by the impounding structure's owner.

(e) Following completion of any subdivision in a dam break inundation zone, the subdivider shall provide the dam owner and the director of planning with information necessary for the dam owner to update the dam break inundation zone map to reflect the new development.

(Ord. No. 1138, § 6(19-56), 11-10-2009)

State law reference—Mapping of dam break innudation zones, Code of Virginia, § 10.1-606.2; requirements for developments in dam brake innudation zones, Code of Virginia, § 10.1-603.3; payment of costs of upgrades to impounding structures, Code of Virginia, § 15.2-2243.1.

Secs. 19-66—19-88. Reserved.

DIVISION 3. FINAL PLAT

***State law reference—**Authority to require final plat, Code of Virginia, § 15.2-2260.

Sec. 19-89. Final plat required; construction plans.

To obtain approval of the final subdivision plat, the subdivider shall file an application form, construction plans for improvements, and the final subdivision plat prepared by a professional engineer or registered land surveyor authorized to do business in the state. The construction plans and final subdivision plat shall meet all requirements of this chapter and this Code in effect at the time they are submitted.

Construction plans shall contain the following information:

(1) Profiles along the center and both sides of each street indicating tentative construction grades, shown on a standard 22-inch by 36-inch profile sheet at a vertical scale of one inch equals ten feet and a horizontal scale of one inch equals 100 feet unless otherwise permitted by the director of planning. All elevations shall be mean sea level or Richmond city datum.

(2) The proposed water supply and water distribution system, showing existing water mains, pipe sizes, location of valves and fire hydrants, or other system of water supply.

(3) The proposed method of sewage disposal and plans and profiles of proposed sanitary sewers, including existing sewers within the proposed subdivision and immediately adjacent thereto, shown on a standard 22-inch by 36-inch profile sheet and a plan sheet at a vertical scale of one inch equals ten feet and a horizontal scale of one inch equals 100 feet unless otherwise permitted by the director of planning. Grades and sizes shall be indicated.

(4) Plans for storm sewers or other methods of handling stormwater in the format specified in subsection (3) of this section.

(5) Plans for any proposed street lighting system, showing location, type, wattage, height and other pertinent information.

(6) Location, type and height of buffers required by sections 24-106.2 and 24-106.3 and proffered conditional zoning, a tree protection plan in accordance with section 24-106.2, and a landscaping plan for any additional proposed planting.

(7) Location and square footage of the buildable area on each lot.

(8) A water quality impact assessment if required by article II of chapter 10 and section 24-106.3.

(9) Location and dimensions of all easements, including details for the protection and restoration of disturbed areas in accordance with article II of chapter 10 and sections 24-106.2 and 24-106.3.

(10) Delineating of Chesapeake Bay Preservation Areas.

(11) Other information required by article II of chapter 10, chapter 18, chapter 23, and chapter 24.

(Code 1980, § 19-42; Code 1995, § 19-71)

Sec. 19-90. Form and contents.

The final plat shall be on a sheet 16 inches by 24 inches in size with a margin of one-half inch outside ruled border lines at the bottom and right sides, and 1½ inches at the top and left side. The plat shall have a scale of 100 feet to the inch unless otherwise permitted by the director of planning. The final subdivision plat shall clearly show the following:

(1) Identifying information within a space four inches high and six inches wide in the lower righthand corner of the plat. The identifying information shall be the name of the subdivision (and section, if only a portion of an approved preliminary plat is being developed), the county and magisterial district, the date and scale, and the name of the person who prepared the plat. The name of the subdivision shall be in bolder type than the rest of the information.

(2) The name of the record owner of the land being subdivided and the name of the subdivider.

(3) The boundaries of the subdivision showing the length of its courses and distances to 1/100 of a foot and bearings to half minutes, based upon an accurate field survey with an error of closure not exceeding one foot in 10,000 feet. The names and locations of adjoining subdivisions or the names of owners of adjoining parcels shall also be provided.

(4) Four points tied to the Geodetic Control Network with coordinates in the Virginia State Plane Coordinate System. All features shown on the plan must be drawn to scale based upon the four points.

(5) The exact location, alignment, arrangement and width along property lines of all streets, whether opened

or not, that intersect or parallel the boundary of the subdivision.

(6) The exact location and material of all permanent reference monuments, including any monument of the Geodetic Control Network located on the property.

(7) The exact location, alignment or arrangement of streets and alleys in the subdivision; the names of all streets; and the bearing, angles of intersection and width of all streets, including their width along the line of any obliquely intersecting street.

(8) The lengths of arcs and radii and tangent bearings.

(9) The exact location, alignment or arrangement of all easements with a statement of any restrictions or limitations placed on their use.

(10) The exact location, alignment or arrangement of all lot lines with their dimensions expressed in feet and hundredths of a foot and with their bearing or angles to half minutes.

(11) The tangent distances of all corners when rounded at intersections, except in cases where streets intersect at right angles.

(12) The numbering of all lots. All lots shall be numbered with consecutive Arabic numerals in each block, and all blocks shall be lettered in consecutive alphabetical order. In case of a resubdivision of lots in any block, the lots shall be numbered with consecutive Arabic numerals, beginning with the numeral following the highest lot numeral in the block.

(13) The exact boundaries of all property to be dedicated for public use, all property to be reserved for the common use of residents, and all property otherwise reserved, along with the purposes and reasons for the reservations.

(14) The north point with magnetic bearing or, if true meridian is shown, the basis of its determination.

(15) Certification by the engineer or surveyor who prepared the plat that the plat represents and is based on a survey made by him or under his direction and supervision, that all monuments shown thereon are actually in place or will be put in place before a date specified by him, that their location and character are truly shown on the plat, and that all the provisions and requirements of this chapter have been met.

(16) A statement that the platting or dedication of the described land is with the free consent and in accordance with the desire of the subdivider, owner, proprietor, and trustee or mortgagee, or each of them if more than one, in any deed or other instrumentality creating a lien on the land in any part of the subdivision. The statement shall be signed by the subdivider, owner, proprietor, and trustee or mortgagee, and it shall be duly acknowledged before an officer authorized to take acknowledgments to deeds. All opaque prints and transparent copies shall contain such signatures.

(17) A certificate setting forth the source of title of the owner of the land divided and the court in which the last conveyance or source of title is recorded. When the land in the subdivision was acquired by the subdivider from more than one source of title, the land acquired from each source shall be indicated on the plat.

(18) The location of Chesapeake Bay Preservation Areas, including the boundaries of RPAs and RMAs, and a statement as follows: "All or a portion of this subdivision is located in a Chesapeake Bay Preservation Area which is subject to the provisions of section 24-106.3 of the County Code, or its successor."

(19) A notation stating "The 100-foot RPA buffer area consisting of vegetation that is effective in retarding runoff, preventing erosion, and filtering nonpoint source pollution is to be retained and remain undisturbed and protected from all construction or land disturbing activities."

(20) For subdivisions that do not have public sewer, a notation stating "For new construction, any on-site sewage treatment system not requiring a Virginia Pollutant Discharge Elimination System permit shall have a reserve sewage disposal site with a capacity at least equal to the primary sewage disposal site, on the same lot in accordance with requirements of section 23-60 of the Henrico County Code. Owners of all on-site sewage treatment systems not requiring a VPDES permit shall, at least once every five years, either pump out their septic tanks and submit documentation thereof, or submit documentation, certified by an operator or

on-site soil evaluator licensed or certified under chapter 23 of Title 54.1 of the Code of Virginia as being qualified to operate, maintain, or design on-site sewage systems, that the septic system has been inspected within the last five years, is functioning properly, and the tank does not need to have the effluent pumped out of it. All documentation shall be submitted to the county engineer. Building shall be prohibited on the area of all sewage disposal sites."

(21) A notation stating "Permitted activities in the RPA are restricted, and any development or disturbance in the RPA requires prior approval by the county engineer."

(22) Mapped dam break inundation zones.

(Code 1980, § 19-43; Code 1995, § 19-72; Ord. No. 997, § 4, 2-22-2000; Ord. No. 1057, § 1, 11-12-2003; Ord. No. 1138, § 7, 11-10-2009)

Sec. 19-91. Submission of plat for portion of subdivision.

The subdivider may submit a final plat for a portion of a subdivision which has been granted conditional approval by the planning commission.

(Code 1980, § 19-8; Code 1995, § 19-73)

Sec. 19-92. Action by director of planning.

(a) The director of planning shall review all final subdivision plats as required by state law. A final plat shall be deemed submitted when it contains all the information required by this chapter. If state agency review is required, the director of planning shall forward the final plat within ten business days of submission to each state agency which must review it under state law.

(1) *Real property used for residential and noncommercial and nonindustrial uses.* The director of planning shall act on a final plat within 35 days of the receipt of approvals from all state agencies or, if state review is not required, within 60 days of submission. The reasons for disapproval may be given in a separate document or may be written on the plat itself. The reasons for disapproval shall identify deficiencies in the plat by reference to specific duly adopted ordinances, regulations or policies and shall identify the modifications or corrections necessary for approval. The director shall act on a proposed plat he has previously disapproved within 45 days after the plat has been modified, corrected and resubmitted for approval. The applicant may request an extension of these timelines.

(2) *Real property used for commercial or industrial uses.* In addition to the requirements of subsection (a) of this section, the following requirements apply to plats for real property used for commercial or industrial use:

a. In his review of a resubmitted plat that has been previously disapproved, the director of planning shall only consider deficiencies he identified in his previous review that have not been corrected and deficiencies that arise as a result of the corrections made to address previously identified deficiencies unless there are changes, errors or omissions in the applicant's plat filings after the initial submission of the plat.

b. The plat shall be deemed approved if the director of planning fails to approve or disapprove a resubmitted plat within 45 days of resubmission.

c. Notwithstanding the director of planning's approval or deemed approval of a proposed plat, any deficiency that if left uncorrected would violate local, state or federal law, regulations, mandatory department of transportation engineering and safety requirements, or other mandatory engineering and safety requirements, shall not be treated as approved.

d. Should any resubmission include a material revision of infrastructure or physical improvements from the earlier submission or if a material revision in the resubmission creates a new required review by the state department of transportation or other state agency, the director of planning may consider deficiencies appearing in the resubmission because of such material revision or physical improvements.

(b) The provisions of this subsection shall not apply to the review and approval of construction plans.

(Code 1980, § 19-9; Code 1995, § 19-74; Ord. No. 1138, § 8, 11-10-2009)

State law reference—Approval of final plat, Code of Virginia, § 15.2-2259.

Sec. 19-93. Installation of improvements or bonding; release of bond.

(a) Prior to final approval of a plat for recordation, the subdivider shall complete or provide for completion of all required public improvements at the subdivider's expense. To provide for completion, the subdivider shall provide the director of planning a certified check, cash escrow, surety bond, or bank or savings and loan association's letter of credit approved by the county attorney in an amount sufficient to cover the estimated costs of all required improvements. The amount of the certified check, cash escrow, bond or letter of credit shall not exceed the estimated cost of construction based on unit prices for new public or private sector construction in the county plus a reasonable allowance for estimated administrative costs, inflation and potential damage to existing roads or utilities, which shall not exceed ten percent of the estimated construction cost. The subdivider shall obtain the director of planning's approval of its estimate of the time necessary to complete the improvements. If that time is exceeded and is not extended by the director of planning, the director of planning shall arrange for completion of the improvements using the certified check, cash escrow, or letter of credit or by calling on the surety on the bond. If the owner or developer defaults on construction of such improvements, and such improvements are constructed with funding from the certified check, cash escrow, or letter of credit, the county shall retain or collect the allowance for administrative costs to the extent the costs of such construction do not exceed the total of the originally estimated costs of construction and the allowance for administrative costs.

(b) Upon the subdivider's written request, the director of planning shall make periodic partial releases of bonds, escrows, letters of credit or other performance guarantees in a cumulative amount equal to no more than 90 percent of the original amount for which the bond, escrow, letter of credit or other performance guarantee was taken, based upon the percentage of facilities completed and approved by the county department or state agency having jurisdiction. Periodic partial releases may not occur before the completion of at least 30 percent of the facilities covered by any bond, escrow, letter of credit or other performance guarantee. The director of planning shall not be required to execute more than three periodic partial releases in any 12-month period.

(c) Within 30 days of receipt of written notice by the subdivider of completion of part or all of the facilities required to be constructed, the director of planning shall notify the subdivider of any specified defects or deficiencies in construction and suggested corrective measures. Written notice under this subsection shall consist of a letter from the subdivider to the director of planning requesting reduction or release of the performance guarantee along with a set of as-built plans and a certificate of completion by a duly licensed engineer. If no action is taken by the director of planning within the 30-day period, the request shall be deemed approved and a partial release granted to the subdivider. No final release shall be granted until after such 30-day period has expired and there is an additional request in writing sent by certified mail, return receipt requested, to the county manager. The director of planning shall have ten working days after receipt of the second request for final release to act, and, if no action is taken, the request shall be deemed approved and final release granted to the subdivider.

(d) Upon final completion and acceptance of the required improvements, the director of planning shall release any remaining bond, escrow, letter of credit or other performance guarantee to the subdivider. For the purpose of release, the term "acceptance" means when the improvements are accepted for maintenance by the state agency, local government department or other public authority responsible for maintaining and operating the improvements upon acceptance.

(Code 1980, § 19-38; Code 1995, § 19-75; Ord. No. 1138, §§ 9, 17, 11-10-2009)

Editor's note—

The amendment to subsection (a) of this section made by Ord. No. 1138 shall expire on July 1, 2014; provided, however, any certified check, cash escrow, bond or letter of credit offered or renewed after July 1, 2009, and prior to July 1, 2014, and meeting the requirements of section 19-75 of this chapter shall be deemed to continue to meet the requirements after July 1, 2014.

Prior to amendment by Ord. No. 1135, section 19-75(a) read as follows:

(a) Prior to final approval of a plat for recordation, the subdivider shall complete or provide for completion of all required public improvements at the subdivider's expense. To provide for completion, the subdivider shall provide the director of planning a certified check, cash escrow, surety bond, or bank or savings and loan association's letter of credit approved by the county attorney in an amount sufficient to cover the estimated costs of all required improvements. The amount of the certified check, cash escrow, bond or letter of credit shall not exceed the estimated cost of construction based on unit prices for new public or private sector construction in the county plus a reasonable allowance for estimated administrative costs, inflation and potential damage to existing roads or utilities. The subdivider shall obtain the director of planning's approval of its estimate of the time necessary to complete the improvements. If that time is exceeded and is not extended by the director of planning, the director of planning shall arrange for completion of the improvements using the certified check, cash escrow, or letter of credit or by calling on the surety on the bond.

State law reference—Mandatory that subdivision ordinance provide for release of bond, escrow, etc., Code of Virginia, § 15.2-2241(A)11; release of bonds, etc., Code of Virginia, § 15.2-2245.

Sec. 19-94. Certification of completion of improvements.

Upon the completion of all improvements, the subdivider shall furnish a statement by a certified surveyor or engineer that all construction is in substantial conformity to the regulations and requirements of this chapter and the plans approved by the director of planning. The director of planning may release the subdivider from the obligation to complete all of the improvements in the subdivision if the undeveloped portion of the subdivision has been vacated as provided by law and the subdivider furnishes a statement by a certified surveyor or engineer that all construction which has been completed conforms to the regulations and requirements of this chapter and the plans approved by the director of planning.

(Code 1980, § 19-39; Code 1995, § 19-76)

Sec. 19-95. Recording.

(a) The subdivider shall submit two opaque prints and one transparent copy of the final subdivision plat using the recording medium and inscription standards specified by the director of planning.

(b) After the director of planning has given final approval and signed the final plat, the subdivider shall file the plat for recordation in the clerk's office of the circuit court within 12 months of final approval, or such approval shall become null and void and the plat marked void and returned to the director of planning unless the director of planning has granted an extension. However, in any case where construction of improvements to be dedicated for public use has commenced pursuant to an approved plan or permit with surety approved by the county, or where the subdivider has furnished surety to the county by certified check, cash escrow, bond or letter of credit in the amount of the estimated cost of construction of such facilities, the time for plat recordation shall be extended to the time limit specified in the surety agreement approved by the county if greater than 12 months after final approval.

(c) If a subdivider records a final plat for a section of the subdivision shown on an approved preliminary plat and has furnished a certified check, cash escrow, bond or letter of credit in the amount of the estimated cost of construction of improvements dedicated in the final plat for public use and to be maintained by the county, the state or other public agency, the subdivider shall have the right to record the remaining sections

shown on the preliminary plat for a period of five years from the recordation date of any section, subject to the terms and conditions of the Code of Virginia and subject to engineering and construction standards and zoning requirements in effect at the time that each remaining section is recorded.

(d) Once an approved final subdivision plat for all or a portion of the property is recorded, an underlying preliminary plat shall remain valid for a period of five years from the date of the latest recorded plat of subdivision for the property. The five-year period of validity shall extend from the date of the last recorded plat.

(Code 1980, §§ 19-10, 19-40, 19-44; Code 1995, § 19-77; Ord. No. 1138, § 10, 11-10-2009)

State law reference—Mandatory that subdivision ordinance contain provisions similar to subsection (b) above, Code of Virginia, § 15.2-2241(A)8; how long preliminary plat valid, Code of Virginia, § 15.2-2260; term of validity of final plat, Code of Virginia, § 15.2-2261; effect of recording of plats as to streets, easements, etc., Code of Virginia, § 15.2-2265.

Sec. 19-96. Responsibilities of clerk of court.

No final plat of a subdivision shall be recorded unless it has been approved by the director of planning. No clerk or deputy clerk of the circuit court of the county shall file or record a plat of subdivision unless the plat has been submitted within 12 months of final approval.

(Code 1980, § 19-45; Code 1995, § 19-78)

State law reference—Authority to fix length of time unrecorded plat is valid, Code of Virginia, § 15.2-2241(A)8; requirements for recording, Code of Virginia, § 15.2-2254(5).

DIVISION 4. FAMILY SUBDIVISIONS

Sec. 19-97. Required.

Whenever an owner desires to create a family subdivision that does not require a new public street or extension of an existing public street, a new water distribution line, or a new sanitary sewer main, the owner may submit a family subdivision plat in lieu of a preliminary plat when required by section 19-60 and the final plat required by section 19-89. The family subdivision plat shall meet all requirements of this chapter in effect at the time the plat is submitted.

Sec. 19-98. Family subdivision plat.

The family subdivision plat shall be prepared by a registered professional engineer or registered land surveyor authorized to do business in the state. The owner shall submit the number of copies required by the director of planning and an application for approval. The plat shall have a horizontal scale of 100 feet to the inch or other scale approved by the director of planning. The plat shall clearly show the following, as applicable:

(a) The location and boundary lines of the land to be divided.
(b) The name and address of the record owner of the land to be divided and the name and address of the person who prepared the plat.
(c) The location and names of adjoining subdivisions or of the owners of adjoining parcels of land.
(d) The location, width, and names of any proposed private drive; and the location, width, and names of all existing or platted streets within 300 feet of the property.
(e) The location, width, and purpose of other rights-of-way and easements.

(f) The location of physical features, such as buildings, streams, drainage ditches, floodplains, mapped dam break inundation zones, wetlands, and Chesapeake Bay Preservation Areas.
(g) The layout and dimensions of proposed lots.
(h) Scale of the plat, north arrow (true meridian where practicable), date of the plat, and tax parcel number.
(i) The proposed building setback lines and buildable area plans.
(j) Four points with coordinates in the Virginia State Plane Coordinate System. All features shown on the plan must be drawn to scale based upon the four points.
(k) Any monument of the Geodetic Control Network located on the property.
(l) Profiles along the center of any proposed private drive, indicating the type of construction and depth of materials.
(m) The proposed method of water supply.
(n) The proposed method of sewage disposal.
(o) For lots that are not served by public sewer, a notation stating "For new construction, any on-site sewage treatment system not requiring a Virginia Pollutant Discharge Elimination System permit shall have a reserve sewage disposal site with a capacity at least equal to the primary sewage disposal site on the same lot in accordance with requirements of section 23-60 of the Henrico County Code. Owners of all on-site sewage treatment systems not requiring a VPDES permit shall, at least once every five years, either pump out their septic tanks and submit documentation thereof, or submit documentation, certified by an operator or on-site soil evaluator licensed or certified under chapter 23 of Title 54.1 of the Code of Virginia as being qualified to operate, maintain, or design on-site sewage systems, that the septic system has been inspected within the last five years, is functioning properly, and the tank does not need to have the effluent pumped out of it. All documentation shall be submitted to the county engineer. Building shall be prohibited on the area of all sewage disposal sites."
(p) Certification by the engineer or surveyor who prepared the plat that the plat represents and is based on a survey made by him or under his direction and supervision, that all monuments shown thereon are actually in place or will be put in place before a date specified by him, that their location and character are truly shown on the plat, and that all provisions and requirements of this chapter have been met.
(q) A statement that the platting of the described land is with the free consent and in accordance with the desire of the owner, signed by the owner, and duly acknowledged before an officer authorized to take acknowledgments to deeds. All opaque prints and transparent copies shall contain such signatures.
(r) A certificate setting forth the source of title of the owner of the land divided and the court in which the last conveyance or source of title is recorded, with deed book references. If the land was acquired from more than one source of title, the land acquired from each source shall be indicated on the plat.
(s) The location of Chesapeake Bay Preservation Areas, including the boundaries of RPAs and RMAs, and a statement as follows: "All or a portion of this family subdivision is located in a Chesapeake Bay Preservation Area, which is subject to the provisions of section 24-106.3 of the Henrico County Code, or its successor."
(t) A notation stating, "The 100-foot RPA buffer area consisting of vegetation that is effective in retarding runoff, preventing erosion, and filtering nonpoint source pollution is to be retained and remain undisturbed and protected from all construction or land disturbing activities."
(u) A notation stating, "Permitted activities in the RPA are restricted, and any development or disturbance in the RPA requires prior approval by the county engineer."
(v) A notation stating, "The division shown hereon is not for the purpose of circumventing the subdivision ordinance. There shall be no transfer of the property except to a member of the immediate family for a period of five years."
(w) A notation stating, "The private drive shown on this family subdivision plat does not meet the standards for acceptance and maintenance as a public road by Henrico County. All lots served by the private drive shown hereon are subject to a maintenance agreement."

Sec. 19-99. Review of plat; action by planning commission.

(a) *Requirements upon receipt.* The director of planning or designee shall review the plat for compliance with the requirements of chapter 24 and determine whether every lot to be used for dwelling purposes abuts a public street right-of-way for at least 50 feet.

(1) If every lot to be used for dwelling purposes abuts a public street right-of-way for at least 50 feet, or is exempt from that requirement pursuant to section 24-9(a)–(d), the director of planning shall note that the division is exempt from planning commission review. One copy of the plat shall be retained in the planning department files, and the remaining copies shall be returned to the applicant.

(2) If the plat shows any lot to be used for dwelling purposes that does not abut a public street right-of-way for at least 50 feet, and if that lot is not exempt from that requirement pursuant to section 24-9(a)–(d), the plat shall require approval by the planning commission.

(b) For plats requiring approval by the planning commission pursuant to section 19-99(a)(2), the director of planning shall forward the plat to all state and local agencies that must approve a feature of the plat and shall consult with the owner on necessary changes.

(c) *Time for review.* For plats requiring approval by the planning commission pursuant to section 19-99(a)(2), upon receipt of approvals from all reviewing agencies, the planning commission shall hold a public hearing and act on the family subdivision plat within 45 days. If state agency review is not required, the planning commission shall hold a public hearing and act within 60 days of submission. The planning commission shall not be required to approve a family subdivision plat in less than 60 days from submission, and all actions on the family subdivision plat shall be completed within 90 days of submission. For purposes of this subsection, a family subdivision plat shall not be deemed submitted until it contains all the information required by this chapter.

(d) *Approval or disapproval.* For plats requiring approval by the planning commission pursuant to section 19-99(a)(2), the commission's approval shall be noted on two copies of the plat. One copy shall be returned to the owner and the other shall be retained by the director of planning. If the planning commission cannot approve the family subdivision plat, it shall give written reasons for denial and shall state what modifications would permit approval.

Sec. 19-100. Standards for review.

All family subdivisions requiring approval by the planning commission under section 19-99(a)(2) shall be subject to the following requirements:

(a) A family subdivision shall comply with all requirements of chapter 24 except the public street frontage requirement.

(b) Only one such division shall be allowed per family member, and such division shall not be for the purpose of circumventing the subdivision ordinance.

(c) The property owner shall place a restrictive covenant on the subdivided property that prohibits the transfer of the property except to a member of the immediate family for a period of five years.

(d) Each lot shall be served by a public street or a private drive. The public street or private drive shall connect to an existing public street. Any private drive shall serve no more than three lots. Any private drive shall be located within a recorded easement or private right-of-way not less than 30 feet wide, unobstructed from the ground up. In addition, the plat shall designate utility easements as required by the department of public utilities.

(e) All required private drives shall comply with the standards of Section 2 of the Department of Public Works Design Manual for sight distance, horizontal curves, vertical curves, and points of access. On the advice of the county engineer, the commission may decrease or waive these standards to allow an alternative design that provides equal or greater traffic safety.

(f) All trees, roots, vegetation, loam, humus, and other organic material shall be stripped to below the base course for the full width of the roadway and replaced with suitable fill material which shall be compacted in

lifts not exceeding 12 inches in depth to a minimum CBR value of 10. Adequate drainage shall be provided to convey all surface runoff and groundwater away from the roadway.

(g) The driving surface shall be at least 18 feet wide, constructed of two inches of asphalt over six inches of compacted #21-A stone, or equivalent as approved by the county engineer.

(h) All new dwellings shall be within 1,000 feet of a public street, as measured by the path of a vehicle traveling from the dwelling to the public street. The assigned address of every dwelling shall be clearly posted at the intersection of the private drive and the public street and at the end of every driveway where it intersects the private drive.

(i) The property owner shall record a joint access and maintenance agreement approved as to form by the county attorney and signed by the owners of all lots to be served by the private drive. At a minimum, the agreement shall provide for access by all lots to be served by the private drive and for the allocation of the cost of necessary maintenance among the owners of such lots. The agreement shall be binding on the successors in interest of all signatories. The planning commission may accept an agreement that lacks the signature of one or more lot owners if it finds the applicant has made a good-faith but unsuccessful effort to obtain such signature.

Sec. 19-101. Recording.

(a) Prior to final approval of a family subdivision plat for recordation, the subdivider shall complete construction of the private drive, if any, at the subdivider's expense. The subdivider shall provide the director of planning and the director of public works certification by a licensed engineer that the private drive was constructed according to the approved plat and in compliance with the design standards of section 19-100, including proper compaction of the sub-base soils, utility trenches, base stone, and asphalt.

(b) The applicant shall submit two opaque prints and one transparent copy of the family subdivision plat using the recording medium and inscription standards specified by the director of planning.

(c) After the director of planning has signed the family subdivision plat, the applicant shall file the plat for recordation in the clerk's office of the circuit court within 12 months of final approval unless the director of planning has granted an extension.

Secs. 19-101—19-120. Reserved.

ARTICLE III. DESIGN STANDARDS

***Cross reference—** Obstruction of vision at intersection prohibited, § 18-7.

Sec. 19-121. Streets—Generally.

The design, location, alignment, grade, width and drainage of all streets, curves and intersections in a subdivision shall:

(1) Comply with the county department of public works' design standards and specifications on file in the office of the county engineer;

(2) Substantially correspond to existing and planned streets shown on the current major thoroughfare plan on file in the planning office; and

(3) Coordinate with existing or planned streets in existing or planned subdivisions adjacent to the subdivision. The minimum street width shall be 50 feet, unless otherwise approved by the county engineer under the department of public works' cross section pavement design standards.

(Code 1980, § 19-11; Code 1995, § 19-101)

State law reference—Mandatory that subdivision ordinance provide for adequate provisions for drainage and flood control, Code of Virginia, § 15.2-2241(A)3.

Sec. 19-122. Same—Minor.

The location, alignment and arrangement of minor streets in a subdivision shall discourage through traffic in the subdivision.

(Code 1980, § 19-12; Code 1995, § 19-102)

Sec. 19-123. Access to land adjacent to railroad, expressway or toll road.

Whenever a subdivision abuts or contains a right-of-way for a railroad, expressway or toll road, the planning commission shall require a cul-de-sac street to be located parallel or nearly parallel to and on either side or both sides of such right-of-way for a distance that will permit practical use of the land between the right-of-way and the required street. The planning commission shall determine the necessary distance based on the need for access to the railroad, expressway or toll road or for the separation of grades necessary in the operation of the railroad, expressway or toll road.

(Code 1980, § 19-14; Code 1995, § 19-103)

Sec. 19-124. Reserved strips.

Except as provided in section 19-135, land in a subdivision shall not be reserved, held or controlled for the purpose of prohibiting access to streets and roads unless owned, held or controlled exclusively by the county.

(Code 1980, § 19-15; Code 1995, § 19-104)

Sec. 19-125. Street jogs.

Street jogs with centerline offsets of less than 150 feet are prohibited in a subdivision unless the planning commission specifically approves a lesser distance.

(Code 1980, § 19-16; Code 1995, § 19-105)

Sec. 19-126. Drainage structures and water and sewer improvements.

The location and design of drainage structures and water and sewer improvements in a subdivision shall comply with county design standards and specifications, and development disturbing a land area of 2,500 square feet or more shall comply with requirements for erosion and sediment control in accordance with article II of chapter 10.

(Code 1980, § 19-17; Code 1995, § 19-106)

State law reference—Mandatory that subdivision ordinance provide for adequate provisions for drainage and flood control, Code of Virginia, § 15.2-2241(A)3.

Sec. 19-127. Alleys in business and commercial districts.

The plat of a subdivision shall provide alleys in business and commercial districts unless the planning commission ensures there is adequate service access, such as off-street loading, unloading and parking.

(Code 1980, § 19-18; Code 1995, § 19-107)

Sec. 19-128. Alleys and alley easements in residential districts.

The plat of a subdivision may provide alleys at the rear or side of any lot in residential districts, and it shall dedicate easements at the rear or side of every lot to the county for future alleys.

(Code 1980, § 19-19; Code 1995, § 19-108)

Sec. 19-129. Easements for public utilities and drainage.

The plat of a subdivision shall provide easements in sufficient size, not less than 16 feet in width, for the installation of surface and underground utilities and surface drainage whenever necessary to provide for utilities and drainage in the subdivision or areas beyond its boundaries.

(Code 1980, § 19-20; Code 1995, § 19-109)

Sec. 19-130. Easements along natural watercourses.

Wherever a subdivision is traversed by a natural watercourse carrying water or by a manmade device which is installed to aid natural drainage and does not substantially change the course of water flow, the plat shall provide an easement which includes the boundaries of such watercourse or device and such further width as may be necessary for drainage and utilities.

(Code 1980, § 19-21; Code 1995, § 19-110)

Sec. 19-131. Development of areas subject to flooding.

No lot or portion of a lot in a subdivision subject to flooding shall be divided or subdivided for development except in accordance with section 24-106.1. Any area subject to flooding may be further regulated by sections 24 95(t), 24-95(u), 24-106.1, 24-106.3, and 24-106.4.

(Code 1980, § 19-22; Code 1995, § 19-111; Ord. No. 1138, § 11, 11-10-2009)

Sec. 19-132. Area of blocks.

A block of land containing lots shall not exceed 1,320 feet in length between intersecting streets and shall not be less than 400 feet in length between intersecting streets along a street on which lots front, except where the planning commission specifically permits a different length because of topography or other conditions.

(Code 1980, § 19-23; Code 1995, § 19-112)

Sec. 19-133. Lot arrangement.

The design, arrangement and layout of lots and lot dimensions shall meet all requirements of this chapter and chapter 24. In order to ensure orderly lot arrangement and dwelling orientation, the applicant shall provide the following information for double frontage lots and stem lots:

(1) Buildable area plans and proposed or existing dwelling placement and orientation on adjacent lots or properties.
(2) For lots not served by public utilities, the proposed location of wells, septic tank and drainfields and

reserved drainfield area.

(3) Preliminary landscaping plan required for buffer, screening or planting strip easement.

(Code 1980, § 19-24; Code 1995, § 19-113; Ord. No. 989, § 3, 8-10-1999)

Sec. 19-134. Lot frontage.

All lots shall front on a public street that connects to an existing public street, except that a lot created by a family subdivision may front on a private drive as provided in sections 19-97 through 19-101.

(Code 1980, § 19-25; Code 1995, § 19-114)

Sec. 19-135. Double-frontage lots; lots abutting expressway, toll road or major street.

No lot in a residential district shall front more than one street, except where necessary to separate a lot from an expressway, toll road or major street or to make practical use of the land. In residential districts, an easement at least ten feet in width, across which there shall be no right of access to or from lots, shall be provided along the side or rear of lots which abut an expressway, toll road or major street. Such easement shall be used for the cultivation of trees, shrubs or other vegetation to lessen the impact of traffic on the subdivision.

(Code 1980, § 19-26; Code 1995, § 19-115)

Sec. 19-136. Business and commercial lots.

The design, dimensions and layout of lots and parcels for business and commercial use shall be adequate for off-street parking and service facilities required for the contemplated use.

(Code 1980, § 19-27; Code 1995, § 19-116)

Sec. 19-137. Public sites and open spaces.

Whenever land in a proposed subdivision of more than 50 lots is necessary to meet public needs, the planning commission may request dedication or require the reservation, with right of prior sale to the county, of such areas or sites within the proposed subdivision. If the planning commission requires a reservation with right of prior sale to the county, the county shall enter into an agreement in form and substance satisfactory to the county attorney for the acquisition of the reserved area on or before approval of the final plat.

(Code 1980, § 19-28; Code 1995, § 19-117)

Sec. 19-138. Development in special flood hazard area.

If the property is in a special flood hazard area as defined in section 24-3, the proposed development must provide adequate drainage and locate and construct all public utilities and facilities to minimize or eliminate flood damage.

(Code 1995, § 19-118; Ord. No. 1116, § 4, 11-27-2007)

State law reference—Mandatory that subdivision ordinance provide for adequate provisions for drainage and flood control, Code of Virginia, § 15.2-2241(A)3.

Secs. 19-139—19-159. Reserved.

ARTICLE IV. REQUIRED IMPROVEMENTS

Sec. 19-160. Monuments.

Monuments shall be installed in all subdivisions at all block corners, angle points, radial points of curves in streets, and at intermediate points along streets or boundary lines where monuments cannot readily be seen one from the other. The exact location of such monuments shall be approved by the county engineer. The monuments shall be installed to approved grades where practicable and shall be either concrete blocks at least 20 inches long and six inches square with an iron corner, or granite stone with sharp, well-defined corners of the same dimensions. The replacement of any monuments removed or destroyed during the development of the subdivision shall be the responsibility of the subdivider.

(Code 1980, § 19-29; Code 1995, § 19-141)

State law reference—Mandatory that subdivision ordinance provide for monuments, Code of Virginia, § 15.2-2241(A)7.

Sec. 19-161. Streets.

Streets shall be constructed in accordance with county design standards and specifications for the construction of streets, drainage, and water and sewer systems.

(Code 1980, § 19-30; Code 1995, § 19-142)

State law reference—Mandatory that subdivision ordinance for the extent to which and the manner in which streets shall be graded, graveled or otherwise improved, Code of Virginia, § 15.2-2241(A)4.

Sec. 19-162. Curbs, gutters and sidewalks.

(a) Curbs, gutters and sidewalks may be installed by the subdivider. If voluntarily installed, they shall be on both sides of each street in the subdivision in accordance with county design standards and specifications. Curbs and gutters must be installed on both sides of each street in the subdivision if:

(1) Any block of any street is constructed with a grade of five-tenths percent or less within the block;

(2) Twenty-five percent of the streets within a subdivision have a grade of one percent or less; or

(3) Twenty-five percent of the lots in the subdivision have a street frontage of less than 80 feet.

(b) Curbs required under this section shall be constructed to satisfy the requirements of Code of Virginia, § 15.2-2021, as amended.

(Code 1980, § 19-31; Code 1995, § 19-143)

Sec. 19-163. Stormwater drainage system.

The subdivider shall provide a stormwater drainage system approved by the county engineer to serve the area of the subdivision and the contributing drainage area in accordance with county design standards and specifications.

(Code 1980, § 19-32; Code 1995, § 19-144)

Cross reference—Erosion and sediment control, § 10-27 et seq.

State law reference—Mandatory that subdivision ordinance provide for adequate provisions for drainage and flood control, Code of Virginia, § 15.2-2241(A)3; mandatory that subdivision ordinance provide for the extent to which and the manner in which water and storm and sanitary sewer and other public utilities or

other community facilities are to be installed, Code of Virginia, § 15.2-2241(A)4.

Sec. 19-164. Water supply.

For subdivisions with public water, the subdivider shall provide a complete water distribution system, including fire hydrants, approved by the director of public utilities, in accordance with county design standards and specifications. The subdivider shall provide every subdivision containing three or more lots to which the county will not supply water a complete central water supply and distribution system serving each lot containing less than 8,000 square feet per lot.

(Code 1980, § 19-33; Code 1995, § 19-145)

Cross reference—Water system, § 23-196 et seq.

State law reference—Mandatory that subdivision ordinance provide for the extent to which and the manner in which water and storm and sanitary sewer and other public utilities or other community facilities are to be installed, Code of Virginia, § 15.2-2241(A)4.

Sec. 19-165. Sanitary sewers.

The subdivider shall provide every subdivision with a means of sewage disposal approved by the director of public utilities or director of health in accordance with county design standards and specifications as follows:

(1) Where the planning commission, or the director of planning when the planning commission does not review the subdivision plat, determines a county or sanitary sewer main is reasonably accessible, the subdivision shall provide a complete sanitary sewer system connected with such sewer main, including a lateral connection for each lot; or

(2) Where the planning commission, or the director of planning when the planning commission does not review the subdivision plat, determines a county or sanitary sewer main is not reasonably accessible, the subdivider shall provide for the disposal of sanitary waste by one of the following methods:

a. In a subdivision in which the average prevailing size of lots is less than 18,000 square feet, a complete sanitary sewer system, including a lateral connection for each lot, and a community sewage treatment plant in accordance with the provisions of chapter 18, article II, division 2, and the regulations of the department of health; or

b. In a subdivision in which the size of lots equal or exceeds 18,000 square feet, an individual sewage disposal system meeting the requirements of chapter 23, article II, division 2, for each lot in the subdivision.

(Code 1980, § 19-34; Code 1995, § 19-146)

Cross reference—Sanitary sewage disposal, § 23-29 et seq.

State law reference—Mandatory that subdivision ordinance provide for the extent to which and the manner in which water and storm and sanitary sewer and other public utilities or other community facilities are to be installed, Code of Virginia, § 15.2-2241(A)4.

Sec. 19-166. Utility easements.

(a) All utilities, poles or underground conduits for electric power lines, telephone lines and similar services shall be placed in alleys or easements provided along the rear or side lines, whenever this is possible, in accordance with county design standards and specifications.

(b) Where possible, the subdivider shall provide common or shared easements. All development activity within easements shall be coordinated with public service corporations and the departments of public works and utilities to minimize land disturbing activities. Subdivision construction plans shall include the protection and restoration of disturbed areas in accordance with applicable provisions of article II of chapter 10 and sections 24-106.2 and 24-106.3.

(Code 1980, § 19-35; Code 1995, § 19-147)

Cross reference—Streets, sidewalks and other public property, ch. 18.

State law reference—Mandatory that subdivision ordinance provide for utility easements, Code of Virginia, § 15.2-2241(A)6.

Sec. 19-167. Street name signs.

The subdivider shall erect street name signs at each highway, thoroughfare or street intersection in a subdivision at locations approved by the director of planning in accordance with county design standards and specifications.

(Code 1980, § 19-36; Code 1995, § 19-148)

Cross reference—Streets, sidewalks and other public property, ch. 18.

Sec. 19-168. Planting of trees.

Trees may be planted in areas of the subdivision dedicated for public purposes in accordance with section 24-106.2 and county design standards and specifications.

(Code 1980, § 19-37; Code 1995, § 19-149)

Sec. 19-169. Terminus of stub roads and other streets.

The director of planning may require the subdivider to provide appropriate signage at the terminus of stub roads and other streets within the subdivision.

(Code 1995, § 19-150; Ord. No. 997, § 5, 2-22-2000)

Secs. 19-170—19-191. Reserved.

ARTICLE V. ACCEPTANCE OF STREETS INTO COUNTY SYSTEM

Sec. 19-192. Street dedication.

Streets may be dedicated for public use by recordation of a subdivision plat. Dedication gives the county fee simple title to the dedicated streets but does not require the county to construct or maintain them. Dedicated streets may be constructed and maintained by private parties, and the county shall have no responsibility for them until it has accepted the streets into the county road system.

(Code 1980, § 18-13; Code 1995, § 18-31)

State law reference—Dedication regarding subdivision plats, Code of Virginia, § 15.2-2265.

Sec. 19-193. Method of acceptance; effect of acceptance.

Streets are accepted into the county road system by resolution of the board of supervisors after inspection by the county engineer. Upon acceptance, streets are maintained by the county with public funds.

(Code 1980, § 18-14; Code 1995, § 18-32)

Sec. 19-194. Construction requirements for acceptance.

To be accepted into the county road system, a street must be constructed in accordance with the following requirements:

(1) *Width of right-of-way.* New rights-of-way must be a minimum of 50 feet wide unless otherwise approved by the board of supervisors.

(2) *Grades.* Grades must be approved by the county engineer and be in strict conformity with the standard cross section available from the engineer's office.

(3) *Installation of public utilities.* All planned public utilities must be installed in accordance with county standards and specifications.

(4) *Installation of curb and gutter.* Curb and gutter must be installed as prescribed in section 19-162.

(5) *Street drainage system.* A stormwater drainage system of culvert pipe, structures and ditches adequate to serve the contributing drainage area must be constructed in accordance with county standards and specifications and approved by the county engineer.

(6) *Surfacing streets generally.* All streets must be hard-surfaced with an asphalt concrete material in accordance with county standards and specifications.

(7) *Notification of county engineer for inspection.* The county engineer must be notified for inspection when grading work is completed prior to any surfacing with gravel or bituminous material.

(8) *Installation of utility pipelines.* Pipelines for utilities must be installed in accordance with county standards and specifications. During the installation process, no more than 600 feet of ditch may be open at any one time, no more than one intersection may be blocked, no concrete (Portland cement or bituminous) pavements may be cut without the county engineer's written approval except in cases of emergency, and no more than 20 feet of ditch may remain open overnight, when required to expose pipe to be extended the next working day.

(Code 1980, § 18-15; Code 1995, § 18-33)

Sec. 19-195. Extension of width of asphalt surface material by county.

Where an individual homeowner has constructed curbs and gutters to meet county standards and specifications and grades established by the county engineer, the county shall extend the existing graveled or asphalt surface treatment to the gutters at no cost to the homeowner.

(Code 1980, § 18-18; Code 1995, § 18-35)

Sec. 19-196. Installation of street name signs by county.

The county engineer shall price and order standard county street name signs upon request. The county will supply the post, the ornamental street bracket and the labor necessary to erect the signs at cost when the signs are received.

(Code 1980, § 18-19; Code 1995, § 18-36)

Sec. 19-197. Installation of culverts by county.

The county will install culvert pipe for private walkways or driveways without charge for labor when the applicant supplies pipe of approved material and size, not less than 16 feet in length.

(Code 1980, § 18-20; Code 1995, § 18-37)

Chapter 20 - TAXATION

***Cross reference—**Dog license tax, § 5-49; vehicle licenses, § 22-216 et seq.

***State law reference—**Local taxes, Code of Virginia, § 58.1-3000 et seq.

ARTICLE I. IN GENERAL

Sec. 20-1. Applicability of state law.

The provisions of Code of Virginia, title 15.2 (Code of Virginia, § 15.2-100 et seq.), and Code of Virginia, title 58.1 (Code of Virginia, § 58.1-1 et seq.), applicable to local levies and real estate assessment and taxation shall be applicable to assessments and taxation under this chapter mutatis mutandis, including, without limitation, provisions relating to tax liens, the board of real estate review and equalization and the correction of erroneous assessments.

(Code 1980, § 20-15; Code 1995, § 20-1; Ord. No. 990, § 1, 9-14-1999)

Sec. 20-2. Filing of returns and payment of taxes by mail or on Saturday, Sunday or legal holiday.

When the filing of a tax return or the payment of a tax is required by law to be made to the director of finance on or before a given date to avoid penalty or interest, the receipt by the director of finance of the tax return or payment in a sealed envelope bearing a postmark on or before midnight of the day such return is required to be filed or such payment is required to be made without penalty or interest shall constitute filing or payment to the same extent that would have been accomplished had such filing or payment been delivered in person to the director of finance before the close of business of the last day on which such filing or payment otherwise could have been made without penalty or interest, even though such return or payment is not delivered to the director of finance until some time after the last day on which such return or payment otherwise could have been made without penalty or interest. When remittance of a tax payment is made by electronic funds transfer, receipt of funds available for withdrawal, in a bank account designated to receive such payments by the person to whom such payment is required to be made, on or before midnight of the day such payment is required to be made without penalty or interest, shall constitute payment as if such payment had been made before the close of business on the last day on which such tax may be paid without penalty or interest. When the last day on which a tax return may be filed or a tax may be paid without penalty or interest falls on a Saturday, Sunday, legal holiday or day on which the county offices are closed, then such return may be filed or such payment may be made without penalty or interest on the next succeeding business day.

(Code 1980, § 20-1; Code 1995, § 20-2)

State law reference—Similar provisions Code of Virginia, §§ 58.1-8, 58.1-9.

Sec. 20-3. Crediting of payments to delinquent accounts.

The director of finance shall not be required to credit payments received for any local levies to the most delinquent local account of the taxpayer making such payment.

(Code 1980, § 20-1.1; Code 1995, § 20-3)

State law reference—Authority to so provide, Code of Virginia, § 58.1-3913.

Sec. 20-4. Administrative fees for collecting delinquent taxes.

(a) If a person fails to timely pay taxes due the county, such person shall be subject to and liable for administrative costs of $20.00 for taxes or other charges collected subsequent to 30 or more days after notice of delinquent taxes or charges pursuant to Code of Virginia, § 58.1-3919 but prior to the taking of any judgment with respect to such delinquent taxes or charges, and such person shall be subject to and liable for administrative costs of $25.00 for taxes or other charges collected by the county subsequent to judgment. The administrative costs imposed by this section shall be in addition to all applicable penalties and interest. Such person shall also be liable for reasonable attorney's or collection agency's fees equal to 20 percent of the taxes or other charges so collected.

(b) If the collection activity is to collect on a nuisance abatement lien, the fee for administrative costs shall be $150.00 or 25 percent of the costs, whichever is less; however, in no event shall the fee be less than $25.00.

(c) 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 Code of Virginia, § 58.1-3980, so long as the appeal is filed within 90 days of the date of the assessment, and for 30 days after the date of the final determination of the appeal, provided that nothing in this subsection 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.

(Code 1980, § 2-17; Code 1995, § 20-4; Ord. No. 985, § 1, 7-13-1999)

State law reference—Administrative fee for collecting delinquent taxes and charges, Code of Virginia, § 58.1-3958.

Sec. 20-5. Triennial application for exemption.

(a) Any entity which owns real or personal property exempt pursuant to Code of Virginia, title 58.1, ch. 36 (Code of Virginia, § 58.1-3601 et seq.) shall, after receiving 60 days' written notice, file triennially an application with the director of finance as a requirement for retention of the exempt status of the property. The application shall show the ownership and usage of the property and shall be filed within the next 60 days preceding the tax year for which retention is sought on a form furnished by the director of finance.

(b) This requirement shall not apply to the United States or to the state or any of its political subdivisions.

(Code 1995, § 20-5; Ord. No. 899, § 1, 6-28-1995)

State law reference—Authority to so provide, Code of Virginia, § 58.1-3605.

Sec. 20-6. Correction of erroneous assessments.

(a) Any person assessed by the director of finance with any local levies, penalty or interest on tangible personal property, machinery and tools, local license, consumer utilities, transient occupancy or short-term rental property aggrieved by any such assessment, may, within three years from the last day of the tax year for which such assessment is made, or within one year from the date of the assessment, whichever is later, apply to the director of finance for a correction thereof.

(b) The director of finance, after diligent investigation and upon being satisfied that he has erroneously

assessed a taxpayer with any local levies, penalty or interest on tangible personal property, machinery and tools, local license, consumer utilities, transient occupancy or short term rental property, shall correct such assessment.

(1) If the assessment exceeds the proper amount and if the levies, penalty or interest have not been paid, the director of finance shall exonerate the taxpayer from payment of so much thereof as is erroneous.

(2) If the assessment exceeds the proper amount and the levies, penalty or interest have been paid, the director of finance shall refund to the taxpayer the amount erroneously paid with interest as provided in section 20-7.

(3) If the assessment is less than the proper amount, the director of finance shall assess such applicant with the proper amount.

(c) If any assessment is erroneous because of a mere clerical error or calculation, the assessment may be corrected as provided in this section and with or without petition from the taxpayer.

(d) This section also shall apply to erroneous assessment of real estate, provided that the error sought to be corrected was not a judgmental error involving valuation, and further provided that the error sought to be corrected made by the director of finance. When an unpaid erroneous assessment of real estate is corrected under this section and such real estate has been sold at a delinquent land sale, the director of finance shall certify a copy of such correction to the clerk of the circuit court; and the clerk shall note the correction in the delinquent land book opposite the entry of the tract or lot for the year for which the correction is made.

(e) Notwithstanding the provisions of subsection (a) of this section:

(1) An unpaid tangible personal property tax assessment may be appealed to the director of finance at any time during which the assessment is collectible under Code of Virginia, § 58.1-3940, provided the taxpayer can demonstrate by clear factual evidence that he was not subject to the tax for the year in question. If the director of finance is satisfied that the assessment is erroneous, he shall abate the assessment and shall take such other steps as may be necessary to correct the taxpayer's liability accordingly upon the books of the county.

(2) In the case of an erroneous assessment that has been satisfied in whole or in part through an involuntary payment, an appeal to the director of finance must be made within one year from the date of the involuntary payment. If the director of finance is satisfied that the assessment is erroneous, he shall issue a refund for the amount of the involuntary payment. For purposes of this provision, the term "involuntary payment" means a payment received pursuant to Code of Virginia, § 58.1-3952, or the Setoff Debt Collection Act, Code of Virginia, § 58.1-520 et seq.

(f) In any action on application for correction of an erroneous assessment, if so requested by the applicant, the director of finance shall state in writing the facts and law supporting the action on such application and mail a copy of the writing to the applicant at his last known address.

(Code 1995, § 20-6; Ord. No. 934, § 1, 8-14-1996; Ord. No. 990, § 2, 9-14-1999)

State law reference—Similar provisions, Code of Virginia, §§ 58.1-3980, 58.1-3981, 58.1-3990.

Sec. 20-7. Interest paid on refunds of erroneously assessed taxes.

(a) On and after July 1, 1999, all refunds of erroneously assessed taxes, together with any penalty and interest paid thereon, shall be paid with interest at the applicable rate specified in section 20-33 for real estate taxes, section 20-108 for personal property taxes, section 20-277 for transient occupancy taxes, and section 20-315 for short-term rental property taxes. Interest on refunds of license taxes shall be paid at the rate and in the manner as specified in article XI of this chapter.

(b) Except as provided in article XI of this chapter for license taxes, interest payable on any refund of an erroneously assessed tax shall begin to accrue on the later of July 1, 1999, or the date on which the tax being refunded was paid. Except as provided in article XI of this chapter, interest shall not accrue for any period of

time prior to July 1, 1999.

(c) Except as otherwise provided in article XI of this chapter, interest shall not be paid on any refund caused by an overpayment that was not the result of an erroneously assessed tax. Refunds caused by overpayments that are not the result of an erroneously assessed tax shall include, but not be limited to:

(1) Any statutory relief provided in accordance with section 20-109; and

(2) Any refund of duplicate payments that are not the result of duplicate assessments for the same tax.

(d) No interest shall be required to be paid on a refund if the amount of the refund is $10.00 or less or the refund is the result of proration pursuant to section 20-109.

(Code 1995, § 20-7; Ord. No. 990, § 5, 9-14-1999)

State law reference—Interest on refunds, Code of Virginia, § 58.1-3916.

Sec. 20-8. Criminal penalty for failure to file return or filing false return.

Any person willfully failing or refusing to timely file any return required in this chapter or making false statements in such returns with intent to defraud shall be guilty of an offense punishable as a class 3 misdemeanor if the amount of the tax lawfully assessed in connection with the return is $1,000.00 or less or a class 1 misdemeanor if the amount of the tax lawfully assessed in connection with the return is more than $1,000.00.

(Code 1980, § 20-8.2; Code 1995, § 20-32)

State law reference—Authority to so provide, Code of Virginia, § 58.1-3916.1; penalty for class 3 misdemeanor, Code of Virginia, § 18.2-11.

Secs. 20-9—20-32. Reserved.

ARTICLE II. REAL ESTATE TAX

*__Cross reference—__Annual tax levy saved from repeal, § 1-10(a)(5).

*__State law reference—__Property subject to local taxation, Code of Virginia, § 58.1-3000.

DIVISION 1. GENERALLY

Sec. 20-33. Payment of real estate tax; penalty for failure to pay tax; interest on unpaid tax.

(a) For each calendar year, the tax levied on real estate situated in the county shall be due and payable in two equal installments, the first installment being due and payable on June 5 of each calendar year and the second installment being due and payable on December 5 of each calendar year. If any person fails to pay any such installment of taxes on or before the date it is due, he shall incur a penalty of ten percent of the tax past due. The penalty shall be assessed on the day after the installment of taxes is due and shall become a part of the taxes. There shall also be assessed interest at the rate of four percent per annum on the amount of tax past due, which interest shall commence on the first day of the month following the date such installment of taxes is due. In addition to taxes assessed and past due on or after October 1, 1999, any tax that was assessed and past due prior to October 1, 1999, shall accrue interest. The interest to be charged on any such delinquent tax payment shall be at the rate specified by this Code at the time the tax was assessed and shall accrue at that specified rate beginning on the first day of the month following the date such tax payment was due and extending until September 30, 1999, unless sooner paid. In addition, any tax that was assessed and past due prior to October 1, 1999, shall accrue interest at four percent per annum beginning on and after October 1, 1999.

(b) The director of finance shall give notice at least ten days prior to June 5 of each calendar year, by publication in a newspaper of general circulation in the county, that he is prepared to receive at his office the installment of the real estate taxes from any taxpayer charged therewith prior to June 6 of such year, without penalty.

(c) The director of finance shall give notice at least ten days prior to December 5 of each calendar year by publication in a newspaper of general circulation in the county that he is prepared to receive at his office the installment of the real estate taxes from any taxpayer charged therewith prior to December 6 of such year, without penalty.

(d) Nothing in this section shall be construed to prohibit the payment of the whole of the taxes levied on real estate by any taxpayer in one sum at any time, provided that any penalty and interest that may have accrued on the whole or any part thereof at the time of payment as provided in this section be paid therewith.

(Code 1980, § 20-2; Code 1995, § 20-31; Ord. No. 966, § 1, 11-12-1997; Ord. No. 990, § 3, 9-14-1999)

State law reference—Authority to provide dates for payment of real estate taxes and late payment penalties, Code of Virginia, § 58.1-3916; notice of taxes due, Code of Virginia, § 58.1-3911.

Secs. 20-34—20-56. Reserved.

DIVISION 2. LAND USE ASSESSMENT

***State law reference—**Application for assessment, Code of Virginia, § 58.1-3234.

Sec. 20-57. Entry of use and fair market values on land books; basis for tax.

The use value and fair market value of any qualifying property shall be placed on the land book before delivery to the treasurer, and the tax for the next succeeding tax year shall be extended from the use value.

(Code 1980, § 20-12; Code 1995, § 20-51)

State law reference—Similar provisions, Code of Virginia, § 58.1-3236(D).

Sec. 20-58. Roll-back tax.

(a) *Levy; interest.* There is hereby imposed a roll-back tax including simple interest thereon at an annual rate of eight percent. The amount of the roll-back tax upon any property as to which the use or zoning changes, or which has a separation or split-off of lots or parcels which do not individually meet the minimum acreage requirements, shall be determined under Code of Virginia, §§ 58.1-3237 and 58.1-3241.

(b) *Report of change in status; failure to make report or pay tax; false statements on applications.*

(1) The owner of any real estate liable for roll-back taxes shall, within 60 days following a change in use or zoning, report such change to the director of finance on such forms as may be prescribed. The director of finance shall forthwith determine and assess the roll-back tax, which shall be paid to the cashier within 30 days of the assessment. On failure to report within 60 days following such change in use or zoning or failure to pay within 30 days of the assessment, such owner shall be liable for an additional penalty equal to ten percent of the amount of the roll-back tax and interest, which penalty shall be collected as a part of the tax. In addition to such penalty, there is hereby imposed interest of one-half percent of the amount of the roll-back tax, interest and penalty for each month or fraction thereof during which the failure continues.

(2) 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, he shall be further assessed with an

additional penalty of 100 percent of such unpaid taxes.

(3) For purposes of this section and Code of Virginia, § 58.1-3234, incorrect information on the following subjects will be considered material misstatements of fact:

a. The number and identities of the known owners of the property at the time of application.

b. The actual use of the property.

c. The intentional misrepresentation of the number of acres in the parcel or the number of acres to be taxed according to use.

(Code 1980, §§ 20-13, 20-14; Code 1995, § 20-52)

State law reference—Imposition of roll-back tax, Code of Virginia, § 58.1-3237; change in use or zoning, Code of Virginia, §§ 58.1-3237, 58.1-3238, 58.1-3241.

Sec. 20-59. Agricultural, horticultural, forest and open space uses.

(a) *Findings.* The county finds that the preservation of real estate devoted to agricultural, horticultural, forest and open space uses within its boundaries is in the public interest and, having heretofore adopted a land use plan, hereby ordains that such real estate shall be taxed in accordance with the provisions of Code of Virginia, title 58.1, ch. 32, art. 4 (Code of Virginia, § 58.1-3230 et seq.) and this article.

(b) *Application for taxation on basis of use; fees.*

(1) The owner of any real estate meeting the criteria set forth in Code of Virginia, §§ 58.1-3230 and 58.1-3233, including for agricultural or horticultural use a minimum of five acres, for forest use a minimum of 20 acres and for open space use a minimum of five acres, at least 60 days preceding the tax year for which such taxation is sought, may apply to the director of finance 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 Code of Virginia, § 58.1-3236. Such application shall be on forms provided by the state department of taxation and supplied by the director of finance and shall include such additional schedules, photographs and drawings as may be required by the director of finance. The written agreement required by Code of Virginia, § 58.1-3233 for real estate devoted to open space use shall be signed on behalf of the county by the county manager. Any individual who is the owner of an undivided interest in a parcel may apply on behalf of himself and the other owners of such parcel upon submitting an affidavit that such other owners are minors or cannot be located. An application shall be submitted whenever the use, zoning or acreage of such land previously approved changes; provided that such property owner must revalidate annually with the director of finance any applications previously approved.

(2) A separate application shall be filed for each parcel on the land book.

(3) A nonrefundable fee of $20.00 plus $0.10 per acre or portion thereof in such parcel shall accompany such initial application.

(4) Each parcel shall be revalidated annually on forms provided by the director of finance.

(5) A late filing deadline extension is provided for initial applications and revalidation applications until December 15 upon payment of a late filing fee. The total application fee for late filing of initial applications shall be $40.00 plus $0.20 per acre or portion thereof in such parcel. The total application fee for late filing of revalidation applications shall be $20.00 plus $0.10 per acre or portion thereof in such parcel.

(c) *Determination of eligibility and value of property.*

(1) Promptly upon receipt of any application, the director of finance shall determine whether the subject property meets the criteria for taxation under this section. If the director of finance 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.

(2) In determining whether the subject property meets the criteria for agricultural use, horticultural use, forest use or open space use, the director of finance may request an opinion from the director of the state

department of conservation and recreation, the state forester or the state commissioner of agriculture and consumer services. Upon the refusal of the commissioner of agriculture and consumer services, the state forester or the director of the department of conservation and recreation to issue an opinion, or in the event of an unfavorable opinion which does not comport with standards set forth by the respective official, the party aggrieved may seek relief from the circuit court of the county. If the court finds in his favor, it may issue an order which shall serve in lieu of an opinion for the purposes of this article.
(Code 1980, §§ 20-9—20-11; Code 1995, § 20-53)

State law reference—Special assessments for agricultural, horticultural, forest and open space uses, Code of Virginia, § 58.1-3229 et seq.; application, Code of Virginia, §§ 58.1-3234, 58.1-3235; determination of eligibility, Code of Virginia, §§ 58.1-3233, 58.1-3240.

Secs. 20-60—20-76. Reserved.

DIVISION 3. EXEMPTIONS

***State law reference—**Exemptions, Code of Virginia, §§ 58.1-3210 et seq., 58.1-3220 et seq., 58.1-3660 et seq.

Sec. 20-77. Reserved.

Sec. 20-78. Elderly or permanently and totally disabled persons.

(a) *Exemption authorized.* Real estate tax exemption is provided for qualified property owners who are not less than 65 years of age or who are permanently and totally disabled and who are eligible according to other terms of this section. A dwelling jointly held by a husband and wife may qualify if either spouse is 65 years of age or older or is permanently and totally disabled. Persons qualifying for exemption are deemed to be bearing an extraordinary real estate tax burden in relation to their income and financial worth.
(b) *Definitions.* For purposes of this section, any reference to:
(1) "Dwelling" shall include an improvement to real estate exempt pursuant to this section and the land upon which such improvement is situated so long as the improvement is used principally for other than a business purpose and is used to house or cover any motor vehicle classified pursuant to subdivisions (A)(3) through (10) of Code of Virginia, § 58.1-3503; household goods classified pursuant to subdivision (A)(14) of Code of Virginia, § 58.1-3503; or household goods exempted from personal property tax pursuant to Code of Virginia, § 58.1-3504.
(2) "Real estate" shall include manufactured homes as defined in Code of Virginia, § 36-85.3.
(c) *Administration.* The exemption shall be administered by the director of finance or his authorized delegate according to the general provisions contained in this section. The director is hereby authorized and empowered to prescribe, adopt and enforce rules and regulations, including the requirement of answers under oath, as may be reasonably necessary to determine qualifications for exemption. The director may require production of certified tax returns and appraisal reports to establish income or financial worth.
(d) *"Permanently and totally disabled" defined.* A person shall be regarded as being permanently and totally disabled for purposes of this section if such person is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment or deformity which can be expected to result in death or can be expected to last for the duration of such person's life.
(e) *Criteria for exemption.* Exemption shall be granted to persons subject to the following provisions:
(1) The title to the property for which exemption is claimed is held, or partially held, on December 31 immediately preceding the taxable year, by the person claiming exemption.
(2) The person occupying the dwelling and owning title or partial title thereto is 65 years or older on December 31 of the year immediately preceding the taxable year or the person claiming exemption was

permanently and totally disabled on December 31 of the year immediately preceding the taxable year and is so disabled when he files the affidavit or written statement required in subsection (f) of this section. A dwelling jointly held by husband and wife may qualify if either spouse is 65 years of age or over or is permanently and totally disabled. Such dwelling must be owned by and occupied as the sole dwelling of the person claiming exemption. Persons who are otherwise qualified for exemption but are confined to hospitals, nursing homes, convalescent homes or other institutions for physical or mental care shall not be disqualified for exemption so long as the real estate for which exemption is sought is not used by or leased to others for consideration.

(3) The gross combined income of the owner during the year immediately preceding the taxable year shall be determined by the director to be an amount not to exceed $75,000.00. Gross combined income shall include only those sources of gross income that are subject to tax under federal income tax laws, regulations, rules, or policies, without regard to whether a tax return is actually filed, of the owner, the spouse and the owner's relatives living in the dwelling for which exemption is claimed. Gross combined income shall not include life insurance benefits or receipts from borrowing or other debt. For the purpose of this subsection, the first $10,000.00 of annual income of each of the owner's relatives, other than a spouse, living in the dwelling and who does not qualify for the exemption provided by subsection (e)(4) of this section shall be excluded in computing gross combined income. The term "owner," as used in this subsection, shall also be construed as "owners."

(4) Notwithstanding subsection (e)(3) of this section, none of the income of the owner's relatives living in the dwelling and providing bona fide caregiving services to the owner, whether such relatives are compensated or not, will be counted towards the income limit. In addition, if an owner's relative living in the dwelling is permanently and totally disabled, none of the disability income received by that relative will be counted towards the income limit.

(5) The net combined financial worth of the owner as of December 31 of the year immediately preceding the taxable year shall be determined by the director to be an amount not to exceed $400,000.00. Net combined financial worth shall include the value of all assets, including the present value of all equitable interests, of the owners and spouse of any owner, excluding the fair market value of the dwelling and the land, not exceeding ten acres, upon which it is situated and for which exemption is claimed. The value of household furnishings is excluded from the computation of net worth.

(f) *Affidavit or written statement.* No later than April 1 of the taxable year, the person claiming an exemption must file in writing an affidavit or written statement with the director. In lieu of the filing of an annual affidavit or written statement, once a taxpayer is determined to be eligible, an affidavit or written statement may be filed on a three-year cycle with an annual certification by the taxpayer that no information contained on the last preceding affidavit or written statement filed has changed to violate the limitations and conditions provided in this section. Such annual certification must be filed not later than April 1 of the taxable year. Affidavits or written statements from first-time applicants or in hardship cases, as determined by the director of finance, will be accepted through December 31 of the taxable year.

(1) Such affidavit or written statement shall set forth, in a manner prescribed by the director, the names of all owners, the location and assessed value of the property, the names of any related persons occupying the dwelling for which exemption is claimed, the gross combined income of all owners and owners' relatives who live in the residence, and the net combined financial worth of all owners and their spouses.

(2) If the person claiming exemption is under 65 years of age, such form shall have attached thereto a certification by the Social Security Administration, the Department of Veterans Affairs or the Railroad Retirement Board, or, if such person is not eligible for certification by any of these agencies, a sworn affidavit or written statement by two medical doctors who are either licensed to practice medicine in the state or are military officers on active duty who practice medicine with the United States Armed Forces, to the effect that such person is permanently and totally disabled as defined in subsection (d) of this section and stating the nature of the disability. A certification pursuant to 42 USC 423(d) by the Social Security Administration, so

long as the person remains eligible for such Social Security benefits, shall be deemed to satisfy the definition in subsection (d) of this section. The affidavit or written statement of at least one of the doctors shall be based upon a physical examination of the person by such doctor. The affidavit or written statement of one of the 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 subsection (d) of this section.

(3) If, after an audit and investigation, the director determines that the person is qualified for exemption, he shall certify that such person is so qualified and shall determine the amount of exemption applicable to the claimant's real estate tax liability. Such exemption shall apply only to the tax year for which issued. In order to avoid the payment of any penalty, the person to whom an exemption has been issued shall, on or before the past-due date established for the payment of such real estate tax, present payment for the difference between such exemption and the full amount of the tax payment then due on the property.

(g) *Amount of exemption.* Each qualified applicant shall receive a 100 percent real estate tax exemption up to an annual exemption of $3,000.00. The tax exemption granted under this section shall apply only to the dwelling occupied by the applicant, and the land, not exceeding ten acres, upon which it is situated.

(h) *Changes in income or other factors.* A qualified taxpayer who loses eligibility for tax relief due to changes in respect to income, financial worth, ownership of property or other factors occurring during the taxable year for which the affidavit, written statement or certification mentioned in subsections (e) and (f) of this section is filed and having the effect of exceeding or violating the limitations or conditions provided in this section shall receive the exemption for the portion of the year during which he qualifies and lose the exemption only for the remainder of the year and the taxable year immediately following. When a change in ownership to a spouse who is less than 65 years of age or is not permanently and totally disabled results solely from the death of his qualified spouse, it shall result in a prorated exemption for the then-current taxable year. Such prorated portion shall be determined by multiplying the amount of the exemption by a fraction wherein the number of complete months of the year such property was properly eligible for such exemption is the numerator and the number 12 is the denominator.

(i) *False claims.* Any person who knowingly falsely claims an exemption shall be guilty of a misdemeanor.

(j) *Applicability to life estates and certain trusts; inapplicability to leaseholds and terms of years.* For purposes of this section, a dwelling owned and occupied as the sole dwelling of a person claiming exemption shall include, among other forms of ownership, a dwelling (i) held by the person claiming exemption alone or in conjunction with his spouse as tenant or tenants for life or joint lives, (ii) held in a revocable inter vivos trust over which the person claiming exemption or the person claiming exemption and his spouse hold the power of revocation, or (iii) held in an irrevocable trust under which a person claiming exemption alone or in conjunction with his spouse possesses a life estate or an estate for joint lives or enjoys a continuing right of use or support. However, a dwelling owned and occupied as the sole dwelling of a person claiming exemption shall not include a dwelling held under a leasehold or term of years.

(Code 1980, §§ 20-16—20-23; Code 1995, § 20-72; Ord. No. 929, §§ 1, 2, 8-14-1996; Ord. No. 960, § 1, 9-10-1997; Ord. No. 994, § 1, 10-26-1999; Ord. No. 1009, § 1, 4-24-2001; Ord. No. 1046, §§ 1, 2, 7-22-2003; Ord. No. 1073, §§ 1, 2, 10-12-2004; Ord. No. 1079, §§ 1, 2, 10-25-2005; Ord. No. 1090, §§ 1, 2, 10-24-2006; Ord. No. 1104, § 1, 4-24-2007; Ord. No. 1114, § 1, 10-23-2007; Ord. No. 1121, § 1, 4-22-2008; Ord. No. 1127, § 1, 11-12-2008)

State law reference—Authority to exempt elderly and handicapped persons from real estate taxes, Code of Virginia, § 58.1-3210 et seq.; restrictions and exemptions, Code of Virginia, § 58.1-3211; change in income, Code of Virginia, § 58.1-3215; definition of "permanently and totally disabled," Code of Virginia, § 58.1-3217.

Sec. 20-79. Partial exemption for rehabilitated, renovated or replacement residential structures other than multifamily residential rental units.

(a) *Exemption authorized.* Partial exemption from real estate taxes is hereby provided in accordance with the provisions of this section for qualifying property devoted to residential units other than multifamily whose structures are rehabilitated in accordance with the criteria set out in Code of Virginia, § 58.1-3220 and this section.

(b) *Qualifications.* For the purposes of this section, the total assessed value of a residential property other than multifamily residential rental units shall not exceed $300,000.00 and the structure must be at least 26 years old. The real estate shall be deemed to be substantially rehabilitated when it has been so improved as to increase the assessed value of the structure by no less than 20 percent, but without increasing the total footage of such structure by more than 100 percent. Detached improvements, including, but not limited to, a garage, shed or swimming pool, are not eligible. As used in this section, the terms "rehabilitation" and "rehabilitated" shall also include situations in which the structures on the property have been demolished and replaced with new residential structures.

(c) *Application; determination of base value; application fee.*

(1) As a requisite for qualifying for partial tax exemption, the owner of the structure shall, prior to or simultaneously with making application for a building permit to rehabilitate such structure, file with the county's director of finance, upon forms furnished by him, an application to qualify such structure as a rehabilitated residential structure. Upon receipt of an application for tax exemption, the director of finance shall determine a base fair market value assessment (referred to in this section as base value) of the structure as it was immediately prior to commencement of rehabilitation. If rehabilitation has already commenced at the time the base value is determined, then the base value may be determined using the best information available to the director of finance. The tax assessment of the improvements located upon the qualifying real estate shall be considered in determining the base value. The base value shall serve as a basis for determining whether the rehabilitation increases the assessed value of such structure by at least 20 percent.

(2) Rehabilitation must be completed within three years from the date on which the director of finance determines the base value.

(3) The application to qualify for the rehabilitated structure tax exemption must be accompanied by a payment of a fee of $50.00, which fee shall be applied to offset the cost of processing such application, making the required assessments, and making an annual inspection to determine the progress of the work.

(d) *Inspection of progress of work; effective date of exemption.*

(1) During the period between the receipt of the application and the time when the director of finance may ascertain that the assessed value has increased by at least 20 percent, the owner of the property shall be subject to taxation upon the full fair market value of the property. An owner may, at any time prior to November 1 of any calendar year in which rehabilitation of a structure is underway, submit a written request to the director of finance to inspect the structure to determine if it then qualifies for the rehabilitated property exemption.

(2) When it is determined that the rehabilitation is completed and that it has resulted in at least a 20 percent increase in assessed value (base value is exceeded by 20 percent or more), the tax exemption shall become effective beginning on January 1 of the next calendar year.

(e) *Credit memorandum.* The owner of property qualifying for partial exemption of real estate taxes because of rehabilitation of a structure shall be issued a credit memorandum in the amount of the difference in taxes computed upon the base value and the assessed value of the property resulting from the rehabilitation for each year of a 10-year period of exemption from real estate taxes. Such 10-year period shall begin as specified in subsection (d) of this section. Additional increases resulting from increases in value occurring in subsequent years of the 10-year period shall not be eligible for partial tax relief. Such credit memorandum shall be surrendered when payment is made of the real estate taxes payable for the year for which such credit memorandum has been issued. Each credit memorandum timely surrendered shall be credited in its full amount against the taxes due for the real estate for which partial exemption has been obtained. Each credit memorandum so surrendered shall be charged against an appropriation made by the board of supervisors

for the purpose of honoring such credit memorandums.

(f) *Credit to run with land.* Exemption from taxation of real estate qualifying for the rehabilitation exemption shall run with the land, and the owner of such property during each of the 10 years of exemption shall be entitled to receive a credit memorandum for such partial exemption from taxation.

(g) *Methods of evaluation.* In determining the base value of a structure and whether the rehabilitation results in a 20 percent increase over such base value, the director of finance shall employ usual and customary methods of assessing real estate.

(h) *Exemption not applicable to demolition of historic structures.* Where rehabilitation is achieved through demolition and replacement of an existing structure, the exemption provided in this section shall not apply when any structure demolished is a registered state landmark or is determined by the state's department of historic resources to contribute to the significance of a registered historic district.

(i) *Condition of the property.* Upon making application to qualify for partial tax exemption, an applicant shall certify that the property that is the subject of the application, including the real estate upon which the structure is located, shall be maintained in compliance with all Code requirements. Failure to properly maintain the property in compliance with all Code provisions shall be grounds for denial of the requested partial tax exemption.

(Ord. No. 1139, § 20-73, 11-24-2009)

Sec. 20-80. Partial exemption for rehabilitated, renovated or replacement multifamily residential rental units.

(a) *Exemption authorized.* Partial exemption from real estate taxes is hereby provided in accordance with the provisions of this section for qualifying property devoted to multifamily residential rental units whose structures are rehabilitated in accordance with the criteria set out in Code of Virginia, § 58.1-3220 and this section.

(b) *Qualifications.* For the purposes of this section, multifamily residential rental real estate shall be deemed to be substantially rehabilitated when a structure on such real estate which is no less than 26 years old and no more than 39 years old has been so improved as to increase the assessed value of the structure by no less than 50 percent, but without increasing the total footage of such structure by more than 100 percent, or when a structure on such real estate which is no less than 40 years old has been so improved as to increase the assessed value of the structure by no less than 50 percent. As used in this section, the terms "rehabilitation" and "rehabilitated" shall also include situations in which the structures on the property have been demolished and replaced with new structures for multifamily residential rental use.

(c) *Application; determination of base value; application fee.*

(1) As a requisite for qualifying for partial tax exemption, the owner of the structure shall, prior to or simultaneously with making application for a building permit to rehabilitate such structure, file with the county's director of finance, upon forms furnished by him, an application to qualify such structure as a rehabilitated multifamily residential rental structure. Upon receipt of an application for tax exemption, the director of finance shall determine a base fair market value assessment (referred to in this section as base value) of the structure as it was immediately prior to commencement of rehabilitation. If rehabilitation has already commenced at the time the base value is determined, then the base value may be determined using the best information available to the director of finance. The tax assessment of the improvements located upon the qualifying real estate shall be considered in determining the base value. The base value shall serve as a basis for determining whether the rehabilitation increases the assessed value of such structure by at least 50 percent.

(2) The application to qualify for tax exemption shall be effective for three years from the date on which the director of finance determines the base value. If, by such expiration date, rehabilitation has not progressed to

such a point that the assessed value of the structure is at least 50 percent greater than the base value of such structure, then to retain such eligibility a new application to qualify for tax exemption must be filed prior to the expiration date and a new base value established. In no event, however, shall there be more than two additional applications following the initial application on any structure, except that where a rehabilitation project encompasses at least 50 contiguous acres on which demolition of all structures takes place within one year of the initial application, a total of six additional applications following the initial application may be filed. The new base value shall be based upon the value of the improvements as of the date of the most recent application. Under no circumstances shall any new base value be less than the original base value.

(3) The initial application to qualify for the rehabilitated structure tax exemption and any subsequent application must be accompanied by a payment of a fee of $50.00, which fee shall be applied to offset the cost of processing such application, making the required assessments, and making an annual inspection to determine the progress of the work.

(d) *Inspection of progress of work; effective date of exemption.*

(1) During the period between the receipt of the application and the time when the director of finance may ascertain that the assessed value has increased by at least 50 percent, the owner of the property shall be subject to taxation upon the full fair market value of the property. An owner may, at any time prior to November 1 of any calendar year in which rehabilitation of a structure is underway, submit a written request to the director of finance to inspect the structure to determine if it then qualifies for the rehabilitated property exemption.

(2) When it is determined that the rehabilitation is completed and that it has resulted in at least a 50 percent increase in assessed value (base value is exceeded by 50 percent or more), the tax exemption shall become effective beginning on January 1 of the next calendar year.

(e) *Credit memorandum.* The owner of property qualifying for partial exemption of real estate taxes because of rehabilitation of a structure shall be issued a credit memorandum in the amount of the difference in taxes computed upon the base value and the assessed value of the property resulting from the rehabilitation for each year of a seven-year period of exemption from real estate taxes. Such seven-year period shall begin as specified in subsection (d) of this section. Additional increases resulting from increases in value occurring in subsequent years of the seven-year period shall not be eligible for partial tax relief. Such credit memorandum shall be surrendered when payment is made of the real estate taxes payable for the year for which such credit memorandum has been issued. Each credit memorandum timely surrendered shall be credited in its full amount against the taxes due for the real estate for which partial exemption has been obtained. Each credit memorandum so surrendered shall be charged against an appropriation made by the board of supervisors for the purpose of honoring such credit memorandums.

(f) *Credit to run with land.* Exemption from taxation of real estate qualifying for the rehabilitation exemption shall run with the land, and the owner of such property during each of the seven years of exemption shall be entitled to receive a credit memorandum for such partial exemption from taxation.

(g) *Methods of evaluation.* In determining the base value of a structure and whether the rehabilitation results in a 50 percent increase over such base value, the director of finance shall employ usual and customary methods of assessing real estate.

(h) *Exemption not applicable to demolition of historic structures.* Where rehabilitation is achieved through demolition and replacement of an existing structure, the exemption provided in this section shall not apply when any structure demolished is a registered state landmark or is determined by the state's department of historic resources to contribute to the significance of a registered historic district.

(i) *Condition of the property.* Upon making application to qualify for partial tax exemption, an applicant shall certify that the property that is the subject of the application, including the real estate upon which the structure is located, shall be maintained in compliance with all Code requirements. Failure to properly maintain the property in compliance with all Code provisions shall be grounds for denial of the requested partial tax exemption.

(Code 1995, § 20-74; Ord. No. 1019, § 2, 10-23-2001; Ord. No. 1031, § 1, 8-13-2002)

State law reference—Partial exemption for certain rehabilitated, renovated or replacement residential structures authorized, Code of Virginia, § 58.1-3220.

Sec. 20-81. Partial exemption for rehabilitated, renovated or replacement commercial and industrial structures.

(a) *Exemption authorized.* Partial exemption from real estate taxes is hereby provided in accordance with the provisions of this section for qualifying property devoted to commercial and industrial uses whose structures are rehabilitated in accordance with the criteria set out in Code of Virginia, § 58.1-3221 and this section.

(b) *Qualifications.* For the purposes of this section, commercial and industrial real estate shall be deemed to be substantially rehabilitated when a structure on such real estate which is no less than 26 years old has been so improved as to increase the assessed value of the structure by no less than 40 percent, but without increasing the total footage of such structure by more than 100 percent. As used in this section, the terms "rehabilitation" and "rehabilitated" shall also include situations in which the structures have been demolished and replaced with new structures. Subject to the limitations of this section, the rehabilitated, renovated, or replacement structure may be used for any purpose, including mixed use, that is allowed by the building code and the applicable zoning regulations for the property.

(c) *Application; determination of base value; application fee.*

(1) As a requisite for qualifying for partial tax exemption, the owner of the structure shall, prior to or simultaneously with making application for a building permit to rehabilitate such structure, file with the county's director of finance, upon forms furnished by him, an application to qualify such structure as a rehabilitated commercial or industrial structure. Upon receipt of an application for tax exemption, the director of finance shall determine a base fair market value assessment (referred to in this section as base value) of the structure as it was immediately prior to commencement of rehabilitation. If rehabilitation has already commenced at the time the base value is determined, then the base value may be determined using the best information available to the director of finance. The tax assessment of the improvements located upon the qualifying real estate shall be considered in determining the base value. The base value shall serve as a basis for determining whether the rehabilitation increases the assessed value of such structure by at least 40 percent.

(2) The application to qualify for tax exemption shall be effective for three years from the date on which the director of finance determines the base value. If, by such expiration date, rehabilitation has not progressed to such a point that the assessed value of the structure is at least 40 percent greater than the base value of such structure, then to retain such eligibility a new application to qualify for tax exemption must be filed prior to the expiration date and a new base value established. In no event, however, shall there be more than two additional applications following the initial application on any structure. The new base value shall be based upon the value of the improvements as of the date of the second or third application. Under no circumstances shall any new base value be less than the original base value.

(3) The initial application to qualify for the rehabilitated structure tax exemption and any subsequent application must be accompanied by a payment of a fee of $50.00, which fee shall be applied to offset the cost of processing such application, making the required assessments, and making an annual inspection to determine the progress of the work.

(d) *Inspection of progress of work; effective date of exemption.*

(1) During the period between the receipt of the application and the time when the director of finance may ascertain that the assessed value has increased by at least 40 percent, the owner of the property shall be subject to taxation upon the full fair market value of the property. An owner may, at any time prior to November 1 of any calendar year in which rehabilitation of a structure is underway, submit a written request to the director of finance to inspect the structure to determine if it then qualifies for the rehabilitated property

exemption.

(2) When it is determined that the rehabilitation is completed and that it has resulted in at least a 40 percent increase in assessed value (base value is exceeded by 40 percent or more), the tax exemption shall become effective beginning on January 1 of the next calendar year.

(e) *Credit memorandum.* The owner of property qualifying for partial exemption of real estate taxes because of rehabilitation of a structure shall be issued a credit memorandum in the amount of the difference in taxes computed upon the base value and the assessed value of the property resulting from the rehabilitation for each year of a seven-year period of exemption from real estate taxes. Such seven-year period shall begin as specified in subsection (d) of this section. Additional increases resulting from increases in value occurring in subsequent years of the seven-year period shall not be eligible for partial tax relief. Such credit memorandum shall be surrendered when payment is made of the real estate taxes payable for the year for which such credit memorandum has been issued. Each credit memorandum timely surrendered shall be credited in its full amount against the taxes due for the real estate for which partial exemption has been obtained. Each credit memorandum so surrendered shall be charged against an appropriation made by the board of supervisors for the purpose of honoring such credit memorandums.

(f) *Credit to run with land.* Exemption from taxation of real estate qualifying for the rehabilitation exemption shall run with the land, and the owner of such property during each of the seven years of exemption shall be entitled to receive a credit memorandum for such partial exemption from taxation.

(g) *Methods of evaluation.* In determining the base value of a structure and whether the rehabilitation results in a 40 percent increase over such base value, the director of finance shall employ usual and customary methods of assessing real estate.

(h) *Exemption not applicable to demolition of historic structures.* Where rehabilitation is achieved through demolition and replacement of an existing structure, the exemption provided in this section shall not apply when any structure demolished is a registered state landmark or is determined by the state's department of historic resources to contribute to the significance of a registered historic landmark.

(i) *Condition of the property.* Upon making application to qualify for partial tax exemption, an applicant shall certify that the property that is the subject of the application, including the real estate upon which the structure is located, shall be maintained in compliance with all Code requirements. Failure to properly maintain the property in compliance with all Code provisions shall be grounds for denial of the requested partial tax exemption.

(j) *Exterior-corridor hotels and motels.* Hotels and motels providing access to the majority of the structure's rental rooms via exterior corridors may qualify under this section for an exemption for 15 years instead of seven years. To qualify for the extended exemption, the exterior-corridor hotel or motel must be demolished and replaced with a structure used for any purpose, other than an exterior-corridor hotel or motel, that is allowed by the building code and the applicable zoning regulations for the property, including mixed use. Except as altered by this subsection, all other subsections of this section apply to exemptions for the demolition and replacement of exterior-corridor hotels and motels.

(Code 1995, § 20-75; Ord. No. 1019, § 3, 10-23-2001)

State law reference—Partial exemption for certain rehabilitated, renovated or replacement commercial or industrial structures authorized, Code of Virginia, § 58.1-3221.

Sec. 20-82. Partial exemption for rehabilitated, renovated or replacement hotel and motel structures.

(a) *Exemption authorized.* Partial exemption from real estate taxes is hereby provided in accordance with the provisions of this section for qualifying property devoted to hotel and motel uses whose structures are rehabilitated for residential use in accordance with the criteria set out in Code of Virginia, § 58.1-3220.1 and this section.

(b) *Qualifications.* For the purposes of this section, hotel and motel real estate shall be deemed to be substantially rehabilitated when a structure on such real estate which is no less than 35 years old has been so improved as to increase the assessed value of the structure by no less than 50 percent, but without increasing the total footage of such structure by more than 100 percent. As used in this section, the terms "rehabilitation" and "rehabilitated" shall also include situations in which the structures on the property have been demolished and replaced with new structures for residential use.

(c) *Application; determination of base value; application fee.*

(1) As a requisite for qualifying for partial tax exemption, the owner of the structure shall, prior to or simultaneously with making application for a building permit to rehabilitate such structure, file with the county's director of finance, upon forms furnished by him, an application to qualify such structure as rehabilitated. Upon receipt of an application for tax exemption, the director of finance shall determine a base fair market value assessment (referred to in this section as base value) of the structure as it was immediately prior to commencement of rehabilitation. If rehabilitation has already commenced at the time the base value is determined, then the base value may be determined using the best information available to the director of finance. The tax assessment of the improvements located upon the qualifying real estate shall be considered in determining the base value. The base value shall serve as a basis for determining whether the rehabilitation increases the assessed value of such structure by at least 50 percent.

(2) The application to qualify for tax exemption shall be effective for three years from the date on which the director of finance determines the base value. If, by such expiration date, rehabilitation has not progressed to such a point that the assessed value of the structure is at least 50 percent greater than the base value of such structure, then to retain such eligibility a new application to qualify for tax exemption must be filed prior to the expiration date and a new base value established. In no event, however, shall there be more than two additional applications following the initial application on any structure. The new base value shall be based upon the value of the improvements as of the date of the second or third application. Under no circumstances shall any new base value be less than the original base value.

(3) The initial application to qualify for the rehabilitated structure tax exemption and any subsequent application must be accompanied by a payment of a fee of $50.00, which fee shall be applied to offset the cost of processing such application, making the required assessments, and making an annual inspection to determine the progress of the work.

(d) *Inspection of progress of work; effective date of exemption.*

(1) During the period between the receipt of the application and the time when the director of finance may ascertain that the assessed value has increased by at least 50 percent, the owner of the property shall be subject to taxation upon the full fair market value of the property. An owner may, at any time prior to November 1 of any calendar year in which rehabilitation of a structure is underway, submit a written request to the director of finance to inspect the structure to determine if it then qualifies for the rehabilitated property exemption.

(2) When it is determined that the rehabilitation is completed and that it has resulted in at least a 50 percent increase in assessed value (base value is exceeded by 50 percent or more), the tax exemption shall become effective beginning on January 1 of the next calendar year.

(e) *Credit memorandum.* The owner of property qualifying for partial exemption of real estate taxes because of rehabilitation of a structure shall be issued a credit memorandum in the amount of the difference in taxes computed upon the base value and the assessed value of the property resulting from the rehabilitation for each year of a seven-year period of exemption from real estate taxes. Such seven-year period shall begin as specified in subsection (d) of this section. Additional increases resulting from increases in value occurring in subsequent years of the seven-year period shall not be eligible for partial tax relief. Such credit memorandum shall be surrendered when payment is made of the real estate taxes payable for the year for which such credit memorandum has been issued. Each credit memorandum timely surrendered shall be credited in its full

amount against the taxes due for the real estate for which partial exemption has been obtained. Each credit memorandum so surrendered shall be charged against an appropriation made by the board of supervisors for the purpose of honoring such credit memorandums.

(f) *Credit to run with land.* Exemption from taxation of real estate qualifying for the rehabilitation exemption shall run with the land, and the owner of such property during each of the seven years of exemption shall be entitled to receive a credit memorandum for such partial exemption from taxation.

(g) *Methods of evaluation.* In determining the base value of a structure and whether the rehabilitation results in a 50 percent increase over such base value, the director of finance shall employ usual and customary methods of assessing real estate.

(h) *Exemption not applicable to demolition of historic structures.* Where rehabilitation is achieved through demolition and replacement of an existing structure, the exemption provided in this section shall not apply when any structure demolished is a registered state landmark or is determined by the state's department of historic resources to contribute to the significance of a registered historic district.

(i) *Condition of the property.* Upon making application to qualify for partial tax exemption, an applicant shall certify that the property that is the subject of the application, including the real estate upon which the structure is located, shall be maintained in compliance with all Code requirements. Failure to properly maintain the property in compliance with all Code provisions shall be grounds for denial of the requested partial tax exemption.

(Code 1995, § 20-76; Ord. No. 1019, § 4, 10-23-2001)

State law reference—Partial exemption for rehabilitated, renovated or replacement hotel and motel structures authorized, Code of Virginia, § 58.1-3220.1.

Sec. 20-83. Exemption for property of surviving spouses of certain persons killed in the line of duty.

(A) *Definitions.* As used in this section:

(1) "Average assessed value" means the average assessed value for all dwellings located within the county that are situated on property zoned as single-family residential.

(2) "Covered person" means any person set forth in the definition of "deceased person" in Code of Virginia, § 9.1-400 whose beneficiary, as defined in Code of Virginia, § 9.1-400, is entitled to receive benefits under Code of Virginia, § 9.1-402, as determined by the Comptroller of Virginia prior to July 1, 2017, or as determined by the Virginia Retirement System on and after July 1, 2017.

(B) *Exemption authorized; timing; refunds.* For tax years beginning on or after January 1, 2017, the real property described in this section of the surviving spouse of any covered person who occupies the real property as his principal place of residence is exempt from taxation. If the covered person's death occurred on or prior to January 1, 2017, and the surviving spouse has a principal residence on January 1, 2017, eligible for the exemption under this section, then the exemption for the surviving spouse shall begin on January 1, 2017. If the covered person's death occurs after January 1, 2017, and the surviving spouse has a principal residence eligible for the exemption under this section on the date that such covered person dies, then the exemption for the surviving spouse shall begin on the date that such covered person dies. If the surviving spouse acquires the property after January 1, 2017, then the exemption shall begin on the date of acquisition, and the previous owner may be entitled to a refund for a pro rata portion of real property taxes paid pursuant to Code of Virginia, § 58.1-3360. No interest shall be paid on any refund due to the surviving spouse for taxes paid prior to the surviving spouse's filing of the affidavit or written statement required by this section.

(C) *Scope of exemption.* Those dwellings with assessed values in the most recently ended tax year that are not in excess of the average assessed value for such year shall qualify for a total exemption from real property taxes under this section. If the value of a dwelling is in excess of the average assessed value for such year, then only that portion of the assessed value in excess of the average assessed value shall be subject to real property taxes, and the portion of the assessed value that is not in excess of the average assessed value shall be exempt from real property taxes. Single-family homes, condominiums, town homes, manufactured homes as defined in Code of Virginia, § 46.2-100 whether or not the wheels and other equipment previously used for mobility have been removed, and other types of dwellings of surviving spouses, whether or not the land on which the single-family home condominium, town home, manufactured home, or other type of dwelling of a surviving spouse is located is owned by someone other than the surviving spouse, that (i) meet the requirements of this subsection and (ii) are occupied by such persons as their principal place of residence shall qualify for the real property tax exemption. If the land on which the single-family home, condominium, town home, manufactured home, or other type of dwelling is located is not owned by the surviving spouse, then the land is not exempt.

(D) *Occupation as principal place of residence required; effect of remarriage or moving.* The surviving spouse shall qualify for the exemption so long as the surviving spouse does not remarry and continues to occupy the real property as his principal place of residence. The exemption applies without restriction on the spouse's moving to a different principal place of residence.

(E) *Exemption for land upon which dwelling is situated; application of exemption to improvements other than a dwelling.* The exemption applies to (i) the qualifying dwelling, or that portion of the value of such dwelling and land that qualifies for the exemption pursuant to subsection (C), and (ii) with the exception of land not owned by the surviving spouse, the land, not exceeding ten acres, upon which it is situated. A real property improvement other than a dwelling, including the land upon which such improvement is situated, made to such land as is exempt from taxation under this section, shall also be exempt from taxation so long as the principal use of the improvement is (a) to house or cover motor vehicles or household goods and personal effects as classified in subdivision (A)(14) of the Code of Virginia, § 58.1-3503 and as listed in Code of Virginia, § 58.1-3504 and (b) for other than a business purpose.

(F) *Application to life estate, revocable inter vivos trust, irrevocable trust, leasehold, or term of years.* For purposes of this section, real property of any surviving spouse of a covered person includes real property held (i) by a surviving spouse as a tenant for life, (ii) in a revocable inter vivos trust over which the surviving spouse holds the power of revocation, or (iii) in an irrevocable trust under which the surviving spouse possesses a life estate or enjoys continuing right of use or support. Such real property does not include any interest held under a leasehold or term of years.

(G) *Effect of joint ownership.*

(1) In the event that (i) a surviving spouse is entitled to an exemption under this section by virtue of holding the property in any of the three ways identified in clauses (i) through (iii) of subsection (F) and (ii) one or more other persons have an ownership interest in the property that permits them to occupy the property, then the tax exemption for the property that otherwise would have been provided shall be prorated by multiplying the amount of the exemption by a fraction the numerator of which is one and the denominator of which equals the total number of people having an ownership interest that permits them to occupy the property.

(2) In the event that the principal residence is jointly owned by two or more individuals, including the surviving spouse, and no person is entitled to the exemption under this section by virtue of holding

the property in any of the three ways identified in clauses (i) through (iii) of subsection (F), then the exemption shall be prorated by multiplying the amount of the exemption by a fraction the numerator of which is the percentage of ownership interest in the dwelling held by the surviving spouse and the denominator of which is 100.

(H) *Application for exemption; notification upon remarriage or change in principal place of residence.* The surviving spouse claiming the exemption under this section shall file with the director of finance on forms supplied by the county an affidavit or written statement (i) setting forth the surviving spouse's name, (ii) indicating any other joint owners of the real property, (iii) certifying that the real property is occupied as the surviving spouse's principal place of residence, and (iv) including evidence of the determination of the Comptroller of Virginia or the Virginia Retirement System that the deceased is a covered person. The surviving spouse shall also provide documentation that he is the surviving spouse of a covered person and of the date that the covered person died. The surviving spouse shall be required to refile the information required by this subsection only if the surviving spouse's principal place of residence changes. The surviving spouse shall promptly notify the director of finance of any remarriage.

(I) *Effect of absence from residence.* The fact that surviving spouses who are otherwise qualified for tax exemption pursuant to this section are residing in hospitals, nursing homes, convalescent homes, or other facilities for physical or mental care for extended periods of time shall not be construed to mean that the real estate for which tax exemption 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.

Sec. 20-84. Partial exemption for demolition or renovation of derelict buildings.

Prior to demolishing or renovating a derelict building pursuant to a plan approved under article VI of chapter 6, at the request of the property owner, the real estate assessor shall make an assessment of the property in its current derelict condition. On the building permit application, the owner shall declare the costs of the demolition, or the costs of materials and labor to complete the renovation. At the request of the property owner, after demolition or renovation of the derelict building, the real estate assessor shall reflect the fair market value of the demolition costs or the fair market value of the renovation improvements in the real estate tax assessment records. The real estate tax on an amount equal to the costs of demolition or an amount equal to the increase in the fair market value of the renovations shall be abated for a period of seven years and is transferable with the property. The abatement of taxes for demolition shall not apply if the structure demolished is a registered Virginia landmark or is determined by the Virginia Department of Historic Resources to contribute to the significance of a registered historic district.

Secs. 20-85—20-107. Reserved.

ARTICLE III. TANGIBLE PERSONAL PROPERTY TAX

***State law reference—**Tangible personal property tax, Code of Virginia, § 58.1-3500 et seq.

Sec. 20-108. Assessment and returns generally.

(a) *Assessment; filing of return; payment; penalty and interest.*

(1) Personal property and machinery and tools shall be assessed in accordance with the provisions of Code of Virginia, title 58.1 (Code of Virginia, § 58.1-1 et seq.). Taxes so assessed shall be based upon all such property, machinery and tools owned as of January 1 of each year. Every taxpayer owning any property

subject to taxation under this chapter, or as defined in Code of Virginia, title 58.1 and every fiduciary shall file a personal property tax return with the director of finance:

a. On or before March 1 for all machinery and tools and tangible personal property employed in a trade or business except automobiles, trucks, taxicabs, antique motor vehicles, motorcycles, campers, recreational vehicles or other vehicles as defined in Code of Virginia, § 46.2-100 manufactured homes, boats, boat trailers or other watercraft and aircraft; and

b. On or before March 15 for all other tangible personal property.

All such personal property tax returns not filed by such date shall incur a penalty of ten percent of the tax due thereon. Such tax shall be due and payable in two equal installments, the first installment being due and payable on June 5 of each calendar year and the second installment being due and payable on December 5 of each calendar year. If any person fails to pay any such installment of taxes on or before the date it is due, he shall incur a penalty of ten percent of the tax past due, which penalty shall be assessed on the day after the installment of taxes is due and shall become a part of the taxes. There shall also be assessed interest at the rate of four percent per annum on the amount of tax past due, which interest shall commence on the first day of the month following the date such installment of taxes is due. In addition to taxes assessed and past due on or after October 1, 1999, any tax that was assessed and past due prior to October 1, 1999, shall accrue interest. The interest to be charged on any such delinquent tax payment shall be at the rate specified by this Code at the time the tax was assessed and shall accrue at that specified rate beginning on the first day of the month following the date such tax payment was due and extending until September 30, 1999, unless sooner paid. In addition, any tax that was assessed and past due prior to October 1, 1999, shall accrue interest at four percent per annum beginning on and after October 1, 1999.

(2) The director of finance shall give notice at least ten days prior to June 5 of each calendar year, by publication in a newspaper of general circulation in the county, that he is prepared to receive at his office the installment of the personal property taxes from any taxpayer charged therewith prior to June 6 of such year, without penalty.

(3) The director of finance shall give notice at least ten days prior to December 5 of each calendar year, by publication in a newspaper of general circulation in the county, that he is prepared to receive at his office the installment of the personal property taxes from any taxpayer charged therewith prior to December 6 of such year, without penalty.

(4) Nothing in this subsection shall be construed to prohibit the payment of the whole of the taxes levied on personal property by any taxpayer in one sum at any time, provided that any penalty and interest that may have accrued on the whole or any part thereof at the time of payment as provided in this section be paid therewith.

(5) The director of finance shall prescribe the various forms to be used for filing such tax returns, the information to be provided and the manner in which such assessments are to be made.

(b) *Mailing of forms; failure to receive forms.* The director of finance shall, insofar as is possible, mail personal property forms no later than February of each tax year to all known taxpayers. Failure to receive a form, however, in no way relieves the taxpayer of his obligation to obtain the necessary forms and information which would enable him to file before the deadline.

(c) *Extension of time for filing return.* The director of finance may, upon request, grant reasonable extensions of time not to exceed 90 days for filing personal property returns, whenever in his judgment good cause exists, and provided such request is made before the due date. The director of finance shall keep a record of every extension.

(d) *Methods of determining assessed value of tangible personal property.*

(1) Automobiles, except those described in subsection (d)(2) of this section, shall be valued by means of a recognized pricing guide, or, if the model and year of the individual automobile are not listed in the recognized pricing guide, on the basis of a percentage of original cost. If such percentage or percentages of

original cost do not accurately reflect fair market value, or if the taxpayer does not supply proof of original cost, then the director may select another method which establishes fair market value.

(2) Motor vehicles with specially designed equipment for use by the handicapped shall not be valued in relation to their initial cost, but by determining their actual market value if offered for sale on the open market.

(3) Trucks of less than two tons shall be valued by means of a recognized pricing guide, or, if the model and year of the individual truck are not listed in the recognized pricing guide, on the basis of a percentage of original cost.

(4) Manufactured homes shall be valued on the basis of square footage of living space.

(5) Trucks and other vehicles, as defined in Code of Virginia, § 46.2-100, shall be valued by means of either a recognized pricing guide using the lowest value specified in such guide or a percentage of original cost, except:

a. Those described in subsections (d)(2), (d)(3) and (d)(4) of this section.

b. Antique motor vehicles, as defined in Code of Virginia, § 46.2-100, which may be used for general transportation purposes as provided in Code of Virginia, § 46.2-730(C) shall be valued as set out in subsection (d)(1) of this section for automobiles.

c. Taxicabs shall be valued as set out in subsection (d)(1) of this section for automobiles.

(6) Programmable computer equipment and peripherals used in business shall be valued by means of a percentage of original cost to the taxpayer, or by such other method as may reasonably be expected to determine the actual fair market value.

(7) All other tangible personal property shall be valued on the basis of a percentage of original cost. Except for leased manufactured equipment, the term "cost" is defined as original cost or the original capitalized cost if so established on the taxpayer's records. In the case of leased manufactured equipment, the cost shall be the commercial retail sales price for which the item would have been sold if it had been available for sale.

The applicable percentages referred to in this subsection shall be determined by the director of finance.

The director of finance shall, upon request, take into account the condition of the property. The term "condition of the property" includes, but is not limited to, technological obsolescence of property where technological obsolescence is an appropriate factor for valuing such property. The director of finance shall make available to taxpayers on request a reasonable description of his valuation methods. The director of finance, when using a recognized pricing guide as provided for in this section, may automatically extend the assessment if the pricing information is stored in a computer.

(e) *Tax bills under $15.00.* If any taxpayer owns tangible personal property of such small value that the levies thereon for the year result in a tax of less than $15.00, such property shall be omitted from the personal property book and no assessment made thereon.

(f) *Submission of supporting information.* The director of finance shall have the right to require that a depreciation schedule, plus any other necessary schedules, inventories, statements, etc., be provided in support of each personal property return filed for any business, profession, farmer or manufacturer.

(g) *Payment of taxes for property of public service corporations.* All taxes on personal property of public service corporations, which are levied at the same rate applicable to real estate pursuant to Code of Virginia, § 58.1-2606, shall be due and payable at the same times and by the same procedures as taxes on real estate as set forth in section 20-33.

(Code 1980, § 20-4; Code 1995, § 20-101; Ord. No. 909, § 1, 10-25-1995; Ord. No. 966, § 2, 11-12-1997; Ord. No. 990, § 4, 9-14-1999)

State law reference—Authority to fix tax levy, Code of Virginia, § 58.1-3001; method of determining assessed value, classification of tangible personal property, Code of Virginia, § 58.1-3503; dates for filing returns, penalties and interest, Code of Virginia, § 58.1-3916; taxes not required to be billed, Code of Virginia, §§ 58.1-

3001, 58.1-3012(A).

Sec. 20-109. Proration of tax for motor vehicles, trailers and semitrailers.

(a) *Generally.* Tangible personal property tax shall be levied upon motor vehicles, trailers or semitrailers which acquire a situs within the county after January 1 of any tax year for the remaining portion of the tax year. Such tax shall be prorated on a monthly basis.

(b) *Refund when vehicle loses situs in county.* When any motor vehicle, trailer or semitrailer loses its situs in the county after January 1 of the tax year or after the day on which it acquired a situs within the county, any tax assessed on such vehicle, trailer or semitrailer shall be relieved and refunded, if paid. Such relief and refund shall be prorated on a monthly basis. No tax shall be refunded if the motor vehicle, trailer or semitrailer acquires a situs within the state in a nonprorating locality.

(c) *Refund or credit upon sale of vehicle.* When any person sells or otherwise transfers title to a motor vehicle, trailer or semitrailer with a situs in the county after January 1 of the tax year or after the day on which it acquired a situs within the county, the tax shall be relieved, prorated on a monthly basis, and the appropriate amount of tax already paid shall be refunded or credited against the tax due on any motor vehicle, trailer or semitrailer owned by the taxpayer during the same tax year.

(d) *Time limitation for refund; minimum refund.* Any refund required by this section shall be made within 30 days of the date the tax is relieved. No refund of less than $5.00 shall be issued to a taxpayer, unless specifically requested by the taxpayer.

(e) *Computation of tax on new owner.* When any person, after January 1 of the tax year or after the day on which a motor vehicle, trailer or semitrailer acquired a situs within the county, acquires a motor vehicle, trailer or semitrailer with a situs in the county, tangible personal property tax shall be assessed on the motor vehicle, trailer or semitrailer for the portion of the tax year during which the motor vehicle, trailer or semitrailer is owned and situs in maintained within the county.

(f) *Determination of full month.* For purposes of this section, a period of one-half of a month or more shall be counted as a full month and a period of less than one-half of a month shall not be counted.

(g) *Tax credit for persons moving from nonprorating locality to county and acquiring replacement vehicle.* Any person who moves from a nonprorating locality to the county in a single tax year shall be entitled to a property tax credit in the county if:

(1) The person was liable for personal property taxes on a motor vehicle and has paid those taxes to a nonprorating locality; and

(2) The owner replaces for any reason the original vehicle upon which taxes are due to the nonprorating locality for the same year.

The county shall provide a credit against the total tax due on the replacement vehicle in an amount equal to the tax paid to the nonprorating locality for the period of time commencing with the disposition of the original vehicle and continuing through the close of the tax year in which the owner incurred tax liability to the nonprorating locality for the original vehicle.

(h) *Filing of returns; determination of taxable date.* Each taxpayer owning a motor vehicle, trailer or semitrailer with a date of purchase or establishment of situs within the county after January 1 and on or before February 15 of the tax year shall file a return on forms prescribed by the director of finance on or before March 15 of each year, and taxes shall be due as set forth in section 20-108. Each taxpayer owning a motor vehicle, trailer or semitrailer purchased on or after February 16 of the tax year or which acquires situs in the county on or after February 16 of the tax year shall file a return by the 15th day of the month following the taxable date and taxes on such property shall be due on dates established by the director of finance. The term "taxable date," as used in this subsection, shall mean the first day of the month of purchase or establishment of situs if the vehicle, trailer or semitrailer is purchased or acquires situs on or before the 15th day of the month or the first day of the following month if the vehicle, trailer or semitrailer is purchased or acquires situs within the

county on or after the 16th day of the month, except for any purchase or acquisition of situs from December 16 through the end of December, in which case the taxable date shall be January 1 of the succeeding tax year and the taxpayer must file a return on or before March 15 of that year, and taxes shall be due as set forth in section 20-108.

(i) *Billing for less than full year.* Notwithstanding any other date for billing and payment of personal property taxes, the county may bill all personal property taxes assessed for a portion of the tax year less than the full year on or after June 15 and/or December 15 of each year.

(j) *Exemption of property for which tax has been paid to another jurisdiction.* Tangible personal property which was legally assessed by another jurisdiction in the state and on which the tax has been paid is exempt from taxation under this section for the tax year or portion thereof during which such property was legally assessed by the other jurisdiction and taxes were paid to that jurisdiction.

(k) *Penalty and interest.* If any tax levied under this section is not paid when due, the payment penalty and interest provided for in section 20-108 shall be imposed. No filing penalty shall be imposed on any item prorated under this section. No interest shall be paid on any refund made under subsection (b) or (c) of this section.

(Code 1980, § 20-4.1; Code 1995, § 20-102; Ord. No. 932, § 1, 8-14-1996; Ord. No. 990, § 5, 9-14-1999; Ord. No. 1032, § 1, 8-13-2002)

State law reference—Proration of personal property tax, Code of Virginia, § 58.1-3516.

Sec. 20-110. Motor vehicle, trailer and boat returns.

(a) Notwithstanding the filing requirement set out in section 20-108(a):

(1) The most recent tax return filed prior to January 1, 1996, or any return filed thereafter shall be the basis for the assessment of a motor vehicle in all later years in which the director of finance has not been informed of a change in the address or name of the motor vehicle owner or of a change in the situs or ownership of the vehicle; and

(2) The most recent tax return filed prior to January 1, 1997, or any return filed thereafter shall be the basis for the assessment of a trailer or boat in all later years in which the director of finance has not been informed of a change in the address or name of the trailer or boat owner or a change in the situs or ownership of the trailer or boat.

(b) Motor vehicle, trailer or boat owners are required to file a new personal property tax return on or before March 15 of any tax year for which there is:

(1) A change in the name or address of the person owning the vehicle, trailer or boat;

(2) A change in the situs of the vehicle, trailer or boat; or

(3) Any other change affecting the assessment of the personal property tax on the vehicle, trailer or boat for which a tax return was previously filed.

(c) Motor vehicle or trailer owners are required to file a return as set out in section 20-109(h) when acquiring one or more vehicles or trailers for which no personal property tax return has been filed with the county.

(d) Boat owners are required to file a return as set out in section 20-108(a) when acquiring one or more boats for which no personal property tax return has been filed with the county.

(Code 1995, § 20-102; Ord. No. 904, § 1, 7-26-1995; Ord. No. 933, § 1, 8-14-1996)

Sec. 20-111. Property of retail merchants.

All property of a retail merchant not offered for sale as merchandise shall be separately listed and taxed as other property.

(Code 1980, § 20-5; Code 1995, § 20-103)

Sec. 20-112. Property of wholesale merchants.

All property of a wholesale merchant not offered for sale as merchandise shall be separately listed and taxed as other property.

(Code 1980, § 20-6; Code 1995, § 20-104)

Sec. 20-113. Exemption for household goods and personal effects of residents.

(a) The following household goods and personal effects of the residents of the county are hereby exempt from taxation as tangible personal property:

(1) Bicycles.

(2) Household and kitchen furniture, including gold and silver plates, plated ware, watches and clocks, sewing machines, refrigerators, automatic refrigerating machinery of any type, vacuum cleaners and all other household machinery, books, firearms and weapons of all kinds.

(3) Pianos, organs and all other musical instruments of whatever kind, phonographs and record players and records to be used therewith, and radio and television instruments and equipment.

(4) Oil paintings, pictures, statuary, curios, articles of virtu and works of art.

(5) Diamonds, cameos or other precious stones and all precious metals used as ornaments or jewelry.

(6) Sporting and photographic equipment.

(7) Clothing and objects of apparel.

(8) Antique motor vehicles as defined in Code of Virginia, § 46.2-100 which may not be used for general transportation purposes.

(9) All-terrain vehicles and off-road motorcycles as defined in Code of Virginia, § 46.2-100.

(10) Electronic communications and processing devices and equipment, including but not limited to cell phones and tablet and personal computers, including peripheral equipment such as printers.

(11) All other tangible personal property used by an individual or a family or household primarily incident to maintaining an abode.

(b) The classifications set forth in this section shall apply only to such property owned and used by an individual or by a family or household incident to maintaining an abode.

(c) Notwithstanding any provision set forth above, household appliances in residential rental property used by an individual or by a family or household incident to maintaining an abode shall be deemed to be fixtures and shall be assessed as part of the real property in which they are located. For purposes of this subsection, the term "household appliances" shall mean all major appliances customarily used in a residential home and which are the property of the owner of the real estate, including, without limitation, refrigerators, stoves, ranges, microwave ovens, dishwashers, trash compactors, clothes dryers, garbage disposals and air conditioning units.

(Code 1980, § 20-7(a)—(i); Code 1995, § 20-105)

State law reference—Authority to exempt certain personal property, Code of Virginia, § 58.1-3504.

Sec. 20-114. Exemption for agricultural animals and products.

The following agricultural animals and products of the residents of the county are hereby exempt from taxation as tangible personal property:

(1) Horses, mules and other kindred animals.

(2) Cattle.

(3) Sheep and goats.

(4) Hogs.

(5) Poultry.

(6) Grains and other feeds used for the nurture of farm animals.

(7) Grain; tobacco; wine produced by farm wineries as defined in Code of Virginia, § 4.1-100 and other agricultural products in the hands of a producer.

(8) Farm machinery other than farm machinery described in subsection (a)(10) of this section and farm implements, which shall include (i) equipment and machinery used by farm wineries as defined in Code of Virginia, § 4.1-100 in the production of wine; (ii) equipment and machinery used by a nursery as defined in Code of Virginia, § 3.2-3800 for the production of horticultural products; and (iii) any farm tractor as defined in Code of Virginia, § 46.2-100, regardless of whether such farm tractor is used exclusively for agricultural purposes.

(9) Equipment used by farmers or farm cooperatives qualifying under section 521 of the Internal Revenue Code to manufacture industrial ethanol, provided that the materials from which the ethanol is derived consist primarily of farm products.

(10) Farm machinery designed solely for the planting, production or harvesting of a single product or commodity.

(11) Privately owned trailers as defined in Code of Virginia, § 46.2-100 that are primarily used by farmers in their farming operations for the transportation of farm animals or other farm products as enumerated in Code of Virginia, § 58.1-3505(A)(1)—(A)(7).

(Code 1980, § 20-7(j); Code 1995, § 20-106)

State law reference—Authority to exempt, Code of Virginia, § 58.1-3505.

Sec. 20-115. Situs for taxation.

(a) The situs for the assessment and taxation of tangible personal property, machinery and tools shall in all cases be the taxing jurisdiction where such property may be physically located on the first day of the tax year.

(b) The situs of motor vehicles, travel trailers, boats and airplanes subject to local taxation shall be the taxing jurisdiction where such vehicle is normally garaged, docked or parked except:

(1) The situs for vehicles with a weight of 10,000 pounds or less registered in the state but normally garaged, docked or parked in another state shall be the locality in Virginia where registered; and

(2) If the owner of a business files a return for any vehicle with a weight of 10,000 pounds or less registered in the state and used in the business with the locality from which the use of such vehicle is directed or controlled and in which the owner's business has a definite place of business, as defined in section 20-350, the situs for such vehicles shall be such locality provided the owner has presented evidence that he has paid the personal property tax on the business vehicles to such locality.

(c) Any person domiciled in another state whose motor vehicle is principally garaged or parked in the county shall not be subject to a personal property tax on such vehicle, upon a showing of sufficient evidence that such person has paid a personal property tax on such vehicle in the state in which he is domiciled.

(d) In the event it cannot be determined where a motor vehicle, travel trailer, boat or airplane is normally garaged, stored or parked, the situs shall be the domicile of the owner of such property. However, if a motor vehicle is used by a fulltime student attending an institution of higher education, and such use establishes that the motor vehicle is normally garaged at the location of the institution of higher education, the taxing situs shall be the domicile of the owner of the motor vehicle, provided the owner presents sufficient evidence that he has paid a personal property tax on the motor vehicle in his domicile, upon request of the locality of the institution of higher education.

(Code 1980, § 20-8; Code 1995, § 20-107; Ord. No. 1052, § 1, 9-9-2003)

State law reference—Similar provisions, Code of Virginia, § 58.1-3511.

Sec. 20-116. Waiver of penalty and interest.

The director of finance may waive the penalty and interest for failure of the taxpayer to file a return or to pay a tax under this article, provided such taxpayer demonstrates that such failure was not in any way the fault of the taxpayer or was the fault of the director of finance. The failure to file a return or to pay a tax due to the death of the taxpayer or a medically determinable physical or mental impairment on the date the return or tax is due shall be presumptive proof of lack of fault on the taxpayer's part, provided the return is filed or the taxes are paid within 30 days of the due date; however, if there is a committee, legal guardian, conservator or other fiduciary handling the individual's affairs, such return shall be filed or such taxes paid within 120 days after the fiduciary qualifies or begins to act on behalf of the taxpayer. Interest on such taxes shall accrue until paid in full. Any such fiduciary shall, on behalf of the taxpayer, by the due date, file any required returns and pay any taxes that come due after the 120-day period.

(Code 1980, § 20-8.1; Code 1995, § 20-108)

State law reference—Similar provisions, Code of Virginia, § 58.1-3916.

Secs. 20-117—20-147. Reserved.

ARTICLE IV. RECORDATION TAX

***State law reference—**Recordation tax generally, Code of Virginia, § 58.1-800 et seq.; authority to impose recordation tax, Code of Virginia, §§ 58.1-814, 58.1-3800 et seq.

Sec. 20-148. Levy; amount; exemptions.

There is hereby imposed a county recordation tax in an amount equal to one-third of the amount of the state recordation tax collectible for the state on the first recordation of each taxable instrument. No tax shall be imposed under this article upon any instrument in which the state recordation tax is $0.50 specifically. Where a deed or other instrument conveys, covers or relates to property located partly in the county and partly in another county or city, or in other counties or cities, the tax imposed under the authority of this article shall be computed only with respect to the property located in the county.

(Code 1980, § 20-25; Code 1995, § 20-131)

State law reference—Authority for above tax, Code of Virginia, §§ 58.1-814, 58.1-3800.

Sec. 20-149. Collection and disposition; compensation for collection.

The clerk of the circuit court of the county collecting the tax imposed under this article shall pay the tax into the treasury of the county. The clerk of the circuit court who collects the tax imposed under this article shall be entitled to an amount equal to five percent of the amount collected and paid to the county as compensation for such collection services.

(Code 1980, § 20-26; Code 1995, § 20-132)

State law reference—Similar provisions, Code of Virginia, § 58.1-3803.

Secs. 20-150—20-166. Reserved.

ARTICLE V. BANK FRANCHISE TAX

***State law reference—** Bank franchise tax authorized, Code of Virginia, § 58.1-1210.

Sec. 20-167. 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:

Bank shall have the meaning ascribed thereto by Code of Virginia, § 58.1-1201.

Net capital shall have the meaning ascribed thereto by Code of Virginia, § 58.1-1205.

(Code 1980, § 20-34; Code 1995, § 20-161)

Cross reference— Definitions and rules of construction, § 1-2.

Sec. 20-168. Levy; amount.

Pursuant to the provisions of Code of Virginia, title 58.1, ch. 12 (Code of Virginia, § 58.1-1200 et seq.), there is hereby imposed for each tax year a tax of 80 percent of the state rate of taxation for each $100.00 of the net capital of any bank located outside any incorporated town but otherwise within the boundaries of this county. If such bank also has offices that are located outside the county or within the corporate limits of any town therein, the tax shall be apportioned as provided by Code of Virginia, § 58.1-1211. If such bank is not the principal office but is a branch of the principal office, the tax upon such branch shall be apportioned as provided by Code of Virginia, § 58.1-1211.

(Code 1980, § 20-35; Code 1995, § 20-162)

State law reference— Bank franchise tax authorized, Code of Virginia, § 58.1-1210.

Sec. 20-169. Filing of return; records of deposits; payment.

(a) On or after January 1 of each year, but not later than March 1 of any such year, all banks whose principal offices are located within this county but outside any incorporated town in the county shall prepare and file with the director of finance a return as provided by Code of Virginia, § 58.1-1207, in duplicate, which shall set forth the tax on net capital as computed under Code of Virginia, title 58.1, ch. 12 (Code of Virginia, § 58.1-1200 et seq.). The director of finance shall certify a copy of the bank's return and schedules and shall forthwith transmit such certified copy to the state department of taxation.

(b) If the principal office of a bank is located outside the boundaries of this county or within any incorporated town located in the county, and such bank has one or more branch offices located within this county, then, in addition to the filing requirements set forth in subsection (a) of this section, any bank conducting such branch business shall file with the director of finance a copy of the real estate deduction schedule, apportionment and other items which are required by Code of Virginia, §§ 58.1-1207, 58.1-1211 and 58.1-1212. This latter filing shall be submitted with the return required by Code of Virginia, § 58.1-1207.

(c) All banks whose principal offices are located within this county, but outside any incorporated town in the county, that have as of the beginning of any tax year a branch bank located in another county, city or incorporated town, shall maintain a record of the deposits through each such branch as of the beginning of the tax year; and each bank shall submit to the director of finance of the county a report of such deposits with the return required by Code of Virginia, § 58.1-1207, as amended.

(d) Every bank, on or before June 1 of each year, will pay into the department of finance of the county all taxes imposed pursuant to this article.

(Code 1980, § 20-36; Code 1995, § 20-163)

State law reference—Similar provisions, Code of Virginia, §§ 58.1-1207, 58.1-1211, 58.1-1212.

Sec. 20-170. Penalty.

Any bank which fails to file a return or pay the tax required by this article or fails to comply with any other provision of this article shall be subject to a penalty of five percent of the tax due.

(Code 1980, § 20-37; Code 1995, § 20-164)

State law reference—Similar provisions, Code of Virginia, § 58.1-1216.

Secs. 20-171—20-193. Reserved.

ARTICLE VI. SALES TAX

***State law reference—**Authority to levy sales tax, Code of Virginia, § 58.1-605.

Sec. 20-194. Levy; amount; applicability of state law.

Pursuant to Code of Virginia, § 58.1-605, a local general retail sales tax at the rate of one percent 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 Code of Virginia, title 58.1, ch. 6 (Code of Virginia, § 58.1-600 et seq.). It shall be subject to all provisions of Code of Virginia, title 58.1, ch. 6 (Code of Virginia, § 58.1-600 et seq.) and the rules and regulations published with respect thereto.

(Code 1980, § 20-38; Code 1995, § 20-191)

State law reference—Authority to levy sales tax, Code of Virginia, § 58.1-605.

Sec. 20-195. Administration and collection.

Pursuant to Code of Virginia, § 58.1-605, 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 Code of Virginia, § 58.1-628. No discount under Code of Virginia, § 58.1-622, shall be allowed.

(Code 1980, § 20-39; Code 1995, § 20-19)

State law reference—Similar provisions, Code of Virginia, § 58.1-605.

Secs. 20-196—20-213. Reserved.

ARTICLE VII. USE TAX

***State law reference—**Use tax authorized, Code of Virginia, § 58.1-606.

Sec. 20-214. Levy; amount; applicability of state law.

Pursuant to Code of Virginia, § 58.1-606, a local general retail use tax at the rate of one percent to provide revenue for the general fund for the county is hereby levied. Such tax shall be added to the rate of the state use tax imposed by Code of Virginia, title 58.1, ch. 6 (Code of Virginia, § 58.1-600 et seq.). It shall be subject to all provisions of Code of Virginia, title 58.1, ch. 6 (Code of Virginia, § 58.1-600 et seq.) and the rules and regulations published with respect thereto.

(Code 1980, § 20-40; Code 1995, § 20-221)

State law reference—Authority to levy sales tax, Code of Virginia, § 58.1-606.

Sec. 20-215. Administration and collection.

Pursuant to Code of Virginia, § 58.1-606, the local general retail use 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 use tax, with the adjustments required by Code of Virginia, § 58.1-628. No discount under Code of Virginia, § 58.1-622, shall be allowed.

(Code 1980, § 20-41; Code 1995, § 20-222)

State law reference—Similar provisions, Code of Virginia, § 58.1-606.

Secs. 20-216—20-238. Reserved.

ARTICLE VIII. UTILITY TAXES

***State law reference—**Authority to adopt tax, Code of Virginia, § 58.1-3814.

Sec. 20-239. 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:

Affiliated group shall have the same meaning ascribed to it in Code of Virginia, § 58.1-3700.1.

Bad debts means any portion of a debt related to a sale of local telecommunications 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.

Commercial or industrial consumer, as relates to local telecommunications service, means any person furnished local telecommunication service classified as "business" under tariffs filed with the state corporation commission.

Consumer means a person who, individually or through agents, employees, officers, representatives or permittees, makes a taxable purchase of local telecommunications services or electricity services.

Dwelling unit means one or more rooms designed or intended for occupancy by a single family.

E-911 system means a telephone service which utilizes a computerized system to automatically route emergency telephone calls placed by dialing the digits "911" to the proper public safety answering point serving the jurisdiction from which the emergency telephone call was placed. An E-911 system includes selective routing of telephone calls, automatic telephone number identification and automatic location identification performed by computers and other ancillary control center communications equipment.

Electric suppliers means any corporation, cooperative, partnership or other business entity providing electric service.

Enhanced services means services that employ computer processing applications to act on the format,

code or protocol or similar aspects of the information transmitted; provide additional, different or restructured information; or involve interaction with stored information.

Gross charges.

(1) The term "gross charges," subject to the exclusions of this article, means the amount charged or paid for the taxable purchase of local telecommunication services.

(2) The term "gross charges" shall not include the following:

a. Charges or amounts paid that vary based on the distance and/or elapsed transmission time of the communication that are separately stated on the consumer's bill or invoice.

b. Charges or amounts paid for customer equipment, including such equipment that is leased or rented by the customer from any source, if such charges or amounts paid are separately identifiable from other amounts charged or paid for the provision of local telecommunication services on the service provider's books and records.

c. Charges or amounts paid for administrative services, including, without limitation, service connection and reconnection, late payments and roamer daily surcharges.

d. Charges or amounts paid for special features that are not subject to taxation under section 4251 of the Internal Revenue Code of 1986, as amended.

e. Charges or amounts paid that are the tax imposed by section 4251 of the Internal Revenue Code of 1986, as amended, or any other tax or surcharge imposed by statute, ordinance or regulatory authority.

f. Bad debts.

Kilowatt hours delivered means 1,000 watts of electricity delivered in a one-hour period by an electric provider to a consumer except in the case of eligible customer-generators, as defined in Code of Virginia, § 56-594, where it means 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 telecommunications service, subject to the exclusions stated in this article, includes, without limitation, the two-way local transmission of messages through use of switched local telephone services; telegraph services; teletypewriter; local cellular mobile radio telecommunication services; specialized mobile radio; stationary two-way radio; or any other form of two-way mobile and portable communications.

Local telephone service, subject to the exclusions stated in this article, includes any services 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. As it applies to an E-911 system, "local telephone service" shall mean switched local exchange access service.

Mobile local telecommunications service means any two-way mobile or portable local telecommunication service, including cellular mobile radio telecommunications service and specialized mobile radio.

Mobile service consumer means a person having a telephone number for mobile local telecommunications service who has made a taxable purchase of such service or on whose behalf another person has made a taxable purchase of such service.

Mobile service provider means every person engaged in the business of selling mobile local telecommunications services to consumers.

Public safety agency means a functional division of a public agency which provides firefighting, police, medical or other emergency services or a private entity which provides such services on a voluntary basis.

Public safety answering point means a communications facility operated on a 24-hour basis which first

receives E-911 calls from persons in an E-911 service area and which may, as appropriate, directly dispatch public safety services or extend, transfer or relay E-911 calls to appropriate public safety agencies.

Residential consumer, as relates to local telecommunications service, means any person furnished service classified as residential under tariffs filed with the state corporation commission. A residential consumer shall not include any consumer of mobile local telecommunications service.

Service address means the location of the telecommunications equipment from which the telecommunication is originated or at which the telecommunication is received by a consumer. However, if the service address is not a defined location, as in the case of mobile telephones, maritime systems, air-to-ground systems and the like, the term "service address" shall mean the location of the subscriber's primary use of the telecommunication equipment within the licensed service area. A mobile service provider may obtain a signed statement from a consumer indicating which county, city or town within the licensed service area is the location of the consumer's primary use of the telecommunications equipment. A mobile service provider shall be entitled to rely absolutely on a consumer's signed statement and shall remit the taxes collected to the county, city or town identified by the consumer. In the absence of a signed statement by a consumer, a mobile service provider shall identify the county, city or town of the consumer's primary use and shall remit the tax to such county, city or town based on any other reasonable method, including, without limitation, the consumer's billing address, service address or telephone number within the licensed service area.

Service provider means every person engaged in the business of selling local telecommunications services to consumers or delivering electricity services to consumers.

Taxable purchase.

(1) The term "taxable purchase" means the acquisition of telecommunications services for consumption or use.

(2) The term "taxable purchase" does not include:

a. The provision of telecommunications among members of an affiliated group of entities by a member of the group for their own exclusive use and consumption; and

b. The purchase of telecommunications for resale in the subsequent provision of telecommunications, including, without limitation, carrier access charges, right of access charges and charges for use of intercompany facilities.

However, the acquisition of telecommunications by a provider of enhanced services is not the purchase of telecommunications for resale, even when the cost of the telecommunications is separately stated to the purchaser of the enhanced services, as long as the primary object of the purchase of the telecommunications by the provider is for the provision of enhanced services and not telecommunications. A person may make tax-free purchases of telecommunications for resale if the person provides to the service provider a sworn affidavit indicating that the person's purchases are nontaxable sales for resale.

(Code 1980, § 20-42; Code 1995, § 20-251; Ord. No. 898, § 1, 6-28-1995; Ord. No. 1006, § 1, 10-10-2000)

Cross reference—Definitions and rules of construction, § 1-2.

Sec. 20-240. Levy; amount of tax on electricity service.

(a) There is hereby imposed and levied by the county upon each and every consumer, classified as determined by the service provider, of electricity provided by an electric supplier a tax based on kilowatt hours delivered monthly in the following amounts:

(1) On residential consumers, such tax shall be $0.70 plus the rate of $0.007537 per kilowatt hour delivered

not to exceed a maximum monthly tax of $1.00. In the case of master metered units with residential use, such tax per dwelling unit shall be $0.70 plus the rate of $0.007537 per kilowatt hour delivered not to exceed a maximum monthly tax of $1.00 per dwelling unit.

(2) On commercial consumers, such tax shall be $1.15 plus the rate of $0.007130 per kilowatt hour delivered not to exceed a maximum monthly tax of $10.00.

(3) On industrial consumers, such tax shall be $1.15 plus the rate of $0.007603 per kilowatt hour delivered not to exceed a maximum monthly tax of $10.00.

(b) The tax in every case shall be collected by the service provider from the consumer and shall be paid by the consumer to the service provider for the use of the county at the time the purchase price or charge for electricity shall become due and payable under the agreement between the consumer and the service provider.

(c) Until the consumer pays the tax to the service provider, the tax shall constitute a debt to the county. If any consumer receives and pays for electricity but refuses to pay the tax on the bill, the service provider shall notify the county of the name and address of such consumer. If any consumer fails to pay a bill issued by a service provider, including the tax, the service provider shall follow its normal collection procedures with respect to the charge for electric service and the tax, and upon collection of the bill or any part thereof shall apportion the net amount collected between the charge for electric service and the tax and remit the tax portion to the county. After the consumer pays the tax to the service provider, the taxes shall be deemed to be held in trust by such service provider until remitted to the county.

(d) All such taxes shall be computed to the nearest whole cent. Bills shall be considered monthly bills if submitted 12 times per year for periods of approximately one month each.

(Code 1980, § 20-43; Code 1995, § 20-252; Ord. No. 898, § 1, 6-28-1995; Ord. No. 1006, § 2, 10-10-2000)

Sec. 20-241. Levy; amount of tax on local telecommunication service.

(a) There is hereby imposed and levied by the county upon each and every taxable purchase by a consumer of local telecommunications service provided that the consumer's service address is located within the county a tax in the amount of ten percent of the gross charge made by the service provider against the consumer with respect to each and every taxable purchase; provided, however, that:

(1) In any case any monthly bill submitted by any service provider for residential service shall exceed $10.00 for a residential consumer, there shall be no tax computed on so much of such bill as shall exceed $10.00;

(2) In any case any monthly bill submitted by any service provider for commercial or industrial service shall exceed $100.00 for a commercial or industrial consumer, there shall be no tax computed on so much of such bill as shall exceed $100.00; and

(3) In any case any monthly bill submitted by any service provider to a consumer for mobile local telecommunications service shall exceed $30.00, there shall be no tax computed on so much of such bill as shall exceed $30.00.

All such taxes shall be computed to the nearest whole cent. Bills shall be considered monthly bills if submitted 12 times per year for periods of approximately one month each.

(b) A service provider of local telecommunications services shall collect the tax from the consumer by adding the tax to the monthly gross charge for such services and the tax shall be paid by the consumer to the service provider at the time the gross charge shall become due and payable under the agreement between the consumer and the service provider. The tax shall, when collected, be stated as a distinct item separate and apart from the monthly gross charge. Until the consumer pays the tax to the service provider, the tax shall constitute a debt of the consumer to the county. If any consumer refuses to pay the tax, the service provider shall notify the county. After the consumer pays the tax to the service provider, the taxes collected shall be deemed to be held in trust by the service provider until remitted to the county.

(c) A service provider shall remit to the county on or before the last day of the month the amount of tax

billed during the preceding month to consumers with a service address in the county.

(d) Any consumer shall be entitled to a refund from the county equal to the amount of any tax the consumer paid to a jurisdiction outside of the state if such tax was legally imposed in such other jurisdiction; however, the amount of credit or refund shall not exceed the tax paid to the county on such purchase.

(Code 1995, § 20-252.1; Ord. No. 898, § 2(20-43.1), 6-28-1995)

Sec. 20-242. Computation on bimonthly bill.

(a) In case bills are submitted by any service provider of local telecommunications service for two months' service, the tax shall be computed as if the figure of $10.00 specified in section 20-241 were $20.00, the figure of $100.00 specified in section 20-241 were $200.00 and the figure of $30.00 specified in section 20-241 were $60.00.

(b) In the case of bills submitted by a service provider of electricity service for two months' service, the tax shall be determined as follows:

(1) The kilowatt hours delivered will be divided by two;

(2) A monthly tax will be calculated using the base tax and rates in section 20-240(a); and

(3) The monthly tax calculated will be multiplied by two, but in no case shall exceed twice the monthly maximum tax set out in section 20-240(a).

(Code 1980, § 20-44; Code 1995, § 20-253; Ord. No. 898, § 1, 6-28-1995; Ord. No. 1006, § 3, 10-10-2000)

Sec. 20-243. Amount of tax for enhanced emergency telephone service.

In addition to the tax imposed and levied under section 20-241, there is hereby imposed and levied by the county upon each and every consumer of local telephone service a tax in the amount of $1.00 per telephone line per month. This tax shall be paid by the consumer to the service provider of local telephone service for the use of the county to pay the initial capital, installation and maintenance costs of its E-911 system and to offset recurring maintenance, repair and system upgrade costs and salaries or portions of salaries of dispatchers or call-takers paid by the county which are directly attributable to the E-911 program.

(Code 1980, § 20-44.1; Code 1995, § 20-254; Ord. No. 898, § 1, 6-28-1995)

Sec. 20-244. Exemptions.

(a) The United States of America, the state and the political subdivisions, boards, commissions and authorities thereof are hereby exempted from the payment of the taxes imposed and levied by this article with respect to the purchase of electricity service and local telecommunications service used by such governmental agencies.

(b) The taxes hereby imposed and levied on consumers of local telecommunications service shall apply to all charges made for such service; provided, however, that local messages which are paid for by inserting coins in coin-operated telephones shall be exempt from the tax imposed and levied under section 20-241.

(c) Provided, further, there shall be no tax on bills rendered to a public service corporation or a municipality on sales of electricity purchased for resale.

(Code 1980, § 20-45; Code 1995, § 20-255; Ord. No. 898, § 1, 6-28-1995)

Sec. 20-245. Collection and remittance by service provider.

(a) It shall be the duty of every service provider in acting as the tax collection medium or agency for the county to collect from the consumer for the use of the county the taxes hereby imposed and levied at the time of collecting the purchase price or gross charges. The taxes imposed, levied and collected during each

calendar month shall be reported and paid by each service provider to the business section manager in the office of the director of finance on or before the 15th day of the second calendar month thereafter, except as provided in section 20-241(c), together with the name and address of any consumer who has refused to pay the taxes. The required reports shall be in the form prescribed by the director of finance.

(b) Whenever the tax imposed and levied under section 20-243 is collected by the service provider acting as a tax collecting medium or agency for the county in accordance with this section, such service provider shall be allowed as compensation for the collection and remittance of this tax, three percent of the amount of tax due and accounted for. The service provider shall deduct this compensation from the payments made to the business section manager in accordance with this section.

(Code 1980, § 20-46; Code 1995, § 20-256; Ord. No. 898, § 1, 6-28-1995; Ord. No. 1006, § 4, 10-10-2000)

Sec. 20-246. Records of service provider.

Each and every service provider shall keep complete records showing all charges or taxable purchases, as those terms are used in this article, which records shall show the price or gross charge against each consumer, the date thereof and the date of payment thereof, the amount of tax imposed hereunder and the amount of compensation deducted by the service provider as provided by section 20-245. Such records shall be maintained for 36 months and shall be kept open for inspection by the duly authorized agents of the county during regular business hours on business days, and the duly authorized agents of the county shall have the right, power and authority to make such transcripts and copies thereof during such time as they may desire.

(Code 1980, § 20-47; Code 1995, § 20-257; Ord. No. 898, § 1, 6-28-1995; Ord. No. 970, § 1, 3-25-1998; Ord. No. 1006, § 5, 10-10-2000)

Sec. 20-247. Powers and duties of director of finance.

(a) The director of finance is hereby authorized to make and establish rules and regulations, not inconsistent with this article, to carry out the provisions of this article.

(b) The director of finance is hereby authorized to extend for good cause shown the time of filing any return required to be filed by the provisions of this article, provided that no such extension shall exceed a period of 30 days.

(c) The director of finance shall be charged with the power and duty of collecting the taxes levied and imposed under this article. The director of finance may delegate so much of the power and responsibility for the operation and enforcement of this tax as he deems advisable.

(Code 1980, § 20-48; Code 1995, § 20-258)

Secs. 20-248—20-272. Reserved.

ARTICLE IX. TRANSIENT OCCUPANCY TAX

***State law reference—**Authority to levy transient occupancy tax, Code of Virginia, § 58.1-3819 et seq.

Sec. 20-273. 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:

Director means the director of finance of the county.

Hotel includes, but is not limited to, any public or private hotel, inn, apartment hotel, hostelry, tourist

home or house, motel, boardinghouse or other lodging place within the county, offering lodging to any transient for compensation, and which can lodge four or more persons at any one time.

Lodging includes, but is not limited to, any space or room furnished any transient.

Operator means the proprietor of any dwelling, lodging, or sleeping accommodations offered as a short-term rental, whether in the capacity of owner, lessee, sublessee, mortgagee in possession, licensee, or any other possessory capacity.

Person includes, but is not limited to, an individual, firm, partnership, association, corporation, person acting in a representative capacity, or any group of individuals acting as a unit.

Room rental means the total charge, exclusive of any tax imposed on such charge, made by any hotel for lodging furnished any transient. If the charge made by any hotel to a transient includes any charge for services or accommodations in addition to that of lodging or use of space, then such portion of the total charge as represents only lodging or space rental shall be distinctly set out and billed to such transient by such hotel as a separate item.

Short-term rental means the provision of a room or space that is suitable or intended for occupancy for dwelling, sleeping, or lodging purposes, for a period of fewer than 30 consecutive days, in exchange for a charge for the occupancy.

Transient means the same person who, for a period of less than 30 consecutive days, either at his own expense or at the expense of another, obtains lodging or use of space in any hotel or travel campground, for which lodging or use of space a charge is made.

Travel campground means any area, site, lot, field or tract of land offering spaces for recreational vehicles or campsites for transient dwelling purposes, or temporary dwelling during travel, recreational or vacation uses.

(Code 1980, § 20-51; Code 1995, § 20-281; Ord. No. 961, § 1, 9-24-1997)

Cross reference—Definitions and rules of construction, § 1-2.

Sec. 20-274. Levy; amount.

(a) There is hereby imposed and levied by the county on each transient tax in the percentages established below of the total amount paid for room rental by or for any transient to any hotel or travel campground:

(1) Pursuant to Code of Virginia, § 58.1-3819, two percent.

(2) Pursuant to Code of Virginia, § 58.1-3823(A)1, four percent.

(3) Pursuant to Code of Virginia, § 58.1-3823(A)2, two percent.

(b) Such tax shall be collected from such transient at the time and in the manner provided in this article.

(Code 1980, § 20-52; Code 1995, § 20-282; Ord. No. 925, § 1, 7-10-1996; Ord. No. 978, § 1, 7-8-1998)

State law reference—Authority to levy transient occupancy tax, Code of Virginia, § 58.1-3819 et seq.

Sec. 20-275. Collection.

Every person receiving any payment for room rental with respect to which a tax is levied under this article shall collect the amount of tax thereby imposed from the transient on whom the tax is levied, or from the person paying for such room rental, at the time payment for such room rental is made. Such tax shall be

deemed to be held in trust by the person required to collect the tax until remitted to the county as required in this article.

(Code 1980, § 20-53; Code 1995, § 20-283)

Sec. 20-276. Reports and remittance of tax.

The person collecting the tax levied under this article shall make a report upon such forms and setting forth such information as the director may prescribe and require. Such reports shall show the amount of room rental charges collected and the tax required to be collected, and shall be signed and delivered to the director with a remittance of such tax. Such report and remittance shall be made at least once in every 30-day period and not later than the 20th day of the month next following the month in which such tax was collected.

(Code 1980, § 20-54; Code 1995, § 20-284)

Sec. 20-277. Penalty for failure to file report or pay tax; interest on unpaid tax.

(a) If any person, whose duty it is so to do, shall fail or refuse to file with the director the report required under this article within the time specified in this article, there shall be assessed a penalty in the amount of ten percent of the tax assessable on such report. Such penalty shall be assessed on the day following the day on which the report was due unless otherwise provided by Code of Virginia, § 58.1-3903. Any such penalty, when assessed, shall become a part of the tax. The imposition of such penalty shall not be deemed a defense to any criminal prosecution for failing to make any report required in this article.

(b) If any person, whose duty it is so to do, shall fail or refuse to remit to the director the tax required to be collected and paid under this article within the time specified in this article, there shall be assessed a penalty in the amount of ten percent of the tax past due. Such penalty shall be assessed on the day following the day on which the tax was due unless otherwise provided by Code of Virginia, § 58.1-3903. Any such penalty, when assessed, shall become a part of the tax.

(c) In addition, there shall be assessed interest at the rate of ten percent per year on the amount of tax past due, which interest shall commence on the day following the day on which the tax was due unless otherwise provided by Code of Virginia, § 58.1-3903.

(Code 1980, § 20-55; Code 1995, § 20-285; Ord. No. 966, § 3, 11-12-1997)

Sec. 20-278. Procedure upon failure to file return or pay tax.

If any person shall fail or refuse to collect the tax imposed under this article or to make within the time provided in this article the reports and remittance required in this article, the director shall make an estimate of the amount of taxes due the county by such person upon the best information available and shall proceed to determine and assess against such person such tax and penalty and interest as provided for in this article. The director shall notify such person by registered mail, sent to his last known place of address, of the amount of such tax and interest and penalty, and the total amount thereof shall be payable within ten days from the date of such notice. The director shall have the power to examine such books and records as is provided for by section 20-374.

(Code 1980, § 20-56; Code 1995, § 20-286)

Sec. 20-279. Criminal penalties.

Any corporate or partnership officer as defined in Code of Virginia, § 58.1-3906, or any other person required to collect, account for and pay over the tax levied in this article who willfully fails to collect or

truthfully account for and pay over such tax, and any such officer or person who willfully evades or attempts to evade any such tax or the payment thereof, shall be guilty of a misdemeanor.

(Code 1980, § 20-56; Code 1995, § 20-287; Ord. No. 930, § 1, 8-14-1996)

Sec. 20-280. Short-term rental registry established; annual registration required; fee.

There is hereby established a short-term rental registry in the county. Operators within the county are required to register annually with the director of the department of finance and provide (i) the complete name of the operator and (ii) the address of each property in the locality offered for short-term rental by the operator. The operator must pay a fee of $200.00 at the time of registration each year. Registrations are valid for one year from the date of registration. No operator may offer a property for short-term rental without a valid registration.

Sec. 20-281. Exemptions.

The following operators are exempt from the registration requirements of § 20-280:

(1) Operators licensed by the Real Estate Board or who are property owners represented by a real estate licensee;
(2) Operators registered pursuant to the Virginia Real Estate Time-Share Act, Code of Virginia, § 55.1-2200 et seq.;
(3) Operators licensed or registered with the Department of Health, related to the provision of room or space for lodging;
(4) Operators licensed or registered with the county, relating to the rental or management of real property, including licensed real estate professionals, hotels, motels, campgrounds, and bed and breakfast establishments.

Sec. 20-282. Penalties.

(a) *Penalties for violations of registration requirement.* Any operator required to register who violates § 20-280 is liable to the county for a penalty of $500 for each violation. Unless and until the operator pays the penalty and registers the property, the operator may not continue to offer such property for short-term rental. Upon more than one violation of this article as it relates to a specific property, the operator will be prohibited from registering and offering that property for a short-term rental.
(b) *Penalty for violations of other applicable laws and regulations.* Any operator required to register will be prohibited from offering a specific property for short-term rental upon three or more violations on more than three occasions of applicable state and local laws, ordinances, and regulations, as they relate to the short-term rental.

Secs. 20-283—20-306. Reserved.

ARTICLE X. SHORT-TERM RENTAL PROPERTY TAX

***State law reference—** Authority to adopt, Code of Virginia, § 58.1-3510.1.

Sec. 20-307. Short-term rental property; short-term rental business.

For purposes of this article:

(1) Short-term rental property means all tangible personal property held for rental and owned by a person engaged in the short-term rental business, except trailers as defined in Code of Virginia, § 46.2-100, as amended, and other tangible personal property required to be licensed or registered with the state department of motor vehicles, the state department of game and inland fisheries, or the state department of aviation.

(2) A person is engaged in the short-term rental business if:

a. Not less than 80 percent of the gross rental receipts of such business during the preceding year are from transactions involving the rental of short-term rental property, other than heavy equipment property, for rental periods of 92 consecutive days or less, including all extensions and renewals to the same person or a person affiliated with the lessee; or

b. Not less than 60 percent of the gross rental receipts of such business during the preceding year are from transactions involving the rental of heavy equipment property for periods of 270 consecutive days or less, including all extensions and renewals to the same person or a person affiliated with the lessee. For purposes of this subdivision, the term "heavy equipment property" means rental property of an industry that is described under code 532412 or 532490 of the 2002 North American Industry Classification System as published by the United States Census Bureau, excluding office furniture, office equipment, and programmable computer equipment and peripherals as defined in Code of Virginia, § 58.1-3503.A.16, as amended.

(3) For purposes of determining whether a person is engaged in the short-term rental business as defined in subsection (2) of this section:

a. A person is affiliated with the lessee of rental property if such person is an officer, director, partner, member, shareholder, parent or subsidiary of the lessee, or if such person and the lessee have any common ownership interest in excess of five percent;

b. Any rental to a person affiliated with the lessee shall be treated as rental receipts but shall not qualify for purposes of the 80 percent requirement of subsection (2)a of this section or the 60 percent requirement of subsection (2)b of this section; and

c. Any rental of personal property which also involves the provision of personal services for the operation of the personal property rented shall not be treated as gross receipts from rental; provided, however, that the delivery and installation of tangible personal property shall not mean operation for the purposes of this subsection.

(4) A person who has not previously been engaged in the short-term rental business who applies for a certificate of registration pursuant to section 20-310 shall be eligible for registration upon his certification that he anticipates meeting the requirements of a specific subdivision of subsection (2) of this section, designated by the applicant at the time of application, during the year for which registration is sought.

(5) In the event that the director of finance makes a written determination that a rental business previously certified as a short-term rental business under section 20-311 has failed to meet either of the tests set forth in subsection (2) of this section during a preceding tax year, such business shall lose its certification as a short-term rental business and shall be subject to the business personal property tax with respect to all rental property for the tax year in which such certification is lost and any subsequent tax years until such time as the rental business obtains recertification under section 20-311. In the event that a rental business loses its certification as a short-term rental business pursuant to this subsection, such business shall not be required to refund to customers short-term rental property taxes previously collected in good faith and shall not be subject to assessment for business personal property taxes with respect to rental property for tax years preceding the year in which the certification is lost unless the director of finance makes a written determination that the business obtained its certification by knowingly making materially false statements in its application, in which case the director of finance may assess the taxpayer the amount of the difference between short-term rental property taxes remitted by such business during the period in which the taxpayer wrongfully held certification and the business personal property taxes that would have been due during such

period but for the certification obtained by the making of the materially false statements. Any such assessment, and any determination not to certify or to decertify a rental business as a short-term rental business as defined in this section, may be appealed pursuant to the procedures and requirement in Code of Virginia, § 58.1-3983.1 for appeals of local business taxes, which shall apply mutatis mutandis to such assessments and certification decisions.

(6) A rental business that has been decertified under the provision of subsection (5) of this section shall be eligible for recertification for a subsequent tax year upon a showing that it has met one of the tests provided in subsection (2) of this section for at least ten months of operations during the present tax year.

(Code 1980, §§ 20-58—20-60; Code 1995, § 20-311; Ord. No. 1137, § 1, 11-10-2009)

State law reference—Similar provisions, Code of Virginia, § 58.1-3510.

Sec. 20-308. Levy; amount.

Pursuant to Code of Virginia, § 58.1-3510.6A for each tax year, there is hereby levied and imposed a tax of one percent on the gross proceeds arising from rentals of every person engaged in the short-term rental business. Such tax shall be in addition to the tax levied pursuant to Code of Virginia, § 58.1-605. The term "gross proceeds" means the total amount charged to each person for the rental of short-term rental property, excluding any state and local sales tax paid under the provisions of Code of Virginia, title 58.1, ch. 6.

(Code 1980, § 20-58; Code 1995, § 20-312; Ord. No. 1137, § 2, 11-10-2009)

Sec. 20-309. Taxation of rental property other than short-term rental property.

Except for daily rental vehicles pursuant to Code of Virginia, § 58.1-3510 and short-term rental property, rental property shall be classified, assessed and taxed as tangible personal property.

(Code 1980, § 20-61; Code 1995, § 20-313; Ord. No. 1137, § 3, 11-10-2009)

State law reference—Similar provisions, Code of Virginia, § 58.1-3510(D).

Sec. 20-310. Application for certificate of registration.

(a) Every person engaging in the business of short-term rental shall file annually an application for a certificate of registration with the director of finance for each place of business in the county from which short-term rental business will be conducted by the applicant. Such application shall be filed by December 1 of the year preceding or within 30 days of the beginning of a short-term rental business. The application shall be on a form prescribed by the director of finance and shall set forth the name under which the applicant operates or intends to operate the rental business, the location of the business, the subsection of section 20-307(2) under which the business asserts that it is qualified for certification as a short-term rental business, and such other information as the director of finance may require.

(b) A list of rental inventory and copies of the applicant's standard rental contracts shall be submitted with each application.

(c) Each applicant shall sign the application as owner of the rental business. If the rental business is owned by an association, partnership, limited liability company or corporation, the application shall be signed by a member, partner, executive officer or other person specifically authorized by the association, partnership, limited liability company or corporation to sign.

(Code 1980, § 20-62; Code 1995, § 20-314; Ord. No. 1137, § 4, 11-10-2009)

State law reference—Renter's certificate of registration, Code of Virginia, § 58.1-3510.2.

Sec. 20-311. Issuance of certificate of registration; display; transfer; expiration.

(a) Upon approval of the application under section 20-310 by the director of finance, a certificate of registration shall be issued. This certificate shall be conspicuously displayed at all times at the place of business for which it is issued.

(b) The certificate is not assignable and shall be valid only for the person in whose name it is issued and the place of business designated.

(c) If the holder of a certificate ceases to conduct business at the place specified in the certificate, the certificate shall thereupon expire, and such holder shall inform the director of finance in writing within 30 days after the business has ceased at the specified location the date that the business ceased.

(Code 1980, § 20-63; Code 1995, § 20-315)

State law reference—Similar provisions, Code of Virginia, § 58.1-3510.2.

Sec. 20-312. Collection and remittance; returns.

Every person engaged in the short-term rental business shall collect the short-term rental property tax from the lessee of the short-term rental property at the time of the rental. The lessor of the short-term rental property shall transmit a quarterly return to the director of finance, indicating the gross proceeds derived from the short-term rental business, and shall remit therewith the payment of such tax as is due for the quarter. The quarterly returns and payment of tax shall be filed with the director of finance on or before April 15, July 15, October 15 and January 15, representing, respectively, the gross proceeds and taxes collected during the preceding quarters ending March 31, June 30, September 30 and December 31. The tax imposed by this article shall become delinquent for each quarter on April 16, July 16, October 16 and January 16. The return shall be upon such forms and set forth such information as the director of finance may require, showing the amount of gross proceeds and the tax required to be collected. The taxes required to be collected under this article shall be deemed to be held in trust by the business required to collect such taxes until remitted as required in this article. Any person who neglects, fails or refuses to collect the tax imposed by this article shall be liable for and pay the tax himself.

(Code 1980, § 20-64; Code 1995, § 20-316; Ord. No. 1137, § 5, 11-10-2009)

State law reference—Similar provisions, Code of Virginia, § 58.1-3510.1.

Sec. 20-313. Records.

(a) *Record of transactions.* The person collecting the short-term rental property tax shall maintain a record of all rental transactions for which this tax is collected, which record shall contain:

(1) A description of the property rented;

(2) The period of time for which the property was rented;

(3) The name of the person to whom the property was rented; and

(4) The amount charged for each rental, including all late charges, penalties and interest.

(b) *Record of exemptions.* In addition to the information specified in subsection (a) of this section, every person engaged in a short-term rental business shall maintain a complete record of all exemptions from payment of this tax granted to renters of short-term rental property, including:

(1) A copy of the state department of taxation tax exemption certificate; or

(2) A copy of the U.S. State Department tax exemption certificate, which U.S. State Department card must specify the renter by name as exempt from sales tax; or

(3) Other explanation and proof of claimant exemption.

(Code 1980, § 20-65; Code 1995, § 20-317; Ord. No. 1137, § 6, 11-10-2009)

Sec. 20-314. Procedure upon failure to file return or filing of false return.

Except as otherwise provided in section 20-307(5), if any person, whose duty it is so to do, shall fail or refuse to file within the time provided in this article the returns required in this article or files a return that is false or fraudulent, it shall be the duty of the director of finance to make an estimate for the taxable period of the gross proceeds of such person and assess the tax plus such penalties and interest as are provided in this article. The director of finance shall give the person ten days' notice in writing requiring such person to appear before him with such books, records and papers as he may require relating to the business for the taxable period. The director of finance may require the person or his agents and employees to give testimony or to answer interrogatories under oath administered by the director of finance respecting such gross proceeds or the failure to make a return thereof as provided in this article. If any person fails to make any such return or refuses to permit an examination of his books, records or papers or to appear and answer questions within the scope of such investigation, the director of finance shall proceed to make an assessment based upon such information as may be available to him. The assessment so made shall be deemed prima facie correct.

(Code 1980, § 20-66; Code 1995, § 20-318; Ord. No. 1137, § 7, 11-10-2009)

Sec. 20-315. Penalty for failure to file return, failure to remit tax or filing fraudulent return; interest on unpaid tax.

(a) When any person whose duty it is so to do fails to make any return and pay the full amount of the tax required by this article, there shall be imposed, in addition to other penalties provided in this article, a specific penalty to be added to the tax in the amount of six percent if the failure is for not more than one month, with an additional six percent for each additional month, or fraction thereof, during which the failure continues, not to exceed 30 percent in the aggregate. In no case, however, shall the penalty be less than $10.00, and such minimum penalty shall apply whether or not any tax is due for the period for which such return was required. If such failure is due to providential or other good cause shown to the satisfaction of the director of finance, such return with or without remittance may be accepted exclusive of penalties.

(b) In the case of a false or fraudulent return where willful intent exists to defraud the county of any tax due under this article, or in the case of a willful failure to file a return with the intent to defraud the county of any such tax, a specific penalty of 50 percent of the amount of the proper tax shall be assessed. It shall be prima facie evidence of intent to defraud the county of any tax due under this article when any person engaged in the short-term rental business reports his gross proceeds at 50 percent or less of the actual amount.

(c) All penalties and interest imposed by this article shall be payable by the person engaged in the short-term rental business and collectible by the director of finance in the same manner as if they were a part of the tax imposed.

(d) Interest at a rate determined in accordance with Code of Virginia, § 58.1-15 shall accrue on the tax until the tax is paid, or until an assessment is made, pursuant to Code of Virginia, § 58.1-15 after which interest shall accrue as provided therein.

(e) The imposition of any penalties or interest shall not be deemed a defense to any criminal prosecution for failing to make any return or remittance required in this article.

(Code 1980, § 20-67; Code 1995, § 20-319)

State law reference—Similar provisions, Code of Virginia, §§ 58.2-635, 58.1-3510.3.

Sec. 20-316. Exemptions.

No tax shall be collected or assessed on rentals by the state, any political subdivision of the state or the United States or any rental of durable medical equipment as defined in Code of Virginia, § 58.1-609.10. Additionally, all exemptions applicable in Code of Virginia, §§ 58.1-609.1—58.1-609.11 shall apply mutatis mutandis to the short-term rental property tax.

(Code 1980, § 20-68; Code 1995, § 20-320; Ord. No. 1137, § 8, 11-10-2009)

State law reference—Exemptions, Code of Virginia, § 58.1-3510.3.

Sec. 20-317. Collection without certificate of registration prohibited.

No person renting any property or service to any other person shall collect from the lessee the short-term rental property tax authorized by this article unless he has a valid certificate of registration issued for the current year by the director of finance. Except as otherwise provided in section 20-307(5), any payments collected by any person, certified or uncertified, in a manner not authorized by law shall be refunded to such lessees as can be identified, with the remainder forfeited to the county.

(Code 1980, § 20-69; Code 1995, § 20-321; Ord. No. 1137, § 9, 11-10-2009)

Sec. 20-318. Criminal penalties.

Any corporate or partnership officer as defined in Code of Virginia, § 58.1-3906 or any other person required to collect, account for and pay over the tax levied in this article who willfully fails to collect or truthfully account for and pay over such tax, and any such officer or person who willfully evades or attempts to evade any such tax or the payment thereof, shall be guilty of a misdemeanor.

(Code 1980, § 20-70; Code 1995, § 20-322; Ord. No. 930, § 2, 8-14-1996)

State law reference—Similar provisions, Code of Virginia, §§ 58.1-3510.3, 58.1-636.

Sec. 20-319. Payment of tax with bad check.

If any check tendered for any amount due under this article is not paid by the bank on which it is drawn and any person subject to the provisions of this article fails to pay the director of finance the amount due the county within five days after the director has given him written notice by registered or certified mail or in person by an agent that such check was returned unpaid, the person by whom such check was tendered shall be guilty of a violation of Code of Virginia, § 18.2-182.1.

(Code 1980, § 20-71; Code 1995, § 20-323)

State law reference—Authority to so provide, Code of Virginia, §§ 58.1-3510, 58.1-637.

Sec. 20-320. Sale or closing of business.

If any person liable for any tax, penalty or interest levied under the provisions of this article sells out his business or stock of goods or quits business, he shall make a final return and payment within 15 days after the date of selling or quitting the business. His successor or assigns, if any, shall withhold sufficient of the purchase money to cover the amount of such tax, penalty and interest due and unpaid until the former owner produces a receipt from the director of finance showing that they have been paid or a certificate stating that no tax, penalty or interest is due. If the purchaser of a business or stock of goods fails to withhold the purchase money as provided in this section, the purchaser shall be personally liable for the payment of such tax, penalty and interest due and unpaid by the former owner.

(Code 1980, § 20-72; Code 1995, § 20-324)

State law reference—Authority to so provide, Code of Virginia, §§ 58.1-3510m, 58.1-637.

Sec. 20-321. Bond.

The director of finance, when in his judgment it is necessary and advisable so to do in order to secure the collection of the short-term rental tax, may require any person subject to such tax to file with him a bond with such surety as the director of finance determines is necessary to cover the payment of the tax, penalty or interest due or which may become due from such person.

(Code 1980, § 20-73; Code 1995, § 20-325; Ord. No. 1137, § 10, 11-10-2009)

State law reference—Authority to so provide, Code of Virginia, §§ 58.1-3510, 58.1-630.

Sec. 20-322. Jeopardy assessment.

If the director of finance is of the opinion that the collection of the tax or any amount of the tax required to be collected and paid under this article will be jeopardized by delay, he shall make an assessment of the tax or amount of tax required to be collected and shall mail or issue a notice of such assessment to the taxpayer, together with a demand for immediate payment of the tax or of the deficiency in tax declared to be in jeopardy, including penalties. In the case of a tax for a current period, the director of finance may declare the taxable period of the taxpayer immediately terminated and shall cause notice of such finding and declaration to be mailed or issued to the taxpayer, together with a demand for immediate payment of the tax based on the period declared terminated, and such tax shall be immediately due and payable, whether or not the time otherwise allowed by law for filing a return and paying the tax has expired. Assessments provided for in this section shall become immediately due and payable, and, if any such tax, penalty or interest is not paid upon demand by the director of finance, he shall proceed to collect the tax, penalty or interest by legal process or, in his discretion, he may require the taxpayer to file such bond as in his judgment may be sufficient to protect the interest of the county.

(Code 1980, § 20-74; Code 1995, § 20-326)

State law reference—Authority to so provide, Code of Virginia, §§ 58.1-3510, 58.1-631.

Sec. 20-323. Period of limitations.

Except as otherwise provided in section 20-307(5), the tax imposed by this article shall be assessed within three years from the date on which such taxes became due and payable, or in the case of a false or fraudulent return with intent to evade payment of the tax imposed by this article, or a failure to file a return, the tax may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time within six years from such date. The director of finance shall not examine any person's records beyond the three-year period of limitations unless he has reasonable evidence of fraud or reasonable cause to believe that such person was required by law to file a return and failed to do so.

(Code 1980, § 20-75; Code 1995, § 20-327; Ord. No. 1137, § 11, 11-10-2009)

State law reference—Authority to so provide, Code of Virginia, §§ 58.1-3510, 58.1-634.

Secs. 20-324—20-349. Reserved.

ARTICLE XI. LICENSE TAX

***Cross reference—** Amusements, ch. 4; billiard parlors, § 4-31 et seq.; dance halls, § 4-61 et seq.; musical or entertainment festivals, § 4-91 et seq.; closing out and similar sales, ch. 8; massage establishments, ch. 12; dealers in precious metals and gems, § 15-104 et seq.; pawnbrokers, § 15-144 et seq.; adult businesses, § 15-181 et seq.; taxicabs and other vehicles for hire, ch. 21.

***State law reference—** Authority to levy license taxes, Code of Virginia, §§ 58.1-3702, 58.1-3703; limitations on levy, Code of Virginia, § 58.1-3706; mandatory ordinance provisions, Code of Virginia, § 58.1-3703.1.

DIVISION 1. GENERALLY

Sec. 20-350. 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:

Affiliated group means:

(1) One or more chains of corporations subject to inclusion connected through stock ownership with a common parent corporation which is a corporation subject to inclusion if:

a. Stock possessing at least 80 percent of the voting power of all classes of stock and at least 80 percent of each class of the nonvoting stock of each of the corporations subject to inclusion, except the common parent corporation, is owned directly by one or more of the other corporations subject to inclusion; and

b. The common parent corporation directly owns stock possessing at least 80 percent of the voting power of all classes of stock and at least 80 percent of each class of the nonvoting stock of at least one of the other subject to inclusion corporations. As used in this subdivision, the term "stock" does not include nonvoting stock which is limited and preferred as to dividends; the phrase "corporation subject to inclusion" means any corporation within the affiliated group irrespective of the state or country of its incorporation; and the term "receipts" includes gross receipts and gross income.

(2) Two or more corporations if five or fewer persons who are individuals, estates or trusts own stock possessing:

a. At least 80 percent of the total combined voting power of all classes of stock entitled to vote or at least 80 percent of the total value of shares of all classes of the stock of each corporation; and

b. More than 50 percent of the total combined voting power of all classes of stock entitled to vote or more than 50 percent of the total value of shares of all classes of stock of each corporation, taking into account the stock ownership of each such person only to the extent such stock ownership is identical with respect to each such corporation.

When one or more of the corporations subject to inclusion, including the common parent corporation, is a nonstock corporation, the term "stock" as used in this subsection shall refer to the nonstock corporation membership or membership voting rights, as is appropriate to the context.

(3) Two or more entities if such entities satisfy the requirements of subsection (1) or (2) of this definition if they were corporations and the ownership interests therein were stock.

Assessment means a determination as to the proper rate of tax, the measure to which the tax rate is applied, and ultimately the amount of tax, including additional or omitted tax, that is due. An assessment shall include a written assessment made pursuant to notice by the assessing official or a self-assessment made by a taxpayer upon the filing of a return or otherwise not pursuant to notice. Assessments shall be deemed made by an assessing official when a written notice of assessment is delivered to the taxpayer by the assessing official or an employee of the assessing official, or mailed to the taxpayer at his last known address. Self-assessments shall be deemed made when a return is filed, or if no return is required, when the tax is paid. A return filed or tax paid before the last day prescribed in this chapter for the filing or payment thereof

shall be deemed to be filed or paid on the last day specified for the filing of a return or the payment of tax, as the case may be.

Assessor or *assessing official* means the director of finance.

Base year means the calendar year preceding the license year, except as provided elsewhere in this article.

Business means a course of dealing which requires the time, attention and labor of the person so engaged for the purpose of earning a livelihood or profit. Business implies a continuous and regular course of dealing, rather than an irregular or isolated transaction. A person may be engaged in more than one business. The following acts create a rebuttable presumption that a person is engaged in a business:

(1) Advertising or otherwise holding oneself out to the public as being engaged in a particular business; or
(2) Filing tax returns, schedules and documents that are required only of persons engaged in a trade or business.

Definite place of business means an office or location at which occurs a regular and continuous course of dealing for 30 consecutive days or more. A definite place of business for a person engaged in business may include a location leased or otherwise obtained from another person on a temporary or seasonal basis or real property leased to another. A person's residence shall be deemed to be a definite place of business if there is no definite place of business maintained elsewhere and the person would not be licensable as a peddler or itinerant merchant.

Entity means a business organization, other than a sole proprietorship, that is a corporation, limited liability company, limited partnership, or limited liability partnership duly organized under the laws of the state or another state.

Financial services means the buying, selling, handling, managing, investing, and providing of advice regarding money, credit, securities, or other investments.

Fuel sales shall mean retail sales of alternative fuel, blended fuel, diesel fuel, gasohol, or gasoline, as such terms are defined in Code of Virginia, § 58.1-2201.

Gas retailer means a person or entity engaged in business as a retailer offering to sell at retail on a daily basis alternative fuel, blended fuel, diesel fuel, gasohol, or gasoline, as such terms are defined in Code of Virginia, § 58.1-2201.

Gross receipts means the whole, entire, total receipts, without deduction.

Gross receipts of the business.

(1) The term "gross receipts of the business" means the gross sales of merchandise and the gross receipts of the business, occupation or profession from all earnings, fees, commissions, brokerage charges and rentals, and from all income whatsoever arising from or growing out of the conduct of the business, occupation or profession licensed in this article during the license year immediately preceding the license year for which the tax is being computed, without any deductions whatsoever, unless otherwise expressly provided.
(2) The term "gross receipts of the business" shall not include:
a. Amounts received and paid to the United States, the state or any county, city or town for the state retail sales or use tax, for any local sales tax or meal tax or any local excise tax on cigarettes, or amounts received for any federal or state excise taxes on motor fuels.

b. Any amount representing the liquidation of a debt or conversion of another asset to the extent that the amount is attributable to a transaction previously taxed (e.g., the factoring of accounts receivable created by sales which have been included in the receipts even though the creation of such debt and factoring are a regular part of the business).

c. Any amount representing returns and allowances granted by the business to its customer.

d. Receipts which are the proceeds of a loan transaction in which the taxpayer is the obligor.

e. Receipts representing the return of principal of a loan transaction in which the taxpayer is the creditor, or the return of principal or basis upon the sale of a capital asset.

f. Rebates and discounts taken or received on account of purchases by the taxpayer. A rebate or other incentive offered to induce the recipient to purchase certain goods or services from a person other than the offeror, and which the recipient assigns to the taxpayer in consideration of the sale of goods and services shall not be considered a rebate or discount to the taxpayer, but shall be included in the taxpayer's gross receipts together with any handling or other fees related to the incentive.

g. Withdrawals from inventory for purposes other than sale or distribution and for which no consideration is received; and the occasional sale or exchange of assets other than inventory, whether a gain or loss is recognized for federal income tax purposes.

h. Investment income not directly related to the privilege exercised by a licensable business not classified as rendering financial services. This exclusion shall apply to interest on bank accounts of the business, and to interest, dividends and other income derived from the investment of its own funds in securities and other types of investments unrelated to the licensed privilege. This exclusion shall not apply to interest, late fees and similar income attributable to an installment sale or other transaction that occurred in the regular course of business.

State law reference—Similar provisions, Code of Virginia, § 58.1-3732(A).

(3) The following shall be deducted from gross receipts or gross purchases that would otherwise be taxable:

a. Any amount paid for computer hardware and software that are sold to a United States federal or state government entity provided that such property was purchased within two years of the sale to said entity by the original purchaser who shall have been contractually obligated at the time of purchase to resell such property to a state or federal government entity. This deduction shall not occur until the time of resale and shall apply to only the original cost of the property and not to its resale price, and the deduction shall not apply to any of the tangible personal property which was the subject of the original resale contract if it is not resold to a state or federal government entity in accordance with the original contract obligation.

b. Any receipts attributable to business conducted in another state or foreign country in which the taxpayer (or its shareholders, partners or members in lieu of the taxpayer) is liable for an income or other tax based upon income.

State law reference—Similar provisions, Code of Virginia, § 58.1-3732(B).

License year or license tax year means the calendar year for which a license is issued for the privilege of engaging in business.

Person means individuals, firms, partnerships, associations, corporations and combinations of individuals of whatever form or character, including any trustee, receiver or personal representative thereof carrying on or continuing a business, profession, trade or occupation. The term "person" also shall include governmental entities and agencies, where appropriate.

Professional services means services performed by architects, attorneys-at-law, certified public accountants, dentists, engineers, land surveyors, surgeons, veterinarians, and practitioners of the healing arts (the arts and sciences dealing with the prevention, diagnosis, treatment and cure or alleviation of human

physical or mental ailments, conditions, diseases, pain or infirmities) and such occupations, and no others, as the state department of taxation may list in the BPOL guidelines promulgated pursuant to Code of Virginia, § 58.1-3701. The term "profession" implies attainments in professional knowledge as distinguished from mere skill, and the application of knowledge to uses for others rather than for personal profit.

Purchases means all goods, wares and merchandise received for sale at each definite place of business of a wholesale merchant. The term shall also include the cost of manufacture of all goods, wares and merchandise manufactured by any wholesale merchant and sold or offered for sale. A wholesale merchant may elect to report the gross receipts from the sale of manufactured goods, wares and merchandise if it cannot determine the cost of manufacture or chooses not to disclose the cost of manufacture.

Real estate services means providing a service with respect to the purchase, sale, lease, rental, or appraisal of real property.

(Code 1980, § 12-2; Code 1995, § 20-351; Ord. No. 909, § 1, 10-25-1995; Ord. No. 935, § 1, 10-9-1996; Ord. No. 1109, § 1, 8-14-2007)

Cross reference—Definitions and rules of construction, § 1-2.

Sec. 20-351. Criminal penalty.

Except as otherwise provided in this article, any person who shall violate any provision of this article shall be punished as provided in section 1-13.

(Code 1980, § 12-38; Code 1995, § 20-352)

Sec. 20-352. Assistants to director of finance.

The director of finance shall designate such persons in his department as may be necessary to serve as assessors, collectors and clerks in the assessing, collection and issuance of licenses under the provisions of this article, and such persons within the finance department, in all respects, shall be acting as agents of the director of finance and under his supervision and control fulfilling the terms and conditions of this article.

(Code 1980, § 12-39; Code 1995, § 20-353)

Sec. 20-353. Business section manager.

(a) *Appointment.* The director of finance shall designate some person in the department of finance to act as business section manager, and shall designate such persons in the department of finance to act as business inspectors as the director of finance may deem necessary and proper, who shall at all times be under the supervision and control of the director of finance.

(b) *Police powers.* Police powers are conferred upon the business section manager and business inspectors while engaged in performing their duties as such under the provisions of this article, and they shall exercise all the powers and authority of police officers granted to them in performing those duties. The business section manager and business inspectors shall ascertain the name of each person engaged in conducting any business, occupation or profession in the county without having obtained a license therefor, and the name of each person having a slot machine in any place mentioned in this article without having obtained a license therefor. The business section manager and business inspectors may have a summons issued for any such person charging him with a violation of the provisions of this article and may serve a copy of such summons upon such person in the manner provided by law. He shall return the original to the general district court with the manner and time of service stated thereon.

(Code 1980, § 12-34; Code 1995, § 20-354)

Sec. 20-354. License required.

(a) It shall be unlawful for any person conducting or engaged in any business, trade or occupation in the county, who is required by this article to obtain a license therefor, to conduct or engage in such business, trade or occupation without having first obtained the license required by this article.

(b) Any person who engages in a business without obtaining the required license or after being refused a license shall not be relieved of the tax imposed under this article.

(Code 1980, § 12-38; Code 1995, § 20-355; Ord. No. 935, § 2, 10-9-1996)

Sec. 20-355. Proper zoning required; use permit.

It shall be the duty of every person applying for a business license to ascertain if the location for the conducting of such business, trade or occupation is properly zoned and has the necessary use permit before making application for such business license as may be required. The director of finance, in any case where he knows that the location is not properly zoned for the type of business, trade or occupation applying for a business license, shall refuse to issue such business license.

(Code 1980, § 12-5; Code 1995, § 20-357)

Sec. 20-356. Levy of tax.

There shall be levied and collected for each license tax year, or for such other period of time as may be specifically provided in this article, the license taxes as set forth in this article. The taxes imposed by the provisions of this article are in all cases imposed upon the privilege of doing business in the county, including all phases and activities of the business, trade or occupation conducted in the county.

(Code 1980, § 12-1; Code 1995, § 20-358)

State law reference—Exemptions, Code of Virginia, § 58.1-3703.

Sec. 20-357. Application required.

Each person shall apply for a license prior to beginning business or no later than March 1 of the current license year if he filed a license application during the preceding license year. The application shall be on forms prescribed by the assessing official.

(Code 1980, § 12-6; Code 1995, § 20-359; Ord. No. 909, § 1, 10-25-1995; Ord. No. 935, § 3, 10-9-1996)

State law reference—Mandatory provisions, Code of Virginia, § 58.1-3703.1(A)2.a.

Sec. 20-358. Estimation of gross receipts—New businesses.

Every person beginning a business, occupation or profession that is subject to a tax equal to a percentage of the gross receipts of the business shall estimate the amount of the gross receipts of the business that he will receive between the date of beginning business and the end of the then-current license tax year, and the license tax on every such person beginning business shall be a sum equal to the percentage of the difference between that estimate and any applicable deduction prescribed by the particular provision of this article applicable to such business.

(Code 1980, § 12-7; Code 1995, § 20-360; Ord. No. 909, § 1, 10-25-1995)

Sec. 20-359. Same—Businesses not in existence for full year.

Every person whose business, occupation or profession is subject to a tax equal to a percentage of the gross receipts of the business, and who was licensed for only a part of the next preceding license tax year, shall estimate the amount of the gross receipts of the business that he will receive during the then-current license tax year, and the license tax on every such taxpayer shall be a sum equal to the percentage of the difference between that estimate and any applicable deduction prescribed by the particular provision of this article applicable to such business.

(Code 1980, § 12-8; Code 1995, § 20-361; Ord. No. 909, § 1, 10-25-1995)

Sec. 20-360. Estimation of tax base other than gross receipts—New businesses.

Every person beginning a business, occupation or profession that is subject to a tax equal to a percentage of a basis other than gross receipts of the business shall estimate the amount of the applicable tax base for the period between the date of beginning of business and the end of the then-current license tax year, and the tax for that year shall be an amount equal to the percentage of the difference between that estimated and any applicable deduction at the rate prescribed by the applicable provisions of this article with respect to such business.

(Code 1980, § 12-9; Code 1995, § 20-362; Ord. No. 909, § 1, 10-25-1995)

Sec. 20-361. Same—Businesses not in existence for full year.

Every person whose business, occupation or profession is subject to a tax equal to a percentage of a basis other than the gross receipts of the business, and who was assessable for only a part of the next preceding license tax year, shall estimate the amount of the applicable tax base for the then-current license tax year, and the license tax on every such taxpayer shall be a sum equal to the percentage of the difference between that estimate and any applicable deduction prescribed by the particular provision of this article applicable to such business.

(Code 1980, § 12-10; Code 1995, § 20-363; Ord. No. 909, § 1, 10-25-1995)

Sec. 20-362. Correction of estimate at close of tax year.

Every estimate made in accordance with the provisions of sections 20-358 through 20-361 shall be subject to correction by the director of finance at the close of the license tax year so that the final correct tax shall be computed upon the basis of the actual amount of the applicable tax base at the end of the license tax year.

(Code 1980, § 12-11; Code 1995, § 20-364)

Sec. 20-363. Designation of business location.

Every license to engage in any business, occupation or profession, unless expressly authorized elsewhere or otherwise by law, shall designate the place of such business, occupation or profession at some specified house or other definite place within the county. Engaging in any such business, occupation or profession elsewhere than at such house or definite place, unless expressly authorized elsewhere or otherwise by law, shall constitute a violation of the provisions of this article. A license which does not specify such house or definite place shall be void, provided that, where the license required is such as to clearly show that the licensee does not have a special house or definite place of business in the county, the license shall designate the residence or place of business of the licensee wherever it may be.

(Code 1980, § 12-13; Code 1995, § 20-365)

Sec. 20-364. Persons engaged in more than one business, occupation or profession.

(a) Every person engaged in more than one business, occupation or profession in the county for which license taxes are prescribed by this article at more than one rate shall be assessed with and shall pay the license tax prescribed for the respective businesses.

(b) A person engaged in two or more businesses, occupations or professions carried on at the same place of business may elect to obtain one license for all such businesses, occupations and professions if all of the following criteria are satisfied:

(1) Each business, occupation or profession is licensable at the location and has satisfied any requirements imposed by state law or other provisions of this Code;

(2) All of the businesses, occupations or professions are subject to the same tax rate, or, if subject to different tax rates, the taxpayer agrees to be taxed on all businesses, occupations and professions at the highest rate; and

(3) The taxpayer agrees to supply all information the assessor may require concerning the nature of the several businesses, occupations and professions and their gross receipts or purchases.

The license receipt shall show the respective businesses, occupations or professions that are covered by the consolidated license tax.

(Code 1980, § 12-14; Code 1995, § 20-366; Ord. No. 909, § 1, 10-25-1995)

State law reference—Mandatory provisions, Code of Virginia, § 58.1-3703.1(A)1.

Sec. 20-365. Transfer of license.

No license issued pursuant to this article shall be assignable or transferable.

(Code 1980, § 12-15; Code 1995, § 20-367)

Sec. 20-366. Change in existing partnerships.

Where there is a change in a partnership federal tax identification number, it shall be considered that there is the creation of a new partnership for the purposes of this article and a beginner's license shall be required of such new partnership.

(Code 1980, § 12-16; Code 1995, § 20-368)

Sec. 20-367. Change in business location.

When a person has obtained a license to carry on any business, occupation or profession at any definite place in the county and desires to remove to any other place in the county and wishes his license altered accordingly, the director of finance shall make such alteration, unless there is an express provision elsewhere forbidding removal or alteration in the license.

(Code 1980, § 12-19; Code 1995, § 20-369)

Sec. 20-368. Required records; examination of records.

Every person who is assessable with any license tax shall keep sufficient records to enable the assessor to verify the correctness of the tax paid for each of the license years assessable and to enable the assessor to ascertain what is the correct tax that was assessable for each of those years. All such records, books of

accounts and other information shall be open to inspection and examination by the assessor in order to allow the assessor to establish whether a particular receipt is directly attributable to the taxable privilege exercised within the county The assessor shall have the power and right to examine the books and records of any taxpayer liable for taxes assessable under this article, with respect to the possible liability of any person using the facilities of such taxpayers, as well as with respect to the liability of the taxpayer whose books and records are so examined. Such records shall be open to inspection at all reasonable hours. The assessor shall provide the taxpayer with the option to conduct the inspection in the taxpayer's local business office, if the records are maintained there. In the event the records are maintained outside the county, copies of the appropriate books and records shall be sent to the assessor's office upon demand. Every person who fails to keep such books and records and to preserve them shall be assessed with and pay a penalty of $25.00 per year in addition to any tax assessed under section 20-375. This penalty shall be assessed and collected in the same manner as license taxes generally are assessed and collected.

(Code 1980, § 12-22; Code 1995, § 20-370; Ord. No. 909, § 1, 10-25-1995; Ord. No. 935, § 4, 10-9-1996)

State law reference—Mandatory provisions, Code of Virginia, § 58.1-3703.1(A)9.

Sec. 20-369. Date of assessment and payment.

Except as may be provided elsewhere in this article and for beginners as provided herein, every license tax assessable under this article shall be assessable and due and payable on March 1 of each license year. Every license tax assessable on a person beginning business shall be assessable and due and payable, if not based on gross receipts, with the application, and, if based on gross receipts, 30 days after the commencement of the business.

(Code 1980, § 12-23; Code 1995, § 20-371; Ord. No. 909, § 1, 10-25-1995; Ord. No. 935, § 5, 10-9-1996)

State law reference—Mandatory provisions, Code of Virginia, § 58.1-3703.1(A)2.b.

Sec. 20-370. Penalty for failure to file return or pay tax; interest on unpaid tax.

If any license tax is not filed and paid within the times provided for in this article, the following penalties and interest shall be assessed:

(1) A penalty of ten percent of the tax shall be imposed upon the failure to file an application or the failure to pay a tax by the due date. Only the late filing penalty shall be imposed by the assessing official if both the application and payment are late; however, both penalties shall be assessed if the taxpayer has previously failed to comply with filing or payment deadlines. Any penalty imposed shall be assessed on the day after the payment or filing was due and shall become a part of the tax. The penalties shall not be imposed or if imposed shall be abated by the official who assessed them, if the failure to file or pay was not the fault of the taxpayer or was the fault of the official who assessed them. In order to demonstrate lack of fault, the taxpayer must show that he acted responsibly and that the failure was due to events beyond his control.

The term "acted responsibly," as used in this section, means that: (i) the taxpayer exercised the level of reasonable care that a prudent person would exercise under the circumstances in determining the filing and payment obligations for the business and (ii) the taxpayer undertook significant steps to avoid or mitigate the failure, such as requesting appropriate extensions (where applicable), attempting to prevent a foreseeable impediment, acting to remove an impediment once it occurred, and promptly rectifying a failure once the impediment was removed or the failure discovered.

The term "events beyond the taxpayer's control" includes, but is not limited to, the unavailability of records due to fire or other casualty; the unavoidable absence (e.g., due to death or serious illness) of the

person with the sole responsibility for tax compliance; or the taxpayer's reasonable reliance in good faith upon erroneous written information from the assessing official, who was aware of the relevant facts relating to the taxpayer's business when he provided the erroneous information.

(2) Interest shall be charged on the late payment of the tax from the due date until the date paid without regard to fault or other reason for the late payment. Interest shall accumulate on such sums owed at a rate of ten percent per annum, commencing on the first day following the day such taxes are due. No interest shall be charged on a late payment if the late payment is made not more than 30 days from the due date of the tax.

(3) No interest shall accrue on an adjustment of estimated tax liability to actual liability at the conclusion of a base year if such adjustment is paid within 30 days of its assessment.

(Code 1980, § 12-24; Code 1995, § 20-372; Ord. No. 909, § 1, 10-25-1995; Ord. No. 935, § 6, 10-9-1996)

State law reference—Mandatory provisions, Code of Virginia, § 58.1-3703.1(A)2.c—(A)2.e.

Sec. 20-371. Installment payments.

Whenever the aggregate amount of license taxes, exclusive of peddlers or slot machines, assessed at any one time under this article as of the first day of any license tax year against any one person with respect to the businesses, occupations and professions conducted by him in any one place is $200.00 or more, then that aggregate amount of license taxes may be due and payable as follows: one-half thereof on March 1 of the license tax year and one-half on or before June 15 of the license tax year. If one-half of that aggregate is not paid on or before March 1 of the license tax year, the whole of the aggregate of license tax shall become due and payable on March 1 of the license tax year and there shall be added thereto the appropriate penalties and interest set forth in section 20-370. If the first half of the license taxes is paid on or before March 1 of the license tax year and the last half of the aggregate of such license taxes is not paid on or before June 15 of the license tax year, there shall be added thereto a late payment penalty and interest as set forth in section 20-370.

(Code 1980, § 12-26; Code 1995, § 20-374; Ord. No. 909, § 1, 10-25-1995; Ord. No. 935, § 7, 10-9-1996)

Sec. 20-372. Proration of tax on closing of business.

If a person permanently ceases to engage in a business, occupation or profession within the county during a year for which a license tax has already been paid under this article, the taxpayer shall be entitled, upon application, to a refund for that portion of the license tax already paid, prorated on a monthly basis, so that the licensee is taxed only for that fraction of the year during which the business was operated within the county. However, in no event shall a refund be issued on any part of a flat fee or minimum flat tax. The operation of a business for any portion of a month shall be considered a full month for prorating purposes. The county may, at its sole discretion, elect to remit any funds in the ensuing fiscal year and may offset against such refund any amount of past-due taxes owed by the same taxpayer.

(Code 1980, § 12-27; Code 1995, § 20-375)

State law reference—Proration, Code of Virginia, § 58.1-3710.

Sec. 20-373. Payment of interest not construed as extending time for payment of tax.

Nothing contained in this article as to liability for additional interest on assessments shall be construed as extending the time for payment of such assessments or prevent prosecutions for nonpayment thereof.

(Code 1980, § 12-28; Code 1995, § 20-376)

Sec. 20-374. Powers and duties of director of finance in regard to incorrect returns.

In any case, except where otherwise provided in this article, in which the director of finance has reason to believe that the return or statement filed is incorrect, he shall cause an investigation of the taxpayer's books and records to be made and shall ascertain whether such person has made a true and correct return or statement, and to that end the director of finance or his assistant is expressly authorized and empowered, when necessary, to summon such person before him and require the production of all his books and papers which he has reasonable cause to believe will throw any light upon the matter under investigation and shall also be authorized and empowered to make such other and further investigation and examination as he may deem proper in order to accurately determine the proper return or statement to be made by such person.

(Code 1980, § 12-29; Code 1995, § 20-377)

Sec. 20-375. Procedure upon failure to file return or pay tax.

Whenever any person required under the provisions of this article to file a return or statement shall fail or refuse to file such return or statement, the director of finance shall make an estimate of the amount of taxes due the county by such person upon the best information available and assess the taxes on the basis of that information.

(Code 1980, § 12-30; Code 1995, § 20-378)

Sec. 20-376. Assessment of additional or omitted taxes.

(a) If the assessor ascertains that any person has not been assessed with a license tax levied in this article for the then-current license tax year or that any person has been regularly assessed with a license tax levied in this article for the then-current license tax year but upon a correct audit and computation of the license tax the assessment thereof should have been in an increased amount, then the assessor shall assess the taxpayer with the proper license tax for the then-current license tax year, adding thereto the relevant penalties as prescribed by section 20-370(1), except as provided in subsection (c) of this section, and interest shall be computed upon the taxes and penalty from the first day of the month following the date such tax was due and shall accrue thereon from such date until payment at a rate of ten percent per annum. Notwithstanding the above, no interest shall be charged on any late payment, provided that the late payment is made not more than 30 days from the due date of the tax.

(b) If the assessor ascertains that any person has not been assessed with a license tax levied in this article for any license tax year of the three preceding license tax years or if the assessor ascertains that any person has been regularly assessed with a license tax levied in this article for any license tax year of the three preceding license tax years but that upon a correct audit and computation of the license tax the assessment thereof should have been in an increased amount, then the assessor shall assess the taxpayer with the proper additional or omitted license tax or taxes found to be due at the rate or rates prescribed for that year or years, plus the relevant penalties prescribed in section 20-370(1), except as provided in subsection (c) of this section, and interest which shall be computed upon the taxes and penalty from the first day following the due date in the year in which such taxes should have been paid and shall accrue thereon from such date until payment at a rate of ten percent per annum. Notwithstanding the above, no interest shall be charged on any late payment, provided that the late payment is made not more than 30 days from the due date of the tax.

(c) If the taxpayer can demonstrate that the assessment was necessitated through no fault on his part, penalty and interest shall accrue after 30 days from such date of assessment until payment.

(d) Notwithstanding subsection (c) of this section, in the case of an assessment of additional tax made by the assessor, if the application and, if applicable, the return was made in good faith and the understatement of tax was not due to any fraud, reckless or intentional disregard of law by the taxpayer, there shall be no late

payment penalty assessed with the additional tax.

(e) The director of finance shall collect such penalties and interest along with the tax and in the same manner as the tax may be collected.

(f) Whenever an assessment of additional or omitted tax by the assessing official is found to be erroneous, all interest and penalty charged and collected on the amount of the assessment found to be erroneous shall be refunded together with interest on the refund at the rate set out in section 20-382 from the date of payment or due date, whichever is later.

(Code 1980, § 12-32; Code 1995, § 20-379; Ord. No. 909, § 1, 10-25-1995; Ord. No. 935, § 8, 10-9-1996)

State law reference—Similar provisions as to subsection (f), Code of Virginia, § 58.1-3703.1(A)2.e.

Sec. 20-377. Relief from erroneous assessment; appeals.

(a) Except as otherwise provided in this article, the director of finance shall assess all license taxes prescribed in this article. Any person aggrieved by the action of the director of finance may apply to him as provided herein or to a court of record for relief from the alleged erroneous assessment within the time and in the manner provided by general law.

(b) Any person assessed with a license tax as a result of an appealable event may apply within one year from the last day of the tax year for which such assessment is made, or within one year from the date of the appealable event, whichever is later, to the director of finance for a correction of the assessment. The application must be filed in good faith and sufficiently identify the taxpayer, the tax periods covered by the challenged assessments, the remedy sought, each alleged error in the assessment, the grounds upon which the taxpayer relies, and any other facts relevant to the taxpayer's contention. The director of finance may hold a conference with the taxpayer if requested by the taxpayer, or require submission of additional information and documents, an audit or further audit, or other evidence deemed necessary for a proper and equitable determination of the application. The assessment shall be deemed prima facie correct. The director of finance shall undertake a full review of the taxpayer's claims and issue a determination to the taxpayer setting forth the facts and arguments in support of his decision. The taxpayer may at any time also file an administrative appeal of the classification applicable to the taxpayer's business, including whether the business properly falls within a business license subclassification established by the county. However, the appeal of the classification of the business shall not apply to any license year for which the tax commissioner has previously issued a final determination relating to any license fee or license tax imposed upon the taxpayer's business for the year. In addition, any appeal of the classification of a business shall in no way affect or change any limitations period prescribed by law for appealing an assessment. Every assessment pursuant to an appealable event shall include or be accompanied by a written explanation of the taxpayer's right to a correction and the specific procedure to be followed, including the name and address of the person to whom the application should be directed, an explanation of the required content of the application for a correction and the deadline for filing the request for a correction. For purposes of facilitating an administrative appeal of the classification applicable to a taxpayer's business, the county shall maintain on its website the specific procedures to be followed with regard to such appeal and the name and address to which the appeal should be directed.

(c) Provided a timely and complete application for relief is made, collection activity with respect to the amount in dispute related to any assessment by the director of finance shall be suspended until a final determination is issued by the director of finance, unless the director of finance determines that: (i) collection would be jeopardized by delay, (ii) the taxpayer has not responded to a request for relevant information after a reasonable time, or (iii) the appeal is frivolous. Interest shall accrue in accordance with the provisions of sections 20-370 and 20-376 as to that portion of the assessment which has remained unpaid during the pendency of the application to the director of finance for relief and was determined to be properly due and owing, but no further penalty shall be assessed while collection action is suspended.

(d) Upon an application for correction pursuant to subsection (b) of this section, any person assessed with a license tax as a result of a determination, or that has received a determination with regard to the person's appeal of the license classification or subclassification of the person's business, that is adverse to the position asserted by the taxpayer in such application may apply within 90 days of the determination by the director of finance to the tax commissioner for the Commonwealth for a correction of such assessment or determination. The appeal shall be in such form as the tax commissioner may prescribe and the taxpayer shall serve a copy of the appeal upon the director of finance. The tax commissioner shall permit the director of finance to participate in the proceedings, and shall issue a determination to the taxpayer within 90 days of receipt of the taxpayer's application, unless the taxpayer and the director of finance are notified that a longer period will be required. The application shall be treated as an application pursuant to Code of Virginia, § 58.1-1821, and the tax commissioner pursuant to Code of Virginia § 58.1-1822 may issue an order correcting such assessment or correcting the license classification or subclassification of the business and the related license tax or fee liability.

(e) On receipt of a notice of intent to file an appeal to the tax commissioner, the director of finance shall further suspend collection activity with respect to the amount in dispute related to any assessment by the director of finance until a final determination is issued by the tax commissioner, unless the director of finance determines that: (i) collection would be jeopardized by delay, (ii) the taxpayer has not responded to a request for relevant information after a reasonable time, or (iii) the appeal is frivolous. Interest shall accrue in accordance with the provisions of sections 20-370 and 20-376, but no further penalty shall be imposed while collection action is suspended. The requirement that collection activity be suspended shall cease unless an appeal is filed and served on the necessary parties within 30 days of the service of notice of intent to file such appeal.

(f) Promptly upon receipt of the final determination of the tax commissioner with respect to an appeal pursuant to subsection (e) of this section, the director of finance shall take those steps necessary to calculate the amount of tax owed by or refund due to the taxpayer consistent with the tax commissioner's determination and shall provide that information to the taxpayer.

(1) If the determination of the tax commissioner sets forth a specific amount of tax due, the director of finance shall issue a bill to the taxpayer for such amount due, together with interest accrued and penalty, if any is authorized by this section, within 30 days of the date of the determination of the tax commissioner.

(2) If the determination of the tax commissioner sets forth a specific amount of refund due, the director of finance shall issue a payment to the taxpayer for such amount due, together with interest accrued pursuant to this section, within 30 days of the date of the determination of the tax commissioner.

(3) If the determination of the tax commissioner does not set forth a specific amount of tax due, or otherwise requires the director of finance to undertake a new or revised assessment that will result in an obligation to pay a tax that has not previously been paid in full, the director of finance shall promptly commence the steps necessary to undertake such new or revised assessment, and provide the same to the taxpayer within 60 days of the date of the determination of the tax commissioner, or within 60 days after receipt from the taxpayer of any additional information requested or reasonably required under the determination of the tax commissioner, whichever is later. The director of finance shall issue a bill to the taxpayer for the amount due, together with interest accrued and penalty, if any is authorized by this section, within 30 days of the date of the new assessment.

(4) If the determination of the tax commissioner does not set forth a specific amount of refund due, or otherwise requires director of finance to undertake a new or revised assessment that will result in an obligation on the part of the county to make a refund of taxes previously paid, the director of finance shall promptly commence the steps necessary to undertake such new or revised assessment or to determine the amount of refund due in the case of a correction to the license classification or subclassification of the business, and provide it to the taxpayer within 60 days of the date of the determination of the tax commissioner, or within 60 days after receipt from the taxpayer of any additional information requested or

reasonably required under the determination of the tax commissioner, whichever is later. The director of finance shall issue a refund to the taxpayer for the amount of tax due, together with interest accrued, within 30 days of the date of the new assessment or determination of the amount of the refund.

(g) Judicial review of determination of tax commissioner shall be in accordance with the following:

(1) *Judicial review.* Following the issuance of a final determination of the tax commissioner pursuant to subsection (f) of this section, the taxpayor or the director of finance may apply to the appropriate circuit court for judicial review of the determination, or any part thereof, pursuant to Code of Virginia, § 58.1-3984. In any such proceeding for judicial review of a determination of the tax commissioner, the burden shall be on the party challenging the determination of the tax commissioner, or any part thereof, to show that the ruling of the tax commissioner is erroneous with respect to the part challenged. Neither the tax commissioner nor the department of taxation shall be made a party to an application to correct an assessment merely because the tax commissioner has ruled on it.

(2) *Suspension of payment of disputed amount of tax due upon taxpayer's notice of intent to initiate judicial review.*

a. On receipt of a notice of intent to file an application for judicial review, pursuant to Code of Virginia, § 58.1-3984, of a determination of the tax commissioner pursuant to subsection (f) of this section, and upon payment of the amount of the tax related to any assessment by the director of finance that is not in dispute together with any penalty and interest then due with respect to such undisputed portion of the tax, the director of finance shall further suspend collection activity while the court retains jurisdiction unless the court, upon appropriate motion after notice and an opportunity to be heard, determines that:

1. The taxpayer's application for judicial review is frivolous;

2. Collection would be jeopardized by delay; or

3. Suspension of collection would cause substantial economic hardship to the county. For purposes of determining whether substantial economic hardship to the county would arise from a suspension of collection activity, the court shall consider the cumulative effect of then-pending appeals filed within the county by different taxpayers that allege common claims or theories of relief.

b. Upon a determination that the appeal is frivolous, that collection may be jeopardized by delay, or that suspension of collection would result in substantial economic hardship to the county, the court may require the taxpayer to pay the amount in dispute or a portion thereof, or to provide surety for payment of the amount in dispute in a form acceptable to the court.

c. No suspension of collection activity shall be required if the application for judicial review fails to identify with particularity the amount in dispute or the application does not relate to any assessment by the director of finance.

d. The requirement that collection activity be suspended shall cease unless an application for judicial review pursuant to Code of Virginia, § 58.1-3984 is filed and served on the necessary parties within 30 days of the service of the notice of intent to file such application.

e. The suspension of collection activity authorized by this subsection shall not be applicable to any appeal of a local license tax that is initiated by the direct filing of an action pursuant to Code of Virginia, § 58.1-3984 without prior exhaustion of the appeals provided by subsections (b) and (d) of this section.

(3) *Suspension of payment of disputed amount of refund due upon locality's notice of intent to initiate judicial review.*

a. Payment of any refund determined to be due pursuant to the determination of the tax commissioner of an appeal pursuant to subsection (f) of this section shall be suspended if the county serves upon the taxpayer, within 60 days of the date of the determination of the tax commissioner, a notice of intent to file an application for judicial review of the tax commissioner's determination pursuant to Code of Virginia, § 58.1-3984 and pays the amount of the refund not in dispute, including tax and accrued interest. Payment of such refund shall remain suspended while the court retains jurisdiction unless the court, upon appropriate motion after notice and an opportunity to be heard, determines that the locality's application for judicial review is frivolous.

b. No suspension of refund activity shall be permitted if the county's application for judicial review fails to identify with particularity the amount in dispute.

c. The suspension of the obligation to make a refund shall cease unless an application for judicial review pursuant to Code of Virginia, § 58.1-3984 is filed and served on the necessary parties within 30 days of the service of the notice of intent to file such application.

(4) *Accrual of interest on unpaid amount of tax.* Interest shall accrue in accordance with the provisions of this article, but no further penalty shall be imposed while collection action is suspended.

(h) The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Amount in dispute, when used with respect to taxes due or assessed, means the amount specifically identified in the administrative appeal or application for judicial review as disputed by the party filing such appeal or application.

Appealable event means an increase in the assessment of a local license tax payable by a taxpayer, the denial of a refund, or the assessment of a local license tax where none previously was assessed, arising out of the director of finance's (i) examination of records, financial statements, books of account or other information for the purpose of determining the correctness of an assessment; (ii) determination regarding the rate or classification applicable to the licensable business; (iii) assessment of a local license tax when no return has been filed by the taxpayer; or (iv) denial of an application for correction of erroneous assessment attendant to the filing of an amended application for license.

An appealable event shall include a taxpayer's appeal of the classification applicable to a business, including whether the business properly falls within a business license subclassification established by the county, regardless of whether the taxpayer's appeal is in conjunction with an assessment, examination, audit, or any other action taken by the county.

Frivolous means a finding, based on specific facts, that the party asserting the appeal is unlikely to prevail upon the merits because the appeal is:

(1) Not well grounded in fact;

(2) Not warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law;

(3) Interposed for an improper purpose, such as to harass, to cause unnecessary delay in the payment of tax or a refund, or to create needless cost from the litigation; or

(4) Otherwise frivolous.

Jeopardized by delay means a finding by the director of finance, based on specific facts, a taxpayer designs to:

(1) Depart quickly from the county;

(2) Remove his property from the county;

(3) Conceal himself or his property; or

(4) Do any other act tending to prejudice or to render ineffective proceedings to collect the tax for the period in question.

(i) Any taxpayer whose application for correction pursuant to the provisions of subsection (b) of this section has been pending for more than one year without the issuance of a final determination may, upon not less than 30 days' written notice to the director of finance, elect to treat the application as denied and appeal the assessment or classification of the taxpayer's business to the tax commissioner in accordance with the

provisions of subsection (d) of this section. The tax commissioner shall not consider an appeal filed pursuant to the provisions of this subsection if he finds that the absence of final determination on the part of the director of finance was caused by the willful failure or refusal of the taxpayer to provide information requested and reasonably needed by the director of finance to make the determination.
(Code 1980, § 12-33; Code 1995, § 20-380; Ord. No. 909, § 1, 10-25-1995; Ord. No. 935, § 9, 10-9-1996; Ord. No. 1033, § 1, 8-13-2002)

State law reference—Mandatory provisions, Code of Virginia, § 58.1-3703.1(A)5., (A)6.

Sec. 20-378. Payment of tax with bad check.

If any check tendered for any tax due under this article is not paid by the bank on which it is drawn, the taxpayer for whom such check was tendered shall remain liable for the payment of the tax the same as if such check had not been tendered, and no license shall be deemed to have been granted upon the tendering of the bad check.

(Code 1980, § 12-36; Code 1995, § 20-381)

Sec. 20-379. License application; extensions to be granted.

The assessing official may grant an extension of time, in which to file an application for a license, for reasonable cause. Any such extension shall be conditioned upon the timely payment of a reasonable estimate of the appropriate tax, subject to adjustment to the correct tax at the end of the extension, together with interest from the due date until the date paid. If the estimate submitted with the extension is found to be unreasonable under the circumstances, a penalty of ten percent of the portion paid after the due date shall be assessed and added to the tax, and interest from the due date shall accrue at the rate of ten percent per annum on the unpaid portion.

(Code 1995, § 20-384; Ord. No. 909, § 3, 10-25-1995; Ord. No. 935, § 10, 10-9-1996)

State law reference—Mandatory provisions, Code of Virginia, § 58.1-3703.1(A)2.c.

Sec. 20-380. Business situs requirement.

(a) Every person engaging in the county in any business, trade, profession, occupation or calling (collectively hereinafter "a business"), as defined in this article, unless otherwise exempted by law, shall apply for a license for each such business if:
(1) The person has a definite place of business in the county;
(2) There is no definite place of business anywhere and the person resides in the county;
(3) There is no definite place of business in the county but the person operates amusement machines or is classified as an itinerant merchant, peddler, contractor subject to Code of Virginia, § 58.1-3715, or public service corporation.
(b) A separate license shall be required for each definite place of business.
(Code 1995, § 20-385; Ord. No. 909, § 3, 10-25-1995; Ord. No. 935, § 11, 10-9-1996)

State law reference—Mandatory provisions (subsection (a), Code of Virginia, § 58.1-3703.1(A)1.

Sec. 20-381. Situs of gross receipts and purchases; apportionment.

(a) *General rule.* Whenever any tax imposed under this article is measured by gross receipts, the gross receipts included in the tax base shall be only those gross receipts attributed to the exercise of a licensable

privilege at a definite place of business within the county. In the case of activities conducted outside of a definite place of business, such as during a visit to a customer location, the gross receipts shall be attributed to the definite place of business from which such activities are initiated, directed, or controlled. The situs of gross receipts for different classifications of business shall be attributed to one or more definite places of business or offices as follows:

(1) The gross receipts of a contractor shall be attributed to the definite place of business at which his services are performed, or if his services are not performed at any definite place of business, then the definite place of business from which his services are directed or controlled, unless the contractor is subject to the provisions of Code of Virginia, § 58.1-3715 and sections 20-563 and 20-564.

(2) The gross receipts of a retail or wholesale merchant shall be attributed to the definite place of business at which sales solicitation activities occur, or if sales solicitation activities do not occur at any definite place of business, then the definite place of business from which such activities are directed or controlled; however, a wholesale merchant or distribution house subject to license tax measured by purchases shall determine the situs of its purchases by the definite place of business at which or from which deliveries of the purchased goods, wares or merchandise are made to customers. Any wholesale merchant who is subject to license tax in two or more localities and who is subject to multiple taxation because the localities use different measures, may apply for the Virginia Department of Taxation for a determination as to the proper measure of purchases and gross receipts subject to license tax in each locality.

(3) The gross receipts of a business renting tangible personal property shall be attributed to the definite place of business from which the tangible personal property is rented or, if the property is not rented from any definite place of business, then the definite place of business at which the rental of such property is managed.

(4) The gross receipts from the performance of services shall be attributed to the definite place of business at which the services are performed or, if not performed at any definite place of business, then to the definite place of business from which the services are directed or controlled.

(b) *Apportionment.* If a taxpayer has more than one definite place of business and it is impractical or impossible to determine to which definite place of business gross receipts should be attributed under the general rule, the gross receipts of the business shall be apportioned between the definite places of business on the basis of payroll. Gross receipts shall not be apportioned to a definite place of business unless some activities under the applicable general rule occurred at, or were controlled from, such definite place of business. Gross receipts attributable to a definite place of business in another jurisdiction shall not be attributed to the county solely because the other jurisdiction does not impose a tax on the gross receipts attributable to the definite place of business in such other jurisdiction.

(c) *Agreements concerning apportionment.* The assessor may enter into agreements with any other local government of the commonwealth concerning the manner in which gross receipts shall be apportioned among definite places of business. However, the sum of the gross receipts apportioned by the agreement shall not exceed the total gross receipts attributable to all of the definite places of business affected by the agreement. If the assessing official is notified or becomes aware that his method of attributing gross receipts is inconsistent with the method of one or more local governments in which the taxpayer is licensed to engage in business and that the difference has, or is likely to, result in taxes on more than 100 percent of the gross receipts from all locations in the affected localities, the assessor shall make a good faith effort to reach an apportionment agreement with the other local governments involved. If an agreement cannot be reached, either the assessor or the taxpayer may seek an advisory opinion from the Virginia Department of Taxation pursuant to Code of Virginia, § 58.1-3701. Notice of the opinion request shall be given to the other party. Notwithstanding the provisions of Code of Virginia, § 58.1-3993, when a taxpayer has demonstrated to a court that two or more localities in the state have assessed taxes on gross receipts that may create a double assessment within the meaning of Code of Virginia, § 58.1-3986, the court shall enter such orders pending resolution of the litigation as may be necessary to ensure that the taxpayer is not required to pay multiple assessments even though it is not then known which assessment is correct and which is erroneous.

(Code 1995, § 20-386; Ord. No. 909, § 3, 10-25-1995; Ord. No. 935, § 12, 10-9-1996)

State law reference—Mandatory provisions, Code of Virginia, § 58.1-3703.1(A)3.

Sec. 20-382. Interest to be paid.

Interest shall be paid on the refund of any license tax whether attributable to an amended return or other reason. Such interest, at the rate of ten percent per annum, shall be computed and paid from the date the taxes were required to be paid or were paid, whichever is later. No interest shall be paid on a refund if the refund is made not more than 30 days from the date of the payment that gave rise to the refund or the due date of the tax, whichever is later.

(Code 1995, § 20-387; Ord. No. 909, § 3, 10-25-1995; Ord. No. 935, § 14, 10-9-1996)

State law reference—Mandatory provisions, Code of Virginia, § 58.1-3703.1(A)2.e.

Sec. 20-383. Written ruling from the director of finance.

Any taxpayer or an authorized representative of a taxpayer may request a written ruling from the director of finance regarding the assessment of license tax in a specific fact situation. Any person requesting such a ruling must provide all the relevant facts and may present a rationale for an interpretation of the law most favorable to the taxpayer. In addition, the taxpayer or authorized representative may request a written ruling with regard to the classification applicable to the taxpayer's business, including whether the business properly falls within a business license subclassification established by the county. Any misrepresentation or change in the applicable law or the factual situation as presented in the ruling request shall invalidate any ruling issued. A written ruling will be revoked or amended automatically prospectively if there is a change in the law, a court decision or the guidelines issued by the state department of taxation upon which the ruling was based. A written ruling may be revoked or amended prospectively if the assessor notifies the taxpayer of a change in policy or interpretation upon which the ruling was based. However, any person who acts on a written ruling which later becomes invalid shall be deemed to have acted in good faith during the period when such ruling was in effect.

(Code 1995, § 20-388; Ord. No. 909, § 3, 10-25-1995; Ord. No. 935, § 14, 10-9-1996)

State law reference—Mandatory provisions, Code of Virginia, § 58.1-3703.1(A)8.

Sec. 20-384. Limitations and extensions.

(a) Where, before the expiration of time prescribed for the assessment of any license tax imposed pursuant to this article, both the assessing official and the taxpayer have consented in writing to its assessment after such time, the tax may be assessed at any time prior to the expiration of the period agreed upon. The agreed-upon period may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon.

(b) Notwithstanding Code of Virginia, § 58.1-3903, the assessing official shall assess license tax omitted because of fraud or failure to apply for a license for the current license year and the six preceding license years.

(c) The period for collection of any license tax shall not expire prior to the period specified in Code of Virginia, § 58.1-3940, two years after the date of assessment if the period for assessment has been extended pursuant to subsection (a) of this section, two years after the final determination of an administrative appeal for which collection has been stayed, or two years after the final decision in a court application pursuant to Code of Virginia, § 58.1-3984, or similar law for which collection has been stayed, whichever is later.

(Code 1995, § 20-390; Ord. No. 935, § 42, 10-9-1996)

State law reference—Mandatory provisions, Code of Virginia, § 58.1-3703.1(A)4.

Secs. 20-385—20-413. Reserved.

DIVISION 2. BUSINESS AND MISCELLANEOUS SERVICES

Sec. 20-414. Enumerated; amount of license tax.

(a) Every person engaged in one or more of the following businesses and having a definite place of business in the county, provided that the gross receipts of the business exceed $400,000.00, shall pay a license tax equal to the greater of $30.00 or 0.20 percent of the difference between the gross receipts of the business and $400,000.00.

Accountant (other than certified public accountant).
Administration and management of health care plans.
Adult educational services, except those provided by religious or nonprofit organizations.
Appraiser or evaluator of personal property or damages to personal property.
Appraiser or evaluator of real estate for others for compensation.
Arboriculturist or pruner of trees and shrubs.
Assayer.
Auctioneer.
Auditing company or firm.
Blueprinter.
Bookkeeper, public.
Botanist.
Business management.
Claims adjustor.
Collection agent or agency.
Commercial artist.
Common crier.
Computer consultant or programmer.
Conductor of seminars.
Consulting or consultant service.
Custom house broker or freight forwarder.
Draftsman.
Ecologist.
Erection or improvement of buildings, furnisher of plans or specifications for or persons employed in consulting capacity in connection with architect.
Interpreter.
Investment broker, consultant or advisor.
Lumber measurer.
Manufacturer's agent.
Marriage or business counselor.
Merchandise broker.
Paralegal or legal assistant.

Photostater.
Public relations counselor and furnisher of publicity.
Recorder of proceedings in any court, commission or organization.
Recorder of securities transactions.
Sales agent or agency.
Security broker, dealer.
Sign painter or service.
Social counselor.
Speech therapist.
Tax return preparer or tax consultant.
Taxidermist.
Technician, including dental or medical.
Telecommunications services, including, but not limited to, telephone and cellular mobile radio communication services, provided by persons not subject to tax under section 20-821.
Title abstract or guaranty.

(b) If the gross receipts of the business are $400,000.00 or less, an application shall be required to be filed, but no tax shall be due or paid.

(Code 1980, § 12-40.1; Code 1995, § 20-411; Ord. No. 909, § 1, 10-25-1995; Ord. No. 935, § 15, 10-9-1996; Ord. No. 962, § 1, 10-8-1997; Ord. No. 981, § 1, 10-14-1998; Ord. No. 991, § 1, 9-28-1999; Ord. No. 1007, § 1, 10-24-2000)

State law reference—Limitation on levy, Code of Virginia, § 58.1-3706.

Sec. 20-415. Exemptions from requirement for auctioneer's license.

(a) *Real estate agents or brokers.* No auctioneer's license shall be required of persons engaged in business as real estate agents or brokers who, as a part of their business, offer real estate for sale at public auction or public outcry.

(b) *Sale of items at owner's residence.* No auctioneer's license shall be required for the sale of any wagon, carriage, automobile, mechanic's tools, used farming implements, livestock, poultry (dressed or undressed), seafood, vegetables, fruits, melons, berries, flowers or leaf tobacco, or for the sale of secondhand furniture and household effects, when being sold at the residence of the person desiring to dispose of them.

(Code 1980, §§ 12-40.2, 12-40.3; Code 1995, § 20-412)

Sec. 20-416. Scientific research and development services.

(a) Every person engaged in the business of furnishing scientific research and development services and having a definite place of business in the county, provided that the gross receipts of the business exceed $400,000.00, shall pay a license tax equal to the greater of $30.00 or 0.20 percent of the difference between the gross receipts of the business and $400,000.00.

(b) If the gross receipts of the business are $400,000.00 or less, an application shall be required to be filed, but no tax shall be due or paid.

(Code 1980, § 12-162; Code 1995, § 20-413; Ord. No. 909, § 1, 10-25-1995; Ord. No. 935, § 16, 10-9-1996; Ord. No. 962, § 2, 10-8-1997; Ord. No. 981, § 2, 10-14-1998; Ord. No. 991, § 2, 9-28-1999)

Sec. 20-417. Exclusion from gross receipts – Security brokers and dealers.

(a) For purpose of computing the tax under this division, the gross receipts of a security broker or security dealer shall not include amounts received by the broker or dealer that arise from the sale or purchase of a security to the extent that such amounts are paid to an independent registered representative as a commission on any sale or purchase of a security. The broker or dealer claiming the exclusion shall identify on its business license application each independent registered representative to whom the excluded receipts have been paid and, if applicable, the localities in the Commonwealth to which the independent registered representative is subject to business license taxes.

(b) For the purpose of this division:

(1) "Security broker" means a "broker" as that term is defined under the Securities Exchange Act of 1934 (15 U.S.C. § 78a et seq.), or any successor law to the Securities Exchange Act of 1934, who is registered with the United States Securities and Exchange Commission.

(2)"Security dealer" means a "dealer" as that term is defined under the Securities Exchange Act of 1934 (15 U.S.C. § 78a et seq.), or any successor law to the Securities Exchange Act of 1934, who is registered with the United States Securities and Exchange Commission.

(3)"Independent registered representative" means an independent contractor registered with the United States Securities and Exchange Commission.

Secs. 20-418—20-445. Reserved.

DIVISION 3. PERSONAL SERVICES

Sec. 20-446. Enumerated; amount of license tax.

(a) Every person engaged in one or more of the following businesses and having a definite place of business in the county, provided that the gross receipts of the business exceed $400,000.00, shall pay a license tax equal to the greater of $30.00 or 0.20 percent of the difference between the gross receipts of the business and $400,000.00.

Abattoir.
Airport.
Addressing letters or envelopes.
Advertising.
Advertising agents and agency.
Agent finding tenants for and renting single rooms.
Ambulance service.
Analytical laboratory.
Artist, literary, craft and other creative productions.
Artist's representative.
Awnings: erecting, installing, storing or taking down.
Barbershop.
Baths: Turkish, Roman or other like bath or bath parlor.
Beauty parlor.
Billiard, pool or bagatelle parlor.
Blacksmith shop.

Blood or other body fluids: withdrawing, processing, storage.
Boat landing or boat basin.
Bodies, preparing for burial.
Boiler shop and machine shop.
Booking agent.
Bottle exchange.
Bounty hunter.
Bowling alley.
Burglar alarms, servicing.
Business research service.
Canvasser.
Caterer.
Cemetery.
Chartered club.
Check cashing or currency exchange services.
Chicken hatchery.
Cleaning: chimneys; clothes, hats, carpets or rugs; outside of buildings; furnaces; diapers and infants' underwear; linens, coats and aprons; windows; towels; work clothes; houses.
Clerical help, labor or employment.
Coin-operated machine services, excluding coin machine operators and pay telephones.
Computer information on-line services.
Concert manager.
Correspondent establishment or bureau.
Credit bureau.
Data processing services.
Demineralization of water.
Detective services.
Detoxification of chemicals.
Dietician.
Domestic help, labor or employment.
Duplicating services.
Dyeing clothes, hats, carpets or rugs.
Electrologist.
Embalmer.
Employment agency and staffing firm.
Engineering laboratory.
Environmental cleanup and related services.
Escort or dating service.
Films, leasing to others for compensation.
Frozen food locker plant.
Fumigation or disinfection of rats, termites, vermin or insects of any kind.
Funerals, conducting.
Garbage, trash or refuse collection service.

Gardener.
Golf course: miniature; driving range; open to public.
Hairdressing establishment.
Horses and mules: exhibiting trained and educated horses; boarding or keeping; renting.
Impoundment lot.
Interior decorator.
Janitorial service.
Kennel or small animal hospital.
Laundry.
Lawn maintenance.
Letter writing.
Locating of apartments, rooms or other living quarters.
Lock repairing.
Locksmith.
Mailing services.
Manicurist.
Massage practitioner.
Masseur.
Messenger service, except telephone or telegraph messenger service.
Mimeographing.
Monogramming.
Motion picture theater.
Motor vehicles: cleaning, greasing, polishing, oiling, repairing, towing, washing, vulcanizing, electrical and battery repair work.
Motor vehicles for hire and transportation of passengers, chauffeured.
Multigraphing.
Nursing homes and personal care facilities, including assisted living.
Nursing services, including nurses, nursing assistants and personal care providers.
Packaging services.
Packing, crating, shipping, hauling or moving goods or chattels for others.
Parking lot for storage of or parking of motor vehicles.
Personnel agency.
Pet sitter.
Photographer.
Photographic film processing and development.
Picture framing or gilding.
Plating or coating metals or other materials.
Polygraphic services.
Press clipping service.
Pressing clothes, hats, carpets or rugs.
Protective agents or agencies.
Public address system.
Public skating rink.

Publisher of county or city directory.

Real estate broker.

Reducing salon or health club.

Registries: physicians' or nurses'.

Renting airplanes.

Renting any kind of tangible personal property, except a person engaged in a short-term rental business subject to tax under article X of this chapter.

Renting or furnishing automatic washing machines.

Repair, renovating or servicing the following: bicycles; radios and television apparatus; electric refrigerators; pianos; pipe organs or other musical instruments; fire extinguishers; road construction machinery; road repair machinery; farm machinery; industrial or commercial machinery; business office machinery or appliances; household appliances; shoes; watches; jewelry; umbrellas; harnesses; leather goods or shoes; guns; window shades; dolls; cameras; toys; fountain pens; pencils; Kodaks; lawn mowers; mattresses or pillows; mirrors; electric motors; scales; saws or tools; rewinding electric apparatus; furniture; clothing or hosiery; septic tanks or systems; hats; carpets; rugs; repairing, servicing or renovating any other article not mentioned.

Scalp treating establishment.

Seamstress or tailor.

Sewage collection and disposal.

Sponging clothes, hats, carpets or rugs.

Spotting clothes, hats, carpets or rugs.

Statistical or actuarial service.

Stevedoring.

Survey taker.

Telephone answering or sanitizing service.

Telephone wiring or installation.

Tennis court.

Theater.

Ticket, transportation, travel and tour agents or brokers.

Title search.

Typesetting.

Undertaker.

Warehouse for storage of merchandise, tobacco, furniture, or other goods, wares or materials; cold storage warehouses; warehouse for icing or precooling goods, wares or merchandise.

Wheelwright shop.

Window dresser.

(b) If the gross receipts of the business are $400,000.00 or less, an application shall be required to be filed, but no tax shall be due or paid.

(Code 1980, §§ 12-41, 12-161; Code 1995, § 20-431; Ord. No. 909, §§ 1, 2, 10-25-1995; Ord. No. 935, § 17, 10-9-1996; Ord. No. 962, § 3, 10-8-1997; Ord. No. 981, § 3, 10-14-1998; Ord. No. 1007, § 2, 10-24-2000)

State law reference—Limitations on levy, Code of Virginia, § 58.1-3706; real estate brokers, Code of Virginia, § 58.1-3732.2.

Sec. 20-447. Exemption for nonprofit cemeteries; computation of gross receipts for other cemeteries.

Cemeteries operating as a nonprofit corporation or a stock corporation, the stock of which is, by the provisions of the charter of such corporation, non-dividend paying, shall be exempt from the provisions of this division. The gross receipts of a cemetery shall exclude the amounts received from the sale of burial lots.

(Code 1980, § 12-42; Code 1995, § 20-432)

Sec. 20-448. Exclusions from gross receipts—Advertising agencies and advertisers.

(a) Advertising agents and agencies, when acting on the behalf of their clients in disseminating a message through the media, shall exclude amounts paid by them for the following: advertising space, radio time, electrical transcription, pressings, artwork, engraving, plate, mats, printing, printing stock and postage, from the amount of gross receipts of the business of the advertising agent or agency, in computing the basis for their license tax under this division.

(b) Advertisers, when acting on the behalf of their clients in creating material to be dispersed through the mail, shall be entitled to exclude those amounts which they have paid for postage.

(Code 1980, § 12-43; Code 1995, § 20-433)

Sec. 20-449. Same—Real estate brokers.

(a) For the purpose of computing the tax under this division, a real estate broker shall exclude from his gross receipts the commissions on insurance premiums and receipts from conducting business with respect to real estate belonging to such person and excluding interest, brokerage and other receipts from the business of lending money belonging to such person.

(b) If a real estate agent receives the full commission from the broker less an adjustment for the business license tax paid by the broker on such commission and the agent pays a desk fee to the broker, then the desk fee and other overhead costs paid by the agent to a broker shall not be included in the broker's gross receipts.

(Code 1980, § 12-44; Code 1995, § 20-434; Ord. No. 1035, § 1, 8-13-2002)

State law reference—Similar provisions, Code of Virginia, § 58.1-3732.2.

Sec. 20-450. Same—Impounding lot operators.

The amounts received by the operator of an impounding lot for feeding animals shall be excluded from the gross receipts of the business for the purpose of computing the license tax under this division on such operator.

(Code 1980, § 12-46; Code 1995, § 20-436)

Sec. 20-451. Additional licenses for slot machines or vehicles.

The license taxes prescribed in this article shall be in addition to the license taxes prescribed elsewhere upon slot machines or upon vehicles of any kind.

(Code 1980, § 12-47; Code 1995, § 20-437)

Sec. 20-452. Limitation on gross receipts—Providers of funeral services.

Gross receipts of providers of funeral services shall not include amounts collected by any provider of funeral services on behalf of, and paid to, another person providing goods or services in connection with a funeral. The exclusion provided by this section shall apply if the goods or services were contracted for by the provider of funeral services or his customer. A provider of funeral services claiming the exclusion shall

identify on its license application each person to whom the excluded receipts have been paid and the amount of the excluded receipts paid by the provider of funeral services to such person. As used in this section, the term "provider of funeral services" means any person engaged in the funeral service profession, operating a funeral service establishment, or acting as a funeral director or embalmer.

(Code 1995, § 20-438; Ord. No. 981, § 26, 10-14-1998)

State law reference—Similar provisions, Code of Virginia, § 58.1-3732.3.

Sec. 20-453. Same—Staffing firms.

(a) Gross receipts of a staffing firm shall not include employee benefits paid by a staffing firm to, or for the benefit of, any contract employee for the period of time that the contract employee is actually employed for the use of the client company pursuant to the terms of a PEO services contract or temporary help services contract. The taxable gross receipts of a staffing firm shall include any administrative fees received by such firm from a client company, whether on a fee-for-service basis or as a percentage of total receipts from the client company.

(b) The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Client company means a person, as defined in Code of Virginia, § 1-230, that enters into a contract with a staffing firm by which the staffing firm, for a fee, provides PEO services or temporary help services.

Contract employee means an employee performing services under a PEO services contract or temporary help services contract.

Employee benefits means wages, salaries, payroll taxes, payroll deductions, workers' compensation costs, benefits, and similar expenses.

PEO services or *professional employer organization services* means an arrangement whereby a staffing firm assumes employer responsibility for payroll, benefits, and other human resources functions with respect to employees of a client company with no restrictions or limitations on the duration of employment.

PEO services contract means a contract pursuant to which a staffing firm provides PEO services for a client company.

Staffing firm means a person, as defined in Code of Virginia, § 1-230, that provides PEO services or temporary help services.

Temporary help services means an arrangement whereby a staffing firm temporarily assigns employees to support or supplement a client company's workforce.

Temporary help services contract means a contract pursuant to which a staffing firm provides temporary help services for a client company.

(Code 1995, § 20-439; Ord. No. 981, § 27, 10-14-1998)

State law reference—Similar provisions, Code of Virginia, § 58.1-3732.4.

Secs. 20-454—20-474. Reserved.

DIVISION 4. PROFESSIONAL SERVICES

Sec. 20-475. Enumerated; amount of tax.

(a) Every person engaged in one or more of the following businesses or professions and having a definite place of business in the county, provided that the gross receipts of the business or profession exceed $400,000.00, shall pay a license tax equal to the greater of $30.00 or 0.20 percent of the difference between the gross receipts of the business and $400,000.00.

Architect.
Attorney at law.
Ceramic engineer.
Certified public accountant.
Chemical engineer.
Chemist.
Chiropodist.
Chiropractor.
Civil engineer.
Coal mining engineer.
Consulting engineer.
Contracting engineer.
Dentist.
Doctor of medicine.
Electrical engineer.
Heating and ventilating engineer.
Highway engineer.
Homeopath.
Industrial engineer.
Landscape architect.
Mechanical engineer.
Metallurgist.
Mining engineer.
Naturopathist (naturopath).
Optometrist.
Osteopath.
Patent attorney or agent.
Physician.
Physician services, chiropodist services, chiropractor services, dentist services, doctor of medicine services, homeopath services, naturopath services, optometrist services, osteopath services, physiotherapist services, podiatrist services, psychologist services, radiologist services or surgeon services provided by a health maintenance organization.
Physician's services provided by a nonprofessional corporation.
Physiotherapist.
Podiatrist.
Professional engineer.
Psychiatrist.
Psychologist.

Radio engineer.
Radiologist.
Railway engineer.
Refrigerating engineer.
Sanitary engineer.
Stream power engineer.
Structural engineer.
Surgeon.
Surveyor.
Veterinarian.

(b) If the gross receipts of the business or profession are $400,000.00 or less, an application shall be required to be filed, but no tax shall be due or paid.

(Code 1980, § 12-48; Code 1995, § 20-461; Ord. No. 909, § 1, 10-25-1995; Ord. No. 935, § 18, 10-9-1996; Ord. No. 962, § 4, 10-8-1997; Ord. No. 981, § 4, 10-14-1998; Ord. No. 991, § 3, 9-24-1999)

Sec. 20-476. State certificate of registration prerequisite to issuance of certain licenses.

No license shall be issued to one engaged in the practice of medicine, homeopathy, chiropractic, naturopathy or chiropody, dentist, attorney at law, chemical engineer, civil engineer, highway engineer, sanitary engineer, or any other profession which requires a certification of registration and examination under the provisions of the Code of Virginia unless such person furnishes evidence to the director of finance that he has properly registered and has in effect a current registration as required by state law.

(Code 1980, § 12-52; Code 1995, § 20-462)

Secs. 20-477—20-505. Reserved.

DIVISION 5. AMUSEMENT PARKS, GARDENS OR BUILDINGS, ATHLETIC FIELDS AND PARKS, COLISEUMS, AUDITORIUMS AND DANCEHALLS

***Cross reference—** Amusements, ch. 4.

***State law reference—** Amusement machines, Code of Virginia, § 58.1-3720; permanent coliseums, arenas or auditoriums, Code of Virginia, § 58.1-3729.

Sec. 20-506. Tax on owners and operators.

(a) Every person owning and operating an amusement park, garden, athletic field or park, coliseum and auditorium devoted to general amusement and entertainment which is open to the public and where admission charges are made and where a professional basketball, baseball or football game is conducted or where a motion picture, ballet, play, drama, lecture, monologue, comedy, musical review, musical show or concert is exhibited or conducted, or where an instrumental or vocal concert or concert presenting both instrumental and vocal music is conducted by another or others, or where there is presented or conducted a public show, exhibition or performance of any kind, or where there is operated an aggregation of Ferris wheels, toboggan ring or cane games, baby, knife or cane racks, shooting galleries, merry-go-rounds, hobbyhorses or carousels or where dancing is permitted, to which an admission fee is charged or for which compensation is in any manner received either directly or indirectly for the privilege of dancing, provided that the gross receipts of the business exceed $400,000.00, shall pay a license tax equal to the greater of $30.00 or 0.20 percent of the difference between the gross receipts of the business and $400,000.00.

(b) If the gross receipts of the business are $400,000.00 or less, an application shall be required to be filed, but no tax shall be due and paid.

(Code 1980, § 12-67; Code 1995, § 20-511; Ord. No. 909, § 1, 10-25-1995; Ord. No. 935, § 19, 10-9-1996; Ord. No. 962, § 5, 10-8-1997; Ord. No. 981, § 5, 10-14-1998)

Sec. 20-507. Tax on promoters generally.

(a) Every person presenting a motion picture, ballet, drama, lecture, monologue, comedy, musical review, musical show or concert, or an instrumental or vocal concert or a concert of both instrumental and vocal music, or presenting a public show, exhibition or performance of any kind, or operating a merry-go-round, hobbyhorse, carousel or the like, or conducting a public dance, provided that the gross receipts of the business exceed $400,000.00, shall pay a license tax equal to the greater of $30.00 or 0.20 percent of the difference between the gross receipts of the business and $400,000.00.

(b) If the gross receipts of the business are $400,000.00 or less, an application shall be required to be filed, but no tax shall be due and paid.

(Code 1980, § 12-68; Code 1995, § 20-512; Ord. No. 909, § 1, 10-25-1995; Ord. No. 935, § 20, 10-9-1996; Ord. No. 962, § 6, 10-8-1997; Ord. No. 981, § 6, 10-14-1998)

Sec. 20-508. Deduction of payments to charity from gross receipts.

So much of the gross receipts of any taxpayer taxable under sections 20-506 and 20-507 as is paid by the taxpayer directly to a religious, charitable or benevolent organization within the county as a contribution to that organization for the privilege of using its name and not as reimbursement to that organization of an expense in connection with the business license under this division shall be deducted from the gross receipts in computing the basis for license taxes under sections 20-506 and 20-507.

(Code 1980, § 12-69; Code 1995, § 20-513)

Sec. 20-509. Tax on promoters of athletic contests or races.

(a) Every person presenting a professional basketball, baseball, football, wrestling or boxing match or similar competitive athletic performance, or presenting an automobile, horse, dog or animal race or automobile driving contest or stock race, provided that the gross receipts of the business exceed $400,000.00, shall pay a license tax equal to the greater of $30.00 or 0.20 percent of the difference between the gross receipts of the business and $400,000.00.

(b) If the gross receipts of the business are $400,000.00 or less, an application shall be required to be filed, but no tax shall be due and paid.

(Code 1980, § 12-70; Code 1995, § 20-514; Ord. No. 909, § 1, 10-25-1995; Ord. No. 935, § 21, 10-9-1996; Ord. No. 962, § 7, 10-8-1997; Ord. No. 981, § 7, 10-14-1998)

Sec. 20-510. Applicability of division to charities.

No license taxes prescribed in this division shall be required to be paid for any amusement, performance, exhibition, entertainment or show held or conducted exclusively for religious, charitable or benevolent purposes; but the provisions of this division shall not be construed to allow without payment of the license taxes prescribed in this division any amusement, performance, exhibition, entertainment or show for charitable, religious or benevolent purposes by any person who makes it his business to give exhibitions, no matter what terms of contract may be entered into or under what auspices such amusement, performance, exhibition, entertainment or show is given by such person for religious, benevolent or charitable purposes. It is the intent and meaning of this section that every person who makes it his business to give performances,

exhibitions, entertainments or shows for compensation, whether a part of the proceeds are for religious, charitable or benevolent purposes or not, shall pay the license taxes prescribed in this article. In any case where no license tax is required to be paid for the conduct of any amusement, performance, exhibition, entertainment or show held or conducted for religious, charitable or benevolent purposes, a permit from the director of finance shall be required before any such amusement, performance, exhibition, entertainment or show shall be held or conducted.

(Code 1980, § 12-71; Code 1995, § 20-515)

Sec. 20-511. Amusements or entertainments of temporary nature.

Whenever any place of amusement or entertainment makes an admission charge which is subject to the license tax levied in this division and the operation of such place is of a temporary or transitory nature, the director of finance shall require a return and remittance of the license tax to be made on the day following its collection, if the operation is for one day only, or on the day following the conclusion of a series of performances or exhibitions conducted or operated for more than one day, or at such other reasonable time as he shall determine.

(Code 1980, §§ 12-74, 12-75; Code 1995, § 20-517)

Secs. 20-512—20-530. Reserved.

DIVISION 6. BONDSMEN

***State law reference—** Authority to license bondsmen, Code of Virginia, § 58.1-3724.

Sec. 20-531. Levy of tax; amount.

(a) Every person who engages in the business of entering or offering to enter into bonds for others for compensation, whether as a principal or surety, provided that the gross receipts of the business exceed $400,000.00, shall pay a license tax equal to the greater of $30.00 or 0.20 percent of the difference between the gross receipts of the business and $400,000.00.

(b) If the gross receipts of the business are $400,000.00 or less, an application shall be required to be filed, but no tax shall be due and paid.

(Code 1980, § 12-83; Code 1995, § 20-571; Ord. No. 909, § 1, 10-25-1995; Ord. No. 935, § 22, 10-9-1996; Ord. No. 962, § 8, 10-8-1997; Ord. No. 981, § 8, 10-14-1998; Ord. No. 991, § 4, 9-28-1999)

State law reference— Fidelity and surety insurance, Code of Virginia, § 38.2-2400 et seq.

Sec. 20-532. License from the Virginia department of criminal justice services required.

With the exception of any bondsman or his agent who has previously obtained a certificate from a judge of the circuit court and license under section 20-531 and whose certificate, license and right to act as a bondsman continues to remain in full force and effect, no license shall be issued to any person pursuant to section 20-531 until the applicant shall have first obtained a bail bondsman license from the Virginia Department of Criminal Justice Services, as provided by Code of Virginia, § 58.1-3724.

(Code 1980, § 12-84; Code 1995, § 20-572; Ord. No. 1078, § 1, 10-11-2005)

State law reference— Similar provisions, Code of Virginia, § 58.1-3724.

Secs. 20-533—20-557. Reserved.

DIVISION 7. CONTRACTORS

***State law reference—**Contractor's license tax, Code of Virginia, §§ 58.1-3714, 58.1-3715.

Sec. 20-558. Contractors defined.

For the purpose of this division, every person accepting or offering to accept orders or contracts for doing any work on or in any building or structure requiring the use of paint, stone, brick, mortar, cement, wood, structural iron or steel, sheet iron, galvanized iron, metallic piping, tin, lead or other metal or any other building material; accepting or offering to accept contracts to do any paving, curbing or other work on sidewalks, streets, alleys or highways or public or private property using asphalt, brick, stone, cement, concrete, wood or any composition; accepting or offering to accept an order for or contract to excavate earth, rock or other material for foundation or any other purpose or for cutting or trimming or maintaining rights-of-way; accepting or offering to accept an order or contract to construct any sewer of stone, brick, concrete, terra cotta or other material; accepting or offering to accept an order or contract for doing any work on or in any building or premises involving the erecting, installing, altering, repairing, servicing, or maintaining electric wiring, devices or appliances permanently connected to such wiring, or the erecting, repairing or maintaining of lines for the transmission or distribution of electric light and power; or engaging in the business of plumbing and steamfitting shall be deemed to be a contractor, whether such work is done or offered to be done by day labor, general contract or subcontract.

(Code 1980, § 12-85; Code 1995, § 20-591; Ord. No. 909, § 1, 10-25-1995)

State law reference—Similar provisions, Code of Virginia, § 58.1-3714.

Sec. 20-559. Amount of tax.

(a) Every contractor, for the privilege of transacting business in the county, including the performance in the county of a contract accepted outside the county, provided that the gross fees or gross receipts of the business exceed $400,000.00, shall pay a license tax as follows:

(1) A fee contractor shall pay the greater of $30.00 or 1.50 percent of the difference between the gross amount of all fees received from contracts accepted on a fee basis and $400,000.00; and

(2) A contractor other than a fee contractor shall pay the greater of $30.00 or 0.15 percent of the difference between the gross receipts from all contracts accepted on a basis other than a fee basis and $400,000.00.

(b) If the gross amount of all fees received from contracts accepted on a fee basis or the gross receipts from all contracts accepted on a basis other than a fee basis is $400,000.00 or less, an application shall be required to be filed, but no tax shall be due or paid.

(Code 1980, § 12-86; Code 1995, § 20-592; Ord. No. 909, § 1, 10-25-1995; Ord. No. 935, § 23, 10-9-1996; Ord. No. 962, § 9, 10-8-1997; Ord. No. 981, § 9, 10-14-1998)

Sec. 20-560. Speculative builders.

(a) Every person engaged in the business of erecting a building for the purpose of selling or renting it and making no contract with a duly licensed contractor for the erection of such building, whether or not such person contracts with one or more duly licensed contractors for one or more portions, but does not contract with any one person for all of the work of erecting any one of such buildings, shall be deemed to be a speculative builder and for the privilege of transacting business in this county, provided that the total costs of the business exceed $400,000.00, shall pay a license tax equal to the greater of $30.00 or 0.15 percent of the difference between the entire cost (both hard and soft) of erecting the building, exclusive of the value of the land, but including the cost of off-site improvements (namely, water systems, sanitary sewerage systems,

storm drainage systems and road, curb and gutter improvements) and $400,000.00.

(b) If the entire costs of the business are $400,000.00 or less, an application shall be required to be filed, but no tax shall be due or paid.

(c) No person who is duly licensed as a contractor under section 20-559 and who is also engaged in the business of speculative building for which a license tax would be otherwise prescribed by this section shall be liable for a separate license, assessable under this section, but every such person shall include in the basis for the tax to be computed under section 20-559 all of the costs which a speculative builder is required to include under the provisions of this section, which costs shall be considered as a part of the orders or contracts accepted by the taxpayer in computing the taxpayer's contractor's license tax.

(Code 1980, § 12-89; Code 1995, § 20-595; Ord. No. 909, § 1, 10-25-1995; Ord. No. 935, § 24, 10-9-1996; Ord. No. 962, § 10, 10-8-1997; Ord. No. 981, § 10, 10-14-1998)

Sec. 20-561. Designation of place of business.

Every license of a contractor or speculative builder shall designate the regular office or place of business in the county, if there be one, as the specified house or definite place at which the business is to be conducted. If there be no such regular office or place of business in the county, but such person is transacting business in the county, then such license shall designate the residence or place of business of the taxpayer, wherever it may be, and also the first place in the county at which work is to be performed, as the specified house or definite place at which the business is to be conducted.

(Code 1980, § 12-91; Code 1995, § 20-596; Ord. No. 909, § 1, 10-25-1995)

State law reference—Principal office location, Code of Virginia, § 58.1-3715.

Sec. 20-562. Scope of license.

Every license issued under this division shall be valid throughout the county.

(Code 1980, § 12-92; Code 1995, § 20-597)

Sec. 20-563. Exemption from tax when license purchased in other jurisdiction.

When a contractor or speculative builder shall have paid a local license tax to any city, town or county in which his principal office or branch office may be located, he shall be exempt from the payment of additional license tax to the county for conducting any such business within the confines of the county, except where the amount of business done by any such person in the county exceeds the sum of $25,000.00 in any year, he shall be required to file an application and pay a license tax as provided in section 20-559 and shall be subject to all other provisions of this division. The director of finance shall have the power to require such periodic reports as he may deem necessary of all persons claiming exemption under this section. The exemption mentioned in this section shall not affect in any other way the requirements of this division.

(Code 1980, § 12-95; Code 1995, § 20-598; Ord. No. 909, § 1, 10-25-1995; Ord. No. 935, § 25, 10-9-1996)

State law reference—Similar provisions, Code of Virginia, § 58.1-3715.

Sec. 20-564. Receipts for business done in other jurisdictions.

In computing the license tax of a contractor or speculative builder whose principal office or branch

office is located in the county, there shall be exempt from the basis of taxation the amount of business done in any other city, town or county in which the contractor or speculative builder has:

(1) A definite place of business; or

(2) No definite place of business and upon which a local license tax has been assessed as provided in Code of Virginia, § 58.1-3715.

(Code 1980, § 12-96; Code 1995, § 20-599; Ord. No. 909, § 1, 10-25-1995; Ord. No. 1136, 11-10-2009)

State law reference—Similar provisions, Code of Virginia, § 58.1-3715.

Sec. 20-565. Proration of tax on orders or contracts covering more than one year.

Any contractor's license tax imposed pursuant to this division shall be prorated on all orders or contracts covering more than one calendar year so as to ensure that the gross amount of each such order or contract is used only once as a basis for determining the amount of tax due.

(Code 1980, § 12-97; Code 1995, § 20-600)

Sec. 20-566. Exhibition of license prerequisite to obtaining permits or county contracts; furnishing of list of subcontractors.

Every contractor and speculative builder who proposes to do work in the county under a contract with the county shall, upon the award of such contract, exhibit to the proper county official the county license authorizing him to engage in the business for the year in which the contract is awarded, and shall furnish to that official and to the director of finance a list of his subcontractors. If any or all of such subcontracts have not been closed or awarded at the time of award of such contract, he shall furnish such list in writing immediately upon awarding of the subcontracts or contract. He shall not allow the work under any subcontract to proceed until the subcontractor shall have exhibited to him his county license to do such business in the county for the current year.

(Code 1980, § 12-93; Code 1995, § 20-602; Ord. No. 909, § 1, 10-25-1995)

Sec. 20-567. Certification of compliance with workers' compensation coverage prerequisite to issuance or reissuance of license; penalty.

(a) No person licensable under this division shall be issued or reissued a license if he:

(1) Has not obtained or is not maintaining workers' compensation coverage for his employees; and

(2) At the time of application for such issuance or reissuance, is required to obtain or maintain such coverage pursuant to Code of Virginia, title 65.2, ch. 8 (Code of Virginia, § 65.2-800 et seq.).

(b) Every person licensable under this division shall provide written certification at the time of any application for issuance or reissuance of a license that he is in compliance with the provisions of Code of Virginia, title 65.2, ch. 8 (Code of Virginia, § 65.2-800 et seq.), and will remain in compliance with such provisions at all times during the license year.

(c) The director of finance shall forward the signed certification required by subsection (b) of this section to the Virginia Workers' Compensation Commission, who shall conduct periodic compliance audits of selected contractors.

(d) Any person who knowingly presents or causes to be presented with his license application a false certificate of compliance shall be guilty of a class 3 misdemeanor.

(Code 1995, § 20-603; Ord. No. 981, § 28, 10-14-1998)

State law reference—Similar provisions, Code of Virginia, § 58.1-3714; penalty for class 3 misdemeanor, Code of Virginia, § 18.2-11.

Sec. 20-568. Contractors without a definite place of business in the commonwealth.

Any contractor, as defined in section 20-558, conducting business in the county for less than 30 days without a definite place of business in any county, city or town of the commonwealth shall be subject to the license tax imposed under section 20-559 where the amount of business done by the contractor in the county exceeds or will exceed the sum of $25,000.00 for the license year. That portion of the gross receipts of a contractor subject to the license tax pursuant to this section shall not be subject to such tax in any other county, city or town.

(Code 1995, § 20-604; Ord. No. 991, § 12, 9-28-1999)

State law reference—Similar provisions, Code of Virginia, § 58.1-3715.

Sec. 20-569. – Prerequisite to issuance or renewal of license.

(a) Any person applying for or renewing a license under this division shall furnish prior to the issuance or renewal of the license either (i) satisfactory proof that he is duly licensed or certified under the terms of Code of Virginia, tit. 54.2, ch. 11 or (ii) a written statement, supported by an affidavit that he is not subject to licensure or certification as a contractor or subcontractor pursuant to Code of Virginia, tit. 54.1, ch. 11.

(b) No license shall be issued or renewed under this division unless the contractor has furnished his license or certificate number issued pursuant to Code of Virginia, tit. 54.1, ch. 11 or evidence or being exempt from the provisions of Code of Virginia, tit. 54.1, ch. 11.

Secs. 20-570—20-599. Reserved.

DIVISION 8. HOTELS AND RESTAURANTS

Sec. 20-600. Hotels.

(a) *Definition.* Every person who keeps a public inn or lodginghouse of more than ten bedrooms, where transient guests are fed or lodged for pay, in the county shall be deemed to be engaged in the business of keeping a hotel. For purposes of this subsection, the term "transient guest" means a person who puts up for less than a week at such hotel, but such a house is no less a hotel because some of its guests put up for longer periods than a week.

(b) *Levy; amount of tax.* Every person operating a hotel, as defined in the preceding section, provided that the gross receipts of the business exceed $400,000.00, shall pay an annual license tax equal to the greater of $30.00 or 0.20 percent of the difference between gross receipts of the business, except receipts from the cost of telephone service and use, and except rent from stores or other space operated independently on ground level with an outside entrance, and $400,000.00.

(c) If the gross receipts of the business are $400,000.00 or less, an application shall be required to be filed, but no tax shall be due and paid.

(Code 1980, §§ 12-101, 12-102; Code 1995, § 20-641; Ord. No. 909, §§ 1, 2, 10-25-1995; Ord. No. 935, § 26, 10-9-1996; Ord. No. 962, § 11, 10-8-1997; Ord. No. 981, § 1, 10-14-1998; Ord. No. 991, § 5, 9-28-1999)

Sec. 20-601. Restaurants, soda fountains and similar businesses.

(a) Every person engaged in the business of operating an eating house, lunchstand, lunchroom, restaurant or

soda fountain, or who shall sell, offer for sale, cook or otherwise furnish for compensation, diet, food or refreshments of any kind, at his house or place of business, for consumption therein, provided that the gross receipts of the business exceed $400,000.00, shall pay a license tax therefor equal to the greater of $30.00 or 0.20 percent of the difference between the gross receipts of the business and $400,000.00.

(b) If the gross receipts of the business are $400,000.00 or less, an application shall be required to be filed, but no tax shall be due or paid.

(c) Every license issued to such person shall authorize the licensee to sell, offer for sale, cook or otherwise furnish for compensation, at retail only and not for resale, diet, food or refreshments of any kind at the house or place of business of the licensee for consumption therein. A separate license shall be required for each house or definite place of business.

(Code 1980, § 12-103; Code 1995, § 20-642; Ord. No. 909, § 1, 10-25-1995; Ord. No. 935, § 27, 10-9-1996; Ord. No. 962, § 12, 10-8-1997; Ord. No. 981, § 12, 10-14-1998)

Sec. 20-602. Applicability of restaurant license tax when meals furnished in hotel or lodginghouse.

If meals are furnished by public lodginghouses, hotels, inns or tourist homes to persons other than those to whom bedrooms are also furnished for compensation, or if meals are furnished to those who are furnished bedrooms and an additional charge is made for such meals, then in addition to the license tax otherwise imposed in this division there shall be assessed a restaurant license tax for the gross receipts of the business from such meals, including the additional charges for meals furnished those to whom bedrooms are also furnished.

(Code 1980, § 12-105; Code 1995, § 20-644)

Secs. 20-603—20-622. Reserved.

DIVISION 9. LOAN COMPANIES AND BANKERS

Sec. 20-623. Term defined.

For purposes of this division, the term "person" shall mean, in addition to the definition provided in section 20-350, a real estate investment trust, including its qualified subsidiaries engaged in business activities subject to taxation under this division, as the terms "real estate investment trust" and "qualified subsidiary" are defined in section 856 of the Internal Revenue Code, and also including any of the real estate investment trust's nonqualified subsidiaries provided that stock possessing at least 90 percent of the equity of each nonqualified subsidiary is owned directly or indirectly by the real estate investment trust and further provided that the nonqualified subsidiary is engaged in business activities subject to taxation under this division.

(Code 1980, § 12-107; Code 1995, § 20-661)

Cross reference—Definitions and rules of construction, § 1-2.

Sec. 20-624. Small loan companies.

(a) Every person licensed pursuant to Code of Virginia, title 6.2, ch. 15 (Code of Virginia, § 6.2-1500 et seq.), provided that the gross receipts of the business exceed $400,000.00, shall pay a license tax equal to the greater of $30.00 or 0.20 percent of the difference between the gross receipts of the business, excluding repayments of principal, and $400,000.00. In no event, however, shall the tax calculated as 0.20 percent, as stated in this subdivision, exceed $90,000.00.

(b) If the gross receipts of the business, excluding repayments of principal, are $400,000.00 or less, an

application shall be required to be filed, but no tax shall be due or paid.
(Code 1980, § 12-108; Code 1995, § 20-662; Ord. No. 909, § 1, 10-25-1995; Ord. No. 935, § 28, 10-9-1996; Ord. No. 962, § 13, 10-8-1997; Ord. No. 981, § 13, 10-14-1998; Ord. No. 991, § 6, 9-28-1999)

Sec. 20-625. Persons other than small loan companies lending money for purchase of chattels secured by liens; purchasers of conditional sale contracts.

(a) Every person, other than a person licensed pursuant to Code of Virginia, title 6.2, ch. 15 (Code of Virginia, § 6.2-1500 et seq.), engaged in the business of lending money to others for the purchase of motor vehicles, refrigerators, radios, oil or gas burners, electrical appliances, household furniture or equipment, or any other goods or chattels, whether new or used, secured by a lien on such goods or chattels, or paying the purchase price of any goods or chattels for the buyer and securing the sum so paid by a lien on the goods or chattels, or, by the purchase from a dealer of conditional sales contracts or chattels, mortgages, and the notes or other obligations, if any, secured thereby, or in any other manner or by any other method financing in whole or in part, the purchase of such goods or chattels by or for others; and every person, other than a person licensed pursuant to Code of Virginia, title 6.2, ch. 15 (Code of Virginia § 6.2-1500 et seq.), engaged in the business of lending money to others, secured by lien on such goods or chattels, whether for the purchase thereof or not, provided that the gross receipts of the business exceed $400,000.00, shall pay a license tax equal to the greater of $30.00 or 0.20 percent of the difference between the gross receipts of the business, excluding repayments of principal, and $400,000.00. In no event, however, shall the tax calculated under the provision of the previous sentence as 0.20 percent exceed $90,000.00.

(b) If the gross receipts of the business, excluding repayments of principal, are $400,000.00 or less, an application shall be required to be filed, but no tax shall be due or paid.

(c) Nothing herein shall require the payment of any license tax under this section by any bank or trust company.

(Code 1980, § 12-109; Code 1995, § 20-663; Ord. No. 909, § 1, 10-25-1995; Ord. No. 935, § 29, 10-9-1996; Ord. No. 962, § 14, 10-8-1997; Ord. No. 981, § 14, 10-14-1998; Ord. No. 991, § 7, 9-28-1999)

State law reference—Bank and trust company exemption, Code of Virginia, § 58.1-3703(C)12.

Sec. 20-626. Other moneylenders.

(a) Every person, except those engaged in first mortgage loans and first mortgage note purchasing, conducting or engaging in any of the following money lending or note purchasing occupations, businesses or trades, namely: an industrial loan company, loan or mortgage company, insurance premium finance company, pawnshop or pawnbroker, a factor, a buyer of promissory notes, deed of trust notes or installment loan agreements, provided that the gross receipts of the business exceed $400,000.00, shall pay for the privilege an annual license tax therefor equal to the greater of $30.00 or 0.20 percent of the difference between the gross receipts of the business and $400,000.00. In no event, however, shall the tax calculated under the provision of the previous sentence as 0.20 percent exceed $90,000.00.

(b) If the gross receipts of the business are $400,000.00 or less, an application shall be required to be filed, but no tax shall be due or paid.

(c) Notwithstanding subsection (e) of this section, the maximum tax for industrial loan associations shall not exceed $500.00.

(d) A pawnshop or pawnbroker must comply with the requirements of Code of Virginia, title 54.1, ch. 40 (Code of Virginia, § 54.1-4000 et seq.) and chapter 15, article V of this Code before issuance of a license under this section.

(e) The term "gross receipts," as used in this section, shall be deemed to mean the gross interest, gross discount, gross commission or other gross receipts earned by means of, or resulting from, such financial

transactions. The term "gross receipts" shall not include amounts received as payment of principal.
(Code 1980, § 12-110; Code 1995, § 20-664; Ord. No. 909, § 1, 10-25-1995; Ord. No. 935, § 30, 10-9-1996; Ord. No. 962, § 15, 10-8-1997; Ord. No. 981, § 15, 10-14-1998; Ord. No. 991, § 8, 9-28-1999)

Sec. 20-627. Persons making first mortgage loans or purchasing mortgage notes.

(a) Every person conducting or engaging in a first mortgage money lending or first mortgage note purchasing occupation, business or trade, provided that the gross receipts of the business exceed $400,000.00, shall pay for the privilege an annual license tax therefor equal to the greater of $30.00 or 0.20 percent of the difference between the gross receipts of the business and $400,000.00. In no event, however, shall the tax calculated under the provision of the previous sentence as 0.20 percent exceed $90,000.00.
(b) If the gross receipts of the business are $400,000.00 or less, an application shall be required to be filed, but no tax shall be due or paid.
(c) The term "gross receipts," as used in this section, shall be deemed to mean the gross interest, discount, gross commission or other gross receipts earned by means of, or resulting from, such financial transactions. The term "gross receipts" shall not include amounts received as payment of principal.
(Code 1980, § 12-111; Code 1995, § 20-665; Ord. No. 909, § 1, 10-25-1995; Ord. No. 935, § 31, 10-9-1996; Ord. No. 962, § 16, 10-8-1997; Ord. No. 981, § 16, 10-14-1998; Ord. No. 991, § 9, 9-28-1999)

Sec. 20-628. Savings and loan companies.

Every savings and loan company, firm or corporation having its principal office in the county shall pay a license tax of $50.00.

(Code 1980, § 12-112; Code 1995, § 20-666)

State law reference—Authority to levy, Code of Virginia, § 58.1-3730.

Sec. 20-629. Exemption for federal and state-chartered credit unions.

The provisions of this division shall not apply to federal or state-chartered credit unions.

(Code 1980, § 12-112.1; Code 1995, § 20-667)

Secs. 20-630—20-646. Reserved.

DIVISION 10. RETAIL MERCHANTS

Sec. 20-647. License and payment of tax required; "retail merchant" defined.

Every person engaged in the business of a retail merchant shall obtain a license for the privilege of doing business in the county and shall pay a license tax therefor. The term "retail merchant," as used in this division, shall include every merchant who sells to others at retail only and not for resale. The term "retail merchant," as used in this division, shall also include any person engaged in the short-term rental business as defined in § 20-311.

(Code 1980, § 12-115; Code 1995, § 20-691)

Sec. 20-648. Amount of tax.

(a) Every person engaged in the business of a retail merchant, provided that the gross receipts of the business exceed $400,000.00, shall pay a license tax equal to the greater of $30.00 or 0.20 percent of the

difference between the gross receipts of the business and $400,000.00.

(b) If the gross receipts of the business are $400,000.00 or less, an application shall be required to be filed, but no tax shall be due or paid.

(Code 1980, § 12-116; Code 1995, § 20-692; Ord. No. 909, § 1, 10-25-1995; Ord. No. 935, § 32, 10-9-1996; Ord. No. 962, § 17, 10-8-1997; Ord. No. 981, § 17, 10-14-1998)

State law reference—Limitation on tax on retail merchant, Code of Virginia, § 58.1-3706(A)2.

Sec. 20-649. Combination wholesale and retail merchants.

Any person who is both a retail merchant and a wholesale merchant is hereby required to obtain both classes of licenses; provided that any retail merchant who desires to do a wholesale business also may elect to do such wholesale business under his retailer's license by paying license taxes under the provisions of this division as a retailer on both his retail and wholesale business.

(Code 1980, § 12-113; Code 1995, § 20-693)

State law reference—Wholesale merchants license tax limitation, Code of Virginia, § 58.1-3716.

Sec. 20-650. Commission merchants.

(a) For purposes of this article, the term "commission merchant" shall mean any person engaged in the business of selling merchandise on commission by sample, circular, or catalogue for a regularly established retailer, who has no stock or inventory under his control other than floor samples held for demonstration or sale and owned by the principal retailer. A commission merchant shall be taxed on commission income and shall not be subject to tax on total gross receipts from such sales. Every person engaged in the business of a commission merchant, provided that the gross commissions of the business exceed $400,000.00, shall pay a license tax equal to the greater of $30.00 or 0.20 percent of the difference between the gross commissions of the business and $400,000.00.

(b) If the gross commissions of the business are $400,000.00 or less, an application shall be required to be filed, but no tax shall be due or paid.

(c) Goods, wares and merchandise not belonging to a retail merchant which are offered for sale by the retail merchant or by any other person at the retail merchant's duly licensed place of business shall require such retail merchant to take out the license of a commission merchant as provided in subsection (a) of this section.

(Code 1980, §§ 12-114, 12-124; Code 1995, § 20-694; Ord. No. 909, §§ 1, 2, 10-25-1995; Ord. No. 935, § 33, 10-9-1996; Ord. No. 962, § 18, 10-8-1997; Ord. No. 981, § 18, 10-14-1998; Ord. No. 991, § 10, 9-28-1999)

State law reference—Taxation of commission merchants, Code of Virginia, § 58.1-3733.

Sec. 20-651. Sales promotional shows and flea markets.

(a) A group of persons or merchants may sell or offer for sale at retail at a sales promotional show or flea market their goods, wares and merchandise, upon the payment of a license tax in the amount of $250.00. Such license shall authorize all sales conducted at such show. Such license shall not be granted for a period of time in excess of seven consecutive days.

(b) For purposes of this section, a sales promotional show is defined as a show, consisting of a group of persons or merchants, to stimulate the sale of specific classes of goods, wares and merchandise, such as but not limited to recreational goods, motor vehicles, antiques, hobby crafts, etc.

(c) For purposes of this section, a flea market is defined as a group of persons assembling for the purpose of selling their goods, wares and merchandise which are primarily secondhand articles.

(d) The license tax specified in this section shall apply only to shows and flea markets having gross sales of less than $125,000.00. Persons participating in shows and flea markets having gross sales in excess of $125,000.00 shall be subject to the license tax specified in section 20-648.

(Code 1980, § 12-117; Code 1995, § 20-695)

Sec. 20-652. Applicability of division to manufacturers.

All goods, wares and merchandise manufactured by a retail merchant and sold as merchandise shall be considered as sales; provided that this division shall not be construed as applying to manufacturers who sell or offer for sale at the place of manufacture goods, wares and merchandise manufactured by them. A manufacturer may, without a retail merchant's license, sell at the place of manufacture the goods, wares and merchandise manufactured by him. If a manufacturer desires to sell other than at the place of manufacture, at retail only and not for resale, the goods, wares and merchandise manufactured by him, such manufacturer must take out a retail merchant's license. When a manufacturer establishes a place for the sale of his goods, wares and merchandise, other than at his place of manufacture, at retail only and not for resale, the gross receipts of the business shall include not only the amount of sales made by such manufacturer of goods, wares and merchandise purchased from others, but also the gross receipts from the sale of the goods, wares and merchandise manufactured by him, sent from the point of manufacture and sold at or through such place; and he is required to report, as provided in this division, not only the amount of sales of goods, wares and merchandise purchased by him from others and sold, but also the amount of sales of goods, wares and merchandise manufactured by him either within or without the county and offered for sale by him and sold at or through a place in the county other than the place of manufacture. Notwithstanding the provisions of this section, with respect to goods, wares or merchandise manufactured by a retail merchant and sold or offered for sale by him at or through a place in the county other than the place of manufacture and shipped directly to the customer, the retail merchant is required to report, as provided in this division, only the amount of goods, wares and merchandise delivered within the state.

(Code 1980, § 12-118; Code 1995, § 20-696)

Sec. 20-653. Reserved.

(Code 1980, § 12-119; Code 1995, § 20-697)

Sec. 20-654. Cooperatives.

Every cooperative association, society, company or exchange created or operating under the provisions of Code of Virginia, title 13.1, ch. 3, art. 1 (Code of Virginia, § 13.1-301 et seq.), and every nonprofit, cooperative association, with or without capital stock, created or operating under the provisions of Code of Virginia, title 13.1, ch. 3, art. 2 (Code of Virginia, § 13.1-312 et seq.), and every cooperative marketing or purchasing association or corporation incorporated or organized under the general corporation laws of this state and brought under the provisions of Code of Virginia, title 13.1, ch. 3 (Code of Virginia, § 13.1-301 et seq.), whether such association, society, company, exchange or corporation be organized or brought under the provisions of those sections of the Code of Virginia prior or subsequent to the effective date of the ordinance from which this section is derived and whether chartered under the laws of this state or otherwise chartered and doing business in this state and conducting a mercantile, merchandise or brokerage business on the cooperative plan, shall be taxable as a merchant by the county. Every such association, society, company, exchange or corporation which sells to others at retail only and not for resale shall be a retail merchant and taxable as such under this division.

(Code 1980, § 12-123; Code 1995, § 20-698)

State law reference—Authority to tax cooperatives, Code of Virginia, §§ 13.1-311, 13.1-341.

Sec. 20-655. Operators of coin-in-the-slot machines.

Every person who sells merchandise by means of machines operated on the coin-in-the-slot principle shall pay the merchant's license tax prescribed by this division. All such machines are to be plainly marked so as to show the name and address of the owner thereof.

(Code 1980, § 12-125; Code 1995, § 20-699)

Sec. 20-656. Special license for closing out business.

If, after the close of the year for which a license is issued under this division, the retail merchant elects not to renew it but desires the privilege to sell whatever goods, wares and merchandise he may have on hand at the time, it shall be lawful for him to do so upon obtaining a license and the payment of a license tax therefor measured by the retail sale value of such goods, wares and merchandise, less any applicable deduction, which value he shall estimate and report to the director of finance. No additional purchases shall be made and added to the goods, wares and merchandise on hand after the estimate has been made. No such license shall be assigned or transferred.

(Code 1980, § 12-122; Code 1995, § 20-700; Ord. No. 909, § 1, 10-25-1995)

Cross reference—Closing out and similar sales, ch. 8.

Sec. 20-657. Exemption for sales conducted by nonprofit organizations at events sponsored by county government.

The license taxes specified in this article shall not apply to retail sales, sales promotional shows and flea markets being conducted by nonprofit organizations at an event sponsored or cosponsored by the county government and authorized by the county manager.

(Code 1980, § 12-125.1; Code 1995, § 20-701)

Sec. 20-658. Estimation of gross receipts for new businesses.

For the purpose of ascertaining the tax to be paid under this division by a retail merchant beginning business, he shall estimate the gross receipts of the business which he will receive between the date of the issuance of his license and the end of the then-current license year, including an estimate of the sales of goods, wares and merchandise manufactured by him to be offered for sale at the place at which he conducts his business as a retail merchant, provided that such place is not the place of manufacture, and his beginner's tax shall be computed on the basis of his gross receipts so ascertained, less any applicable deduction, subject to correction after the close of the license year upon the basis of his actual sales.

(Code 1980, § 12-120; Code 1995, § 20-702; Ord. No. 909, § 1, 10-25-1995)

Secs. 20-659—20-689. Reserved.

DIVISION 11. WHOLESALE MERCHANTS

***State law reference—**Authority to levy, Code of Virginia, § 58.1-3716.

Sec. 20-690. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Purchases means all goods, wares and merchandise received for sale at each definite place of business of a wholesale merchant and shall not be construed to exclude any goods, wares and merchandise otherwise coming within the meaning of the word. All goods, wares and merchandise manufactured by a wholesale merchant and sold or offered for sale as merchandise shall be considered as purchases within the meaning of this section; provided that this section shall not be construed to apply to manufacturers who offer for sale at the place of manufacture the goods, wares and merchandise manufactured by them, but such manufacturer may, without a wholesale merchant's license, sell at the place of manufacture the goods, wares and merchandise manufactured by him. If a manufacturer desires to sell or offers for sale the goods, wares and merchandise manufactured by him, other than at the place of manufacture, to others for resale or at wholesale to institutional, commercial or industrial users, then such manufacturer must take out a wholesale merchant's license and the amount of license tax is to be measured not only by the amount of purchases made by such manufacturer from others, if any, but also by the goods, wares and merchandise manufactured by him, if any, and he is required to report, as provided in this division, not only the amount of goods, wares and merchandise purchased by him from others and offered for resale, but also the amount of goods, wares and merchandise manufactured by him either within or without the county and sold or offered for sale by him at his place of business or office in this county, other than the place of manufacture. The term "purchases," as used in this division in relation to the purchase price of goods, wares and merchandise sold by a manufacturer at or through a place other than the place of manufacture, shall be the cost of manufacturing such goods, wares and merchandise together with the factory markup and overhead.

Wholesale merchant means any person or merchant who sells goods, wares and merchandise for resale by the purchaser, including sales when the goods, wares and merchandise will be incorporated into goods and services for sale, or who sells at wholesale to institutional, commercial or industrial users.

(Code 1980, § 12-128; Code 1995, § 20-721; Ord. No. 909, § 1, 10-25-1995; Ord. No. 935, § 34, 10-9-1996)

Sec. 20-691. License required; tax basis.

(a) Provided that the total amount of purchases of the business exceed $400,000.00 every person engaged in the business of a wholesale merchant shall obtain a license for the privilege of doing business in the county and shall pay a license tax therefor to be measured by the amount of purchases made by him during the next preceding license year.

(b) If the purchases of the business are $400,000.00 or less, an application shall be required to be filed, but no tax shall be due or paid.

(c) A wholesale merchant may elect to report the gross receipts from the sale of manufactured goods, wares and merchandise if the wholesale merchant cannot determine the cost of manufacturing or chooses not to disclose the cost of manufacturing. If such election is made, the wholesale merchant shall be taxed upon the basis and at the rate set out in section 20-648.

(Code 1980, § 12-126; Code 1995, § 20-722; Ord. No. 909, § 1, 10-25-1995; Ord. No. 935, § 35, 10-9-1996; Ord. No. 962, § 19, 10-8-1997; Ord. No. 981, § 19, 10-14-1998)

Cross reference—Definitions and rules of construction, § 1-2.

Sec. 20-692. Amount of tax.

(a) For every license issued to a person engaged in the business of a wholesale merchant, the amount to be paid shall be as follows:

(1) If the amount of purchases throughout the next preceding calendar year do not exceed $10,000.00, the amount shall be $25.00;

(2) When such purchases exceed $10,000.00, the amount shall be:

a. $25.00 on the first $10,000.00 and $0.20 on every $100.00 in excess of $10,000.00 but not exceeding $5,000,000.00;

b. $0.15 on each $100.00 in excess of $5,000,000.00 but not exceeding $15,000,000.00;

c. $0.10 per each $100.00 upon all purchases in excess of $15,000,000.00 but not exceeding $25,000,000.00;

d. $0.05 per each $100.00 upon all purchases in excess of $25,000,000.00 but not exceeding $50,000,000.00;

e. $0.025 per each $100.00 upon all purchases in excess of $50,000,000.00 but not exceeding $100,000,000.00; and

f. $0.0125 per each $100.00 upon all purchases in excess of $100,000,000.00.

(b) Each wholesale merchant shall receive a deduction of $400,000.00 from purchases prior to determining his tax liability.

(Code 1980, § 12-127; Code 1995, § 20-723; Ord. No. 909, § 1, 10-25-1995; Ord. No. 935, § 36, 10-9-1996; Ord. No. 962, § 20, 10-8-1997; Ord. No. 981, § 20, 10-14-1998)

Sec. 20-693. Junk dealers and dealers in secondhand paper.

Every junk dealer and secondhand paper dealer shall pay for the privilege of transacting business the merchant's license tax prescribed by this division for wholesale merchants; provided, however, this section shall not apply to a retail merchant who receives and purchases at his retail store waste paper, recyclable containers or other such recyclable material.

(Code 1980, § 12-159; Code 1995, § 20-724; Ord. No. 1053, § 2, 9-9-2003)

Sec. 20-694. Reserved.

(Code 1980, § 12-129; Code 1995, § 20-725)

Sec. 20-695. Cooperatives.

Every cooperative association, society, company or exchange created or operating under the provisions of Code of Virginia, title 13.1, ch. 3, art. 1 (Code of Virginia, § 13.1-301 et seq.), and every nonprofit, cooperative association, with or without capital stock, created or operating under the provisions of Code of Virginia, title 13.1, ch. 3, art. 2 (Code of Virginia, § 13.1-312 et seq.), and every cooperative marketing or purchasing association or corporation incorporated or organized under the general corporation laws of this state and brought under the provisions of Code of Virginia, title 13.1, ch. 3 (Code of Virginia, § 13.1-301 et seq.), whether such association, society, company, exchange or corporation is organized or brought under the provisions of those sections of the Code of Virginia prior or subsequent to the effective date of the ordinance from which this section is derived, and whether chartered under the laws of this state or otherwise chartered and doing business in this state, and conducting a mercantile, merchandise or brokerage business on the cooperative plan, shall be taxable as a merchant by the county. Every such association, society, company, exchange or corporation which sells to others for resale only, or which sells at wholesale to institutional, commercial or industrial users, shall be a wholesale merchant and taxable as such under this division.

(Code 1980, § 12-130; Code 1995, § 20-726)

State law reference—Authority to tax cooperatives, Code of Virginia, §§ 13.1-311, 13.1-341.

Sec. 20-696. Special license for closing out business.

If, after the close of the year for which a license is issued under this division, the wholesale merchant elects not to renew it but desires the privilege to sell whatever goods, wares and merchandise he may have on hand at the time, it shall be lawful for him to do so upon obtaining a license and the payment of a license tax therefor upon the basis of regarding such goods, wares and merchandise as purchases for the purpose of computing the license tax. No additional purchases shall be made and added to the goods, wares and merchandise on hand. No such license shall be assigned or transferred.

(Code 1980, § 12-133; Code 1995, § 20-727)

Cross reference—Closing out and similar sales, ch. 8.

Sec. 20-697. Businesses requiring commission merchant's license.

Goods, wares and merchandise not belonging to a wholesale merchant which are offered for sale by the wholesale merchant or by any other person at the wholesale merchant's duly licensed place of business shall require such wholesale merchant to take out the license of a commission merchant as provided in section 20-650(a).

(Code 1980, § 12-134; Code 1995, § 20-728)

Sec. 20-698. Sale and delivery of goods at place other than place of business.

A wholesale merchant who has been duly licensed by the county may, other than at a definite place of business, sell and deliver at the same time to licensed dealers or retailers, but not to consumers, anywhere in the county, without the payment of any additional license tax of any kind for any such privilege to the county, unless otherwise provided by law.

(Code 1980, § 12-135; Code 1995, § 20-729)

Sec. 20-699. Computation of tax for new businesses or businesses not in existence for full year.

(a) For the purpose of ascertaining the tax to be paid by a wholesale merchant beginning business, his purchases shall be considered to be the amount of goods, wares and merchandise bought to commence business with, including goods, wares and merchandise manufactured by him to be offered for sale at the place at which he conducts his business as a wholesale merchant, provided such place is not the place of manufacture; also including an estimate of purchases which the wholesale merchant will make between the date of the issuance of his license and the end of the current license year; and including an estimate of the amount of goods, wares and merchandise manufactured by him to be offered for sale at the place at which he conducts his business as a wholesale merchant, provided such place is not the place of manufacture. His beginner's license tax shall be computed upon the basis of the purchases so ascertained, less any applicable deduction, subject to correction after the close of the year upon the basis of his actual purchases.

(b) The license tax of every wholesale merchant who was licensed at a definite place of business for only a part of the next preceding license year shall be computed for the then-current license year on the basis of an estimate of purchases, less any applicable deduction, which the wholesale merchant will make throughout the then-current license year, including an estimate of the amount of goods, wares and merchandise manufactured by him to be offered for sale at the place at which he conducts his business as a wholesale merchant, provided such place is not the place of manufacture.

(Code 1980, § 12-131; Code 1995, § 20-730; Ord. No. 909, § 1, 10-25-1995)

Sec. 20-700. Correction of estimated tax.

Every estimate of purchases made by or for a wholesale merchant beginning business and every estimate of purchases made by or for a wholesale merchant licensed for only a part of the next preceding license tax year, including every estimate of the amount of goods, wares and merchandise manufactured by any such wholesale merchant to be offered for sale at the place at which he conducts his business as a wholesale merchant, provided such place is not the place of manufacture, shall be subject to correction by the director of finance, so that the tax shall be finally based upon the correct amount of purchases actually made, less any applicable deduction.

(Code 1980, § 12-132; Code 1995, § 20-731; Ord. No. 909, § 1, 10-25-1995)

Secs. 20-701—20-728. Reserved.

DIVISION 12. ITINERANT AND TRANSIENT MERCHANTS

***State law reference—**Itinerant vendors, retail, Code of Virginia, § 58.1-3717.

Sec. 20-729. Itinerant merchants.

(a) *Definition.* Every person engaged in temporary or transient business in the county and who, for the purpose of carrying on such business, hires, leases or occupies any building or structure, motor vehicle, tent, car, boat or public room, or any part thereof, for any period less than one year for the purpose of selling or offering for sale goods, wares and merchandise to others at retail only and not for resale, except goods, wares and merchandise received from bankruptcy sales, trustee sales, railroad wrecks, fire sales, slaughter sales or sales of like character or designation, and stock received from expositions and fairs, whether such person associates temporarily with another merchant or engages in such temporary or transient business in connection with or as a part of the business or in the name of another merchant or not, shall be deemed an itinerant merchant.

(b) *License required; amount of tax.* Every itinerant merchant shall obtain a license for the privilege of doing business in the county and shall pay a license tax of $200.00 minimum, or a tax based on an amount estimated to be the amount of sales that he will make between the time of beginning business and the close of the license tax year, based on the rate of the retail merchant's license, if that amount is greater, and such license tax paid shall be subject to correction after the close of license year based on the gross receipts at the rate of taxation for retail merchants; provided that the license tax for any one calendar year shall not be less than $200.00 or more than $500.00.

(c) *Prerequisites to issuance of license.* Every itinerant merchant, when applying for a license to do business in the county, shall report to the director of finance the street and house number of the place where he proposes to conduct business, and no license shall be issued unless such place is adequately illuminated in the daytime without the aid of artificial light. He shall further report in detail the goods, wares and merchandise to be sold at such place and what statements or representations are to be made or advertised concerning them; and, if previously engaged in a like or similar business, he shall designate all the places where the business has been conducted within the preceding 12 months.

(Code 1980, §§ 12-136—12-138; Code 1995, § 20-751)

State law reference—Peddlers and itinerant merchants, Code of Virginia, § 58.1-3717.

Sec. 20-730. Exception for sales by court officers.

Nothing in this division shall be construed to require the payment of a license tax for the sale of goods, wares and merchandise by an assignee, trustee, executor, fiduciary, officer in bankruptcy or other officer appointed by any court of this state or of the United States.

(Code 1980, § 12-141; Code 1995, § 20-753)

Secs. 20-731—20-758. Reserved.

DIVISION 13. PEDDLERS

***State law reference—**Peddlers, Code of Virginia, § 58.1-3717.

Sec. 20-759. Applicability of state law.

The definition of a peddler as provided in Code of Virginia, § 58.1-3717(A), and the exemptions provided in Code of Virginia, § 58.1-3717(D) and other sections of the Code of Virginia with reference to peddlers generally shall be applicable in this division.

(Code 1980, § 12-142; Code 1995, § 20-771)

Sec. 20-760. Amount of tax.

(a) *Generally.* Except as otherwise provided, the license tax for peddling or bartering, for each person so engaged or employed, when he travels on foot, shall be $200.00. When such person peddles otherwise than on foot the fee shall be $200.00 each vehicle used in such peddling.

(b) *Peddlers of ice, wood or coal.* The tax on peddlers of ice, wood or coal not produced by them, but purchased for resale, shall be $30.00 for each vehicle used in such peddling.

(c) *Peddlers of homegrown agricultural products.* The tax on peddlers of meat, milk, butter, eggs, poultry, fish, oysters, game, vegetables, fruits or other family supplies of a perishable nature not grown or produced by them shall $50.00 for each vehicle used in such peddling.

(d) *Seafood peddlers.* The tax on peddlers of seafood who buy the seafood they peddle directly from persons who catch or take such seafood shall be $15.00.

(e) *Persons peddling to licensed dealers or retailers.* The tax on peddlers of goods, wares and merchandise who shall peddle goods, wares or merchandise to licensed dealers or retailers shall be the same as that imposed on wholesale merchants under division 11 of this article, and the merchandise distributed through such peddling shall be regarded as purchases for the purpose of measuring the license tax.

(Code 1980, §§ 12-143—12-146; Code 1995, § 20-772)

Sec. 20-761. Transfer of license; proration of tax; payment of tax.

A peddler's license shall not be transferable, and the tax shall not be subject to proration. The full amount of the license tax shall be paid when assessed.

(Code 1980, § 12-148(a); Code 1995, § 20-774)

Sec. 20-762. Time limit on parking of vehicles.

It shall be unlawful for a peddler to park, stand, stop or allow a vehicle to remain in any place for the purpose of peddling any longer than is necessary to conclude a sale of any goods, wares or merchandise or a continuous uninterrupted series of sales thereof; and, in any event, it shall be unlawful for a peddler to park, stand, stop or allow a vehicle to remain in any place for the purpose of peddling more than 30 minutes in any day.

(Code 1980, § 12-148(b); Code 1995, § 20-775)

Secs. 20-763—20-792. Reserved.

DIVISION 14. COIN-OPERATED MACHINES

***State law reference—** Amusement machines, tax, Code of Virginia, § 58.1-3720.

Sec. 20-793. Term defined; amount of tax.

(a) Every person engaged in the business of selling, leasing, renting or otherwise furnishing or providing a coin-operated machine or device operated on the coin-in-the-slot principle shall be deemed a coin machine operator, provided that the term "coin machine operator" shall not include a person owning less than three coin machines and operating such machines on property owned or leased by such person.

(b) Every coin-machine operator shall pay a license tax equal to $200.00 plus 0.20 percent of the difference between the gross receipts received by the operator from coin machines or devices operated within the county and $400,000.00.

(Code 1980, § 12-150; Code 1995, § 20-791; Ord. No. 909, § 1, 10-25-1995; Ord. No. 935, § 37, 10-9-1996; Ord. No. 962, § 21, 10-8-1997; Ord. No. 981, § 21, 10-14-1998; Ord. No. 991, § 11, 9-28-1999)

State law reference— Authority to levy tax, Code of Virginia, § 58.1-3720.

Sec. 20-794. Exemptions.

The provisions of section 20-793 shall not be applicable to operators of weighing machines, operators of automatic baggage or parcel-checking machines or receptacles, operators of vending machines which are constructed to vend only goods, wares and merchandise or postage stamps or provide service only, operators of viewing machines or photomat machines, or operators of devices or machines affording rides to children or for the delivery of newspapers.

(Code 1980, § 12-151; Code 1995, § 20-792)

State law reference— Similar provisions, Code of Virginia, § 58.1-3721.

Sec. 20-795. Stickers or decals to be displayed on machines.

Each machine licensed by a coin-machine operator and merchant placing vending machines shall have conspicuously located thereon a decal, sticker or other adhesive label which shall clearly denote the name and address of the machine owner. Such sticker or decal shall be no less than one inch by two inches in size.

(Code 1980, § 12-153; Code 1995, § 20-793)

State law reference— Stickers as evidence of payment of license tax, Code of Virginia, § 58.1-3722.

Sec. 20-796. Penalty.

Any person having any coin-operated machine or other device subject to this division and failing to procure a county license therefor, or otherwise violating this division, shall be subject to the penalty provided in section 1-13 for each offense.

(Code 1980, § 12-154; Code 1995, § 20-794)

State law reference— Similar provisions, Code of Virginia, § 58.1-3723.

Sec. 20-797. Article not construed as permitting operation of unlawful machine.

Nothing contained in this article shall be construed as permitting any person to keep, maintain, exhibit

or operate any coin machine or other device the operation of which is prohibited by law.

(Code 1980, § 12-149; Code 1995, § 20-795)

Secs. 20-798—20-817. Reserved.

DIVISION 15. UTILITY AND SERVICE COMPANIES

***State law reference—** Authority to levy license tax on certain public service corporations, rate limitation, Code of Virginia, §§ 58.1-2690, 58.1-3731.

Sec. 20-818. Amount of tax on persons furnishing water.

(a) Every person engaged in the business of furnishing water, provided that the gross receipts of the business exceed $400,000.00, shall pay for the privilege an annual license tax equal to 0.50 percent of the difference between the gross receipts of the business accruing to such person from sales to the ultimate consumer in the county and $400,000.00.

(b) If the gross receipts of the business are $400,000.00 or less, an application shall be required to be filed, but no tax shall be due or paid.

(Code 1980, § 12-155; Code 1995, § 20-811; Ord. No. 909, § 1, 10-25-1995; Ord. No. 935, § 38, 10-9-1996; Ord. No. 962, § 22, 10-8-1997; Ord. No. 981, § 22, 10-14-1998)

State law reference— Water companies, tax authorized, Code of Virginia, § 58.1-3731.

Sec. 20-819. Amount of tax on persons furnishing heat, light and power, and gas.

(a) Every person engaged in the business of furnishing heat, light and power, and gas for domestic, commercial and industrial consumption in the county, provided that the gross receipts of the business exceed $400,000.00, shall pay for the privilege an annual license tax equal to 0.50 percent of the difference between the gross receipts of the business accruing to such person from sales to the ultimate consumer in the county and $400,000.00.

(b) If the gross receipts of the business are $400,000.00 or less, an application shall be required to be filed, but no tax shall be due or paid.

(c) For purposes of this section, the term "gross receipts" shall not include receipts for services furnished to federal, state and local public authorities, their officers or agents or sales to other electric utilities for resale.

(Code 1980, § 12-156; Code 1995, § 20-812; Ord. No. 909, § 1, 10-25-1995; Ord. No. 935, § 39, 10-9-1996; Ord. No. 962, § 23, 10-8-1997; Ord. No. 981, § 23, 10-14-1998)

State law reference— Authority to levy license tax on heat, light and power companies, Code of Virginia, § 58.1-3731.

Sec. 20-820. Deductions from gross receipts.

There shall be deducted any sum paid by such person to the county as merchant's license tax from the amount of gross receipts when computing the amount of gross receipts as required by sections 20-818 and 20-819. The amount paid for motor vehicle license tax shall not be considered as deductible.

(Code 1980, § 12-157; Code 1995, § 20-813)

Sec. 20-821. Amount of tax for telephone and telegraph businesses.

(a) Any person engaged in the business of providing telephone service, including cellular mobile radio

communications services, or telegraph service in the county, provided that the gross receipts of the business exceed $400,000.00, shall pay a license tax equal to 0.50 percent of the difference between the gross receipts of the business accruing to such person from sales to the ultimate consumer in the county and $400,000.00.

(b) If the gross receipts of the business are $400,000.00 or less, an application shall be required to be filed, but no tax shall be due or paid.

(c) In the case of telephone companies, charges for long distance calls shall be excluded in computing the basis for license taxation.

(Code 1980, § 12-158; Code 1995, § 20-814; Ord. No. 909, § 1, 10-25-1995; Ord. No. 935, § 40, 10-9-1996; Ord. No. 962, § 24, 10-8-1997; Ord. No. 981, § 23, 10-14-1998)

State law reference—Authority to impose license tax on telephone and telegraph businesses, Code of Virginia, § 58.1-3731.

Secs. 20-822—20-840. Reserved.

ARTICLE XII. FOOD AND BEVERAGE TAX*

***State Law reference: Authority to adopt, Code of Virginia, § 58.1-3833.**

Sec. 20-841. - 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:

Beverage: the term “beverage” means alcoholic beverages as defined in Code of Virginia, § 4.1-100 and nonalcoholic beverages served as part of a meal.

Grocery items: the term “grocery items” means any food and foodstuffs, green groceries, including whole fruits and vegetables, beverages and household goods usually prepackaged or measured into quantities for household use from containers made for retail grocery or baking sales and usually not suitable for immediate consumption by the purchaser. Grocery items, sometimes called staples, include, by way of illustration and not limitation, sugar, flour, spices, dry pasta, loaves of bread, whole chickens, ground coffee, coffee beans, loose or bagged tea, cooking oils, and canned and jarred goods.

Meals: the term “meals” means any prepared food and beverage sold for human consumption, whether designated as breakfast, lunch, dinner, supper or by some other name, and without regard to the manner, time, and place of service or consumption, except that the following do not constitute meals: (1) grocery items, (2) snack foods alone, (3) beverages alone, and (4) any combination consisting entirely of snack foods, beverages, or grocery items.

Restaurant: the term “restaurant” means any one of the following:

(1) Any place where food is prepared for service to the public on or off the premises, or any place where food is served. Examples of such places include but are not limited to lunchrooms, short order places, cafeterias, coffee shops, cafes, taverns, delicatessens, dining accommodations of public or private clubs, kitchen facilities of hospitals and nursing homes, dining accommodations of public and private schools and colleges, and kitchen areas of local correctional facilities subject to standards adopted under Code of Virginia, § 53.1-68. Excluded from the definition are places manufacturing packaged or canned foods which are distributed to grocery stores or other similar food retailers for sale to the public.

(2) Any place or operation which prepares or stores meals for distribution to persons of the same business operation or of a related business operation for service to the public. Examples of such places or operations include but are not limited to operations preparing or storing food for catering services, push cart operations, hotdog stands, and other mobile points of service. Such mobile points of service are also deemed to be restaurants unless the point of service and of consumption is in a private residence.

Snack foods: the term “snack foods” means any candy, chewing gum, peanuts and other nuts, popcorn, cookies, crackers, donuts, muffins, bagels, and fried or baked goods of a similar nature, potato chips, ice cream or frozen yogurt, single-serving cakes and pies, and other items of essentially the same nature consumed for essentially the same purpose.

Sec. 20-842. - Levy of tax; amount.

For the purpose of funding the operational needs and capital projects of the Henrico County Public Schools, there is hereby imposed and levied by the county a tax on food and beverages sold as meals by restaurants and on prepared foods ready for human consumption at a delicatessen counter sold by grocery stores and convenience stores. The rate of the tax shall be four percent of the sales price. In the computation of this tax, any fraction of one-half cent ($.005) or more shall be treated as one cent ($.01).

Sec. 20-843. - Exemptions.

The following transactions shall not be subject to the tax under this article:

(1) Food and beverages sold through vending machines;

(2) Food and beverages sold by boardinghouses that do not accommodate transients;

(3) Food and beverages sold by cafeterias operated by industrial plants for employees only;

(4) Food and beverages sold by restaurants to their employees as part of their compensation when no charge is made to the employee;

(5) Food and beverages sold by volunteer fire departments and rescue squads; nonprofit churches or other religious bodies; educational, charitable, fraternal, or benevolent organizations the first three times per calendar year and, beginning with the fourth time, the first $100,000.00 of gross receipts per calendar year from sales of food and beverages (excluding gross receipts from the first

three times), as a fundraising activity, the gross proceeds of which are to be used by such church, religious body or organization exclusively for nonprofit educational, charitable, benevolent, or religious purposes;

(6) Food and beverages sold by churches that serve meals for their members as a regular part of their religious observances;

(7) Food and beverages sold by public or private elementary or secondary schools, colleges, and universities to their students or employees;

(8) Food and beverages sold by hospitals, medical clinics, convalescent homes, nursing homes, or other extended care facilities to patients or residents thereof;

(9) Food and beverages sold by day care centers;

(10) Food and beverages sold by homes for the aged, infirm, handicapped, battered women, narcotic addicts, or alcoholics;

(11) Food and beverages sold by age-restricted apartment complexes or residences with restaurants, not open to the public, where meals are served and fees are charged for such food and beverages and are included in rental fees;

(12) Food and beverages when used or consumed and paid for by the Commonwealth of Virginia, any political subdivision of the Commonwealth of Virginia, or the United States;

(13) Food and beverages provided by a public or private nonprofit charitable organization or establishment to elderly, infirm, blind, handicapped, or needy persons in their homes, or at central locations;

(14) Food and beverages provided by private establishments that contract with the appropriate agency of the Commonwealth of Virginia to offer food, food products, or beverages for immediate consumption at concession prices to elderly, infirm, blind, handicapped, or needy persons in their homes or at central locations;

(15) That portion of the amount paid by the purchaser as a discretionary gratuity in addition to the sales price;

(16) That portion of the amount paid by the purchaser as a mandatory gratuity or service charge added by the restaurant in addition to the sales price, but only to the extent that such mandatory gratuity or service charge does not exceed twenty percent of the sales price;

(17) Alcoholic beverages sold in factory sealed containers and purchased for off-premises consumption; and

(18) Food purchased for human consumption as “food” is defined in the Food Stamp Act of 1977, 7 U.S.C. § 2012, as amended, and federal regulations adopted pursuant to the Act, except for the following items: sandwiches, salad bar items sold from a salad bar, prepackaged single-serving salads consisting primarily of an assortment of vegetables, and nonfactory sealed beverages.

(19) Food and beverages sold by sellers at local farmers markets and roadside stands, when such sellers' annual income from such sales does not exceed $2,500.00. For purposes of this exemption, the sellers' annual income includes income from sales at all local farmers markets and roadside stands, not just those sales occurring in the County.

Sec. 20-844. - Certificate of registration.

(a) Every person responsible for the collection of the tax levied under this article shall file an application for a certificate of registration with the director of finance. The application shall be on a form prescribed by the director of finance to provide information for the assessment and collection of this tax and for the enforcement of the provisions of this article.

(b) Upon approval of the application by the director of finance a certificate of registration authorizing the collection of this meals tax shall be issued to the applicant.

(c) Each person with a certificate of registration pursuant to this section shall notify the director of finance of any changes to the information provided on their application for the certificate within thirty (30) days of the change.

Sec. 20-845. - Payment and collection of tax.

Every seller of food and beverages with respect to which a tax is levied under this article shall collect the amount of tax imposed under this article from the purchaser on whom the same is levied at the time payment for such food and beverages becomes due and payable, whether payment is made in cash, by check, by electronic funds transfer, or on credit by means of a credit card or otherwise. The amount of tax owed by the purchaser shall be added to the cost of the food and beverages by the seller who shall pay the taxes collected to the county as provided in this article. Taxes collected by the seller shall be held in trust by the seller until remitted to the county. The wrongful and fraudulent use of such collections other than remittance of the same as provided by law shall constitute embezzlement pursuant to Code of Virginia, § 18.2-111.

Sec. 20-846. - Commission to seller for collection of tax.

For the purpose of defraying some of the costs incurred by the seller in collecting the tax imposed by this article, every seller who files and pays the tax levied under this article in a timely manner shall be allowed three percent of the amount of the tax due and accounted for in the form of a deduction on his return.

Sec. 20-847. - Reports and remittances generally.

(a) Every seller of food and beverages with respect to which a tax is levied under this article shall make out a report, upon such forms and setting forth such information as the director of finance may prescribe and require, and shall sign and deliver such report to the director of finance with a remittance of such tax. Such reports and remittance shall be made on or before the 20th day of each month, covering the amount of tax collected during the preceding month.

(b) Notwithstanding the foregoing provisions of this section, the director of finance may allow any person collecting the tax to elect to make reports and remittances on a quarterly basis when the person has established for a period of one year that his monthly remittances average less than $100.00 per month or on a seasonal basis for persons operating in the county only periodically during the year. Persons electing to make reports and remittances on a quarterly basis shall make them on or before the 20th day of the month following the close of the quarter. Persons electing to make reports on a seasonal basis shall make reports and remittances on or before the 20th day of the month following each month during which they operated, covering the amount of tax collected during the preceding month.

Sec. 20-848. - Preservation of records.

It shall be the duty of any seller of food and beverages liable for collection and remittance of the taxes imposed by this article to keep and preserve for a period of five years records showing gross sales of all food and beverages, the amount charged to the purchaser for each such purchase, the date of the purchase, the taxes collected on the purchase, and the amount of tax required to be collected under this article. The director of finance shall have the power to examine such records at reasonable times and without unreasonable interference with the business of the seller for the purpose of administering and enforcing the provisions of this article and to make copies of all or any parts of the records.

Sec. 20-849. - Duty of seller when going out of business.

Whenever any person required to collect or pay to the county a tax under this article shall cease to operate or otherwise dispose of a business required to collect or pay to the county a tax under this article, any tax payable under this article shall become immediately due and payable, and such person shall immediately make a report and pay the tax due.

Sec. 20-850. - Enforcement; duty of director of finance; powers of business section manager.

(a) The director of finance shall promulgate rules and regulations for the interpretation, administration and enforcement of this article. It shall also be the duty of the director of finance to ascertain the name of every seller liable for the collection of the tax imposed by this article who fails, refuses or neglects to collect such tax or to make the reports and remittances required by this article. The director of finance shall have all of the enforcement powers authorized under Code of Virginia, title 58.1, chapter 31, article 1 (Code of Virginia, § 58.1-3100 et seq.) for purposes of this article.

(b) Police powers are conferred upon the business section manager, appointed pursuant to Sec. 20-353 of Article XI of the Code, and business inspectors while engaged in performing their duties as such under the provisions of this article, and they shall exercise all the powers and authority of police officers granted to them in performing those duties. The business section manager and business inspectors may have a summons issued for any person charging him with a violation of the provisions of this article and may serve a copy of such summons upon such person in the manner provided by law. He shall return the original to the general district court with the manner and time of service stated on the summons.

Sec. 20-851. - Penalty for failure to file report or pay tax; interest on unpaid tax.

(a) If any person shall fail or refuse to file with the director of finance the report required under this article within the time specified in this article, there shall be assessed a penalty in the amount of ten percent of the tax assessable on such report. Such penalty shall be assessed on the day following the day on which the report was due. Any such penalty, when assessed, shall become a part of the tax. The imposition of such penalty shall not be deemed a defense to any criminal prosecution for failing to make any report required in this article.

(b) If any person shall fail or refuse to remit to the director of finance the tax required to be collected and paid under this article within the time specified in this article, there shall be assessed a penalty in the amount of ten percent of the tax past due. Such penalty shall be assessed on the day following the day on which the tax was due. Any such penalty, when assessed, shall become a part of the tax.

(c) In addition, there shall be assessed interest at the rate of ten percent per year on the amount of tax past due, which interest shall commence on the day following the day on which the tax was due and continue until paid.

Sec. 20-852. - Procedure upon failure to file return or pay tax.

If any person shall fail or refuse to collect the tax imposed under this article or to make within the time provided in this article the reports and remittance required in this article, the director of finance shall make an estimate of the amount of taxes due the county by such person upon the best information available and shall proceed to determine and assess against such person such tax and penalty and interest as provided for in this article. The director of finance shall notify such person by

registered mail, sent to his last known address, of the amount of such tax and interest and penalty, and the total amount thereof shall be payable within ten days from the date of such notice.

Sec. 20-853. - Bond or letter of credit.

The director of finance shall require any seller with a record of late filing of the tax returns or of late remittance of the taxes required by this article to post annually a bond in a form acceptable to the director of finance and payable to the county to insure the seller's faithful performance of the requirements of this article. The bond shall be in an amount which is three times the taxes collected or which should have been collected by the seller during the preceding month, but in no case shall be less than $1,000. An irrevocable letter of credit from a local bank approved by the director of finance with an expiration date not earlier than one year from the date of issuance in the amount specified in this section and payable to the county may be accepted in lieu of the bond.

Sec. 20-854. - Criminal penalties.

Any person required to collect, account for, and pay over the tax levied in this article who willfully fails to collect or truthfully account for and pay over such tax, and any such officer or person who willfully evades or attempts to evade any such tax or the payment thereof, shall be guilty of a class 1 misdemeanor. Any person who willfully violates any other provision of this article shall be guilty of a class 3 misdemeanor.

Sec. 20-855. - Severability.

The sections, paragraphs, sentences, clauses and phrases of this article are severable, and if any phrase, clause, sentence, paragraph or section of this article shall be declared unconstitutional or invalid by the valid judgment or decree of a court of competent jurisdiction, the remaining phrases, clauses, sentences, paragraphs and sections of this article shall remain valid.

Chapter 21 - TAXICABS AND OTHER VEHICLES FOR HIRE

***Cross reference—** License tax, § 20-350 et seq.; traffic and vehicles, ch. 22; use of bus stops and taxicab stands, § 22-159; vehicle license taxes, § 22-215 et seq.

***State law reference—** Authority to regulate, Code of Virginia, § 46.2-2062 et seq.

ARTICLE I. IN GENERAL

Secs. 21-1—21-18. Reserved.

ARTICLE II. TAXICABS AND CERTAIN OTHER VEHICLES CARRYING PASSENGERS FOR HIRE

DIVISION 1. GENERALLY

Sec. 21-19. 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:

Certificate means the certificate of public convenience and necessity granted by the county to owners of for-hire cars to authorize such owners to engage in the business of providing for-hire car service in the county as provided in this article.

Certificate holder means the owner of one or more for-hire cars who holds a valid unexpired or unrevoked certificate of public convenience and necessity to operate one or more for-hire cars under the provisions of this article.

Driver means any person operating a for-hire car while such car is available for public hire in the county or is being used by the public in the county.

For-hire car means a passenger-carrying, self-propelled motor vehicle maintained for hire by the public and operated upon the streets of the county in the transportation of passengers for compensation, but excluding common carriers of persons or property operating as public carriers under a certificate of public convenience and necessity issued by the state corporation commission or under a franchise granted by the county.

Motor vehicle means any vehicle, machine, tractor, trailer or semitrailer propelled or drawn by mechanical power and used upon the public roads of the county and the roads open to the public on the property of public bodies, including the Capital Region Airport Commission, in the transportation of passengers or property, but does not include any vehicle, locomotive or car operated exclusively on a rail or rails.

Owner means any person in the business of providing for-hire car service and having control of the operation or maintenance of for-hire cars and including the purchaser of any for-hire car under a conditional sales contract or other title-reserving agreement, and persons controlling the operation of independently owned vehicles through methods such as, but not limited to, radio-dispatched systems and name-licensing agreements.

Regular service means the provision of a minimum of two trips per week, for at least two consecutive months, with the same individual.

Taxicab means a for-hire passenger-carrying, self-propelled motor vehicle not operating on a regular route or between fixed terminals and having a seating capacity of not more than six passengers.

Taxicab stand means a stand designated for the sole use of taxicabs in accordance with this article.

(Code 1980, § 20.2-1; Code 1995, § 21-31)

Cross reference—Definitions and rules of construction, § 1-2.

Sec. 21-20. Penalty.

Any person violating the provisions of this article shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not more than $100.00 for the first offense and not more than $500.00 for each subsequent offense.

(Code 1980, § 20.2-45; Code 1995, § 21-32)

Sec. 21-21. Scope of article.

The provisions of this article are adopted in the exercise of the police power granted to the county by general law. This article is not intended to grant or offer a franchise to use the streets, but it is intended to regulate the operation of taxicabs and other for-hire cars. The board of supervisors reserves the right to amend or repeal this article at any time. Upon the repeal of this article all privileges granted under this article shall cease and terminate. The operation of taxicabs and other for-hire cars within the county shall be subject to the conditions, regulations and restrictions set forth in this article.

(Code 1980, § 20.2-1.1; Code 1995, § 21-33)

Sec. 21-22. Exemptions from article; applicability of rules of Capital Region Airport Commission.

The provisions of this article shall not apply to vehicles listed in Code of Virginia, § 46.2-2000.1, as amended, with the exception of those vehicles listed in subsection (2) of such section, or regulated by the Virginia Department of Motor Vehicles pursuant to Code of Virginia, § 46.2-2099.46, as amended, or to funeral vehicles, or to common carriers of persons or property operating as public carriers by authority of the state corporation commission or under a franchise granted by the county. This article shall not be construed to conflict with or be in derogation of any additional rules and regulations adopted by the Capital Region Airport Commission pursuant to its enabling authority for the operation of for-hire vehicles on its property located in the county.

(Code 1980, § 20.2-47; Code 1995, § 21-34)

Sec. 21-23. Enforcement officers.

The provisions of this article shall be enforceable by all sworn law-enforcement officers to the extent of their authority.

(Code 1980, § 20.2-44; Code 1995, § 21-35)

Sec. 21-24. Authority to prescribe additional regulations.

The chief of police is authorized and empowered to make such rules and regulations concerning the operation of for-hire vehicles as are necessary and are not in conflict with this article for the purpose of administering, executing and making effective the provisions of this article. Such rules and regulations so

promulgated may include, without limitation, requirements for the provision of such safety devices and procedures as the chief of police may deem necessary for the safety of passengers and operations; additional disciplinary rules, sanctions and procedures as may be necessary and proper; and appropriate rules governing the dress, hygiene and general appearance of taxicab drivers.

(Code 1980, § 20.2-49; Code 1995, § 21-36)

Sec. 21-25. Advertising as or claiming to be operator of for-hire vehicle.

No person shall use the term "public vehicle," "taxi," "taxicab," "cab," "for-hire car" or any term of similar meaning in advertising, nor shall any person, by any means, claim to be the operator or driver of a for-hire car, unless such person shall have complied with the provisions of this article insofar as such provisions shall be applicable.

(Code 1980, § 20.2-43; Code 1995, § 21-37)

Sec. 21-26. Responsibility of certificate holder for violations by drivers.

It shall be unlawful for a certificate holder of a vehicle certificated under the provisions of this article to knowingly permit a driver operating such vehicle to violate the provisions of this article.

(Code 1980, § 20.2-46; Code 1995, § 21-38)

Sec. 21-27. Inspection of vehicles.

Every for-hire car for which a certificate has been granted by the county shall be inspected by the chief of police, or some member of the division of police designated by him or such other reputable agency as the chief of police may prescribe, at regular intervals of at least every 12 months and at such other times as the chief of police may prescribe. If such vehicle shall be found to be in violation of the requirements of this article, to have inoperable air conditioning or heating equipment, or to be unsafe, the owner thereof shall be notified by the chief of police at once of such defect and such vehicle shall not be operated thereafter until such defect has been remedied. If upon inspection it is found that the odometer of a vehicle has been unlawfully tampered with, the vehicle shall be permanently rejected for use as a for-hire car.

(Code 1980, § 20.2-3; Code 1995, § 21-39)

Sec. 21-28. Reciprocity.

Upon a finding by the chief of police that the City of Richmond, Chesterfield County, Hanover County, any county or city contiguous to Henrico, Richmond, Chesterfield County or Hanover County or any of them has adopted an ordinance containing provisions comparable to this article and providing for reciprocity with the county, then vehicles for which a person holds a current and valid certificate of public convenience and necessity issued by the City of Richmond, Chesterfield County, Hanover County, any county or city contiguous to Henrico, Richmond, Chesterfield County or Hanover County or any of them and drivers who hold a current and valid permit issued by the City of Richmond, Chesterfield County, Hanover County, any other county or city contiguous to Henrico, Richmond, Chesterfield County or Hanover County or any of them will be deemed to have complied with the certificate and permit requirements of this article and shall be deemed to possess comparable certificates or permits, as the case may be, issued by the county while such city or county certificates or permits remain in good standing; provided that no certificate or permit issued by the City of Richmond, Chesterfield County or Hanover County, any county or city contiguous to Henrico, Richmond, Chesterfield County or Hanover County or any of them shall be valid in the county where the holder of such certificate or permit has applied for and been refused a permit or certificate by the county or

has had such permit or certificate revoked by the county under the provisions of this article and is not eligible for issuance of a permit or certificate by the county.

(Code 1980, § 20.2-48; Code 1995, § 21-40)

Secs. 21-29—21-59. Reserved.

DIVISION 2. CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

Sec. 21-60. Required; vehicles covered by certificate.

It shall be unlawful to operate or cause to be operated within the county any for-hire car unless a certificate of public convenience and necessity has been issued to the owner thereof by the chief of police covering the operation of such vehicle, and unless the conditions, regulations and restrictions set forth and prescribed in this article have been complied with by such owner. An owner shall operate under only one certificate, and the certificate shall provide for the operation of a specified number of for-hire vehicles. It shall be unlawful to operate or cause to be operated more vehicles than the number provided in the certificate. Additional for-hire vehicles may be operated by a certificate holder only upon written application on a form provided by the chief of police, approval of such application, payment of fees provided under this article and compliance with all other provisions of this article.

(Code 1980, § 20.2-2(a); Code 1995, § 21-61)

Sec. 21-61. Authority to limit number of certificates.

When it appears that it is in the public interest to limit the number of owner's certificates issued by the chief of police, the board of supervisors may, if it finds after an advertised public hearing that it is in the public interest, prescribe the maximum number of vehicles for which such certificates are to be issued. Thereafter, no new certificates shall be issued until the total number of vehicles for which certificates are outstanding is less than the prescribed number; provided that renewal of an existing certificate shall not be regarded as a new certificate for purposes of this section.

(Code 1980, § 20.2-2(f); Code 1995, § 21-62)

Sec. 21-62. Application; term.

The initial certificate of public convenience and necessity shall last until January 31 following its issuance and may be renewed thereafter annually. The chief of police shall prescribe a form to be used in initially applying for the certificate and a form to be used in applying for a renewal.

(Code 1980, § 20.2-2(b); Code 1995, § 21-63)

Sec. 21-63. Fee.

In addition to any other fees prescribed elsewhere in this Code, each applicant for a certificate of public convenience and necessity shall pay an initial application fee of $25.00 per vehicle listed in the certificate, and upon each annual request for renewal of such certificate shall pay the same fee.

(Code 1980, § 20.2-2(e); Code 1995, § 21-64)

Sec. 21-64. Lapse on failure to use vehicle.

A certificate of public convenience and necessity shall lapse with respect to an individual vehicle or any one of the specified number of vehicles for which the certificate has been issued when the particular vehicle has not been used to provide taxicab service for 60 or more consecutive days.

(Code 1980, § 20.2-2(c); Code 1995, § 21-65)

Sec. 21-65. Transfer.

A certificate of public convenience and necessity shall not be transferable.

(Code 1980, § 20.2-2(d); Code 1995, § 21-66)

Sec. 21-66. Age and mileage of vehicles.

It shall be unlawful for a certificate holder to place into service a for-hire vehicle which either is more than 12 model years old or which is more than eight model years old and has more than 300,000 miles at the time it is placed into service. It shall be unlawful to operate any for-hire vehicle which either is more than 12 model years old or which is more than eight model years old and has more than 300,000 miles.

(Code 1980, § 20.2-2(g); Code 1995, § 21-67; Ord. No. 996, § 1, 12-14-1999)

Sec. 21-67. Minimum specifications for vehicles.

It shall be unlawful for a certificate holder to place into service a for-hire vehicle unless the vehicle is a hard-top vehicle with a minimum of four doors and wheel size of at least 14 inches.

(Code 1980, § 20.2-2(h); Code 1995, § 21-68; Ord. No. 996, § 2, 12-14-1999)

Sec. 21-68. Grounds for denial.

Subject to the provisions of section 21-70, the chief of police shall refuse to issue a certificate of public convenience and necessity to a person or entity who or which has filed an application therefor under this division if, after investigation, the chief of police finds any of the following:

(1) The applicant's vehicles do not meet the standards set forth in section 21-27, 21-136, 21-137, 21-138 or 21-139(c);
(2) The applicant fails to meet the requirements of section 21-140, 21-141 or 21-142;
(3) The applicant, within the past 12 months, has been convicted of, pleaded guilty to or pleaded nolo contendere to three or more violations of this article or of any other local law in the state governing the operation of taxicabs or other for-hire cars or vehicles; or
(4) The applicant knowingly makes, or causes to be made, either directly or indirectly, any false statement on the application.
(Code 1980, § 20.2-38; Code 1995, § 21-69)

Sec. 21-69. Grounds for revocation.

Subject to the provisions of section 21-70, the certificate of public convenience and necessity shall immediately become void and shall be immediately surrendered upon the occurrence of any of the following:

(1) The chief of police determines, after investigation, that any or all of the vehicles subject to the certificate

fail to comply with section 21-27, 21-136, 21-137, 21-138 or 21-139(c) and the certificate holder, after notification of the violations, knowingly operates, or permits to be operated, such vehicle prior to correcting the violation;

(2) The chief of police determines, after investigation, that the certificate holder is in violation of section 21-140, 21-141 or 21-142 and the certificate holder knowingly fails to comply with such sections within 15 days after notification of such violation;

(3) The certificate holder, within a 12-month period, is convicted of, pleads guilty to or pleads nolo contendere to three or more violations of this article or of any other local law in this state governing the operation of taxicabs or other for-hire cars or vehicles;

(4) The chief of police finds, after investigation, that the certificate holder has knowingly made, or caused to be made, either directly or indirectly, any false statement on the application for the permit which was issued to such certificate holder; or

(5) The chief of police finds, after investigation, that a charge has been made above or below the rates prescribed by section 21-139(b) with the knowledge, consent or permission of the certificate holder.

(Code 1980, § 20.2-39; Code 1995, § 21-70)

Sec. 21-70. Hearing on denial or revocation; appeals.

If an application for a certificate of public convenience and necessity is refused, or if a certificate of public convenience and necessity is revoked, the chief of police shall notify in writing the applicant or certificate holder of such decision, the reason therefor and the right to a hearing if a request therefor is made in writing to the chief of police within ten days of the notice. If a request for a hearing is not made within ten days of notice, the decision of the chief of police shall be final. The hearing shall be held by the chief of police or his designee and the applicant or certificate holder shall have the right to present his own case or have counsel do so. Within a reasonable time after the hearing, the chief of police shall render his decision. If the chief of police shall refuse to issue or shall revoke a certificate after a hearing, the holder thereof may, within ten days after the date of such action, file with the circuit court of the county a petition, in writing, to review the action of the chief of police, with a copy of such petition to be served on the chief of police. The filing of the petition with the circuit court shall not postpone the effective date of the decision of the chief of police except by order of the court.

(Code 1980, § 20.2-41; Code 1995, § 21-71)

Sec. 21-71. Issuance after denial or revocation.

Any person refused a certificate of public convenience and necessity under the provisions of section 21-68, or whose certificate of public convenience and necessity is revoked under the provisions of section 21-69, shall not be eligible for issuance of a new certificate until such time as the grounds for refusal of a certificate under section 21-68 no longer apply. If a certificate is refused or revoked for knowingly making, or causing to be made, either directly or indirectly, any false statement or for the fact that a charge was made above or below the rates prescribed by section 21-139(b) with the knowledge, consent or permission of the certificate holder, such owner shall not be eligible until 12 months from the date of refusal or revocation.

(Code 1980, § 20.2-40; Code 1995, § 21-72)

Sec. 21-72. Submitting false application.

It shall be unlawful for any person to knowingly make or cause to be made, either directly or indirectly, any false statement on an application for a certificate of public convenience and necessity required under the provisions of this division.

(Code 1980, § 20.2-42; Code 1995, § 21-73)

Secs. 21-73—21-102. Reserved.

DIVISION 3. DRIVER'S PERMIT

Sec. 21-103. Required; term; fees; attendance at orientation program.

No person shall drive a for-hire vehicle subject to the requirements of this article unless such person first successfully completes a basic taxicab driver orientation program approved by the chief of police, and obtains a driver's permit from the chief of police. Such person may be issued a temporary or provisional permit for a period not to exceed six months during which period such person shall successfully complete the basic taxicab orientation program. The initial driver's permit shall last for 12 months following its issuance and may be renewed thereafter annually. Successful completion of a renewal taxicab orientation program approved by the chief of police within the 12 months preceding the date of renewal application shall be required as a condition of permit renewal. The chief of police shall prescribe a form to be used in applying for a renewal. Each applicant for a driver's permit shall pay an initial application fee of $25.00 and upon each annual request for renewal of such permit shall pay a fee of $25.00. The fee for replacement of lost, stolen or damaged permits shall be $10.00. The fee for attendance at the basic or renewal taxicab orientation program shall be $15.00. The permit shall be valid for the operation of only those vehicles subject to a certificate of public convenience and necessity issued under this article.

(Code 1980, § 20.2-31; Code 1995, § 21-91)

Sec. 21-104. Application.

(a) Application for a driver's permit shall show the following:

(1) The full name of the applicant.

(2) Present address.

(3) Age and place of birth.

(4) Places of previous address and employment for the past five years.

(5) Height, weight, color of eyes, color of hair and sex.

(6) Whether or not the applicant is in good physical condition.

(7) Whether or not the applicant has good hearing and good eyesight.

(8) Whether or not the applicant is, or has been within the period of two years last past, addicted to the use of intoxicating liquors, drugs or other forms of narcotics and, if so, to what extent.

(9) Whether or not applicant has ever been convicted of, pleaded guilty to or entered a plea of nolo contendere to any larceny, robbery, assault, battery, crime of moral turpitude, felony or operating a vehicle while under the influence of alcohol or drugs and, if so, such other information as may be required by the chief of police.

(10) Whether or not the applicant is a sex offender prohibited from operating a taxicab pursuant to Code of Virginia, § 46.2-2011.33.

(11) The record of the applicant with respect to traffic offenses connected with the operation of motor vehicles and other offenses affecting the suitability of the applicant as a person who should be permitted to operate a for-hire car, including violations of this article or the provisions of any other law in this state governing the operation of for-hire cars.

(12) Whether or not the applicant has previously been employed or licensed as a chauffeur and, if so, whether or not any license or permit issued for such purpose has ever been revoked or suspended for any reason.

(13) What experience, if any, the applicant has had in the operation of motor vehicles.

(14) The name and address of owner of the for-hire vehicle to be operated by the applicant and, if different, the name and address of the company for which the applicant will be driving.

(b) Each applicant shall apply for a driver's permit in person and have his fingerprints taken, which fingerprints shall constitute a part of his application, and each applicant shall have filed with his application two recent photographs of himself of a size designated by the chief of police, one of which shall be attached to and shall become a part of the application, and the other of which shall be attached to the permit, if issued, in such a manner that no other photograph may be substituted therefor without probability of detection.

(Code 1980, § 20.2-32; Code 1995, § 21-92)

Sec. 21-105. Investigation of applicant; issuance; contents; display.

(a) The chief of police of the county, upon the filing of an application as set forth in this division and after notice to the applicant and opportunity afforded the applicant to be heard, shall promptly make an investigation of the matters stated therein. If the chief of police shall find, upon such investigation, that the applicant possesses the necessary qualifications on the basis of the information furnished in the application and the investigation thereof, the chief of police shall issue a permit card, which shall bear a number and which shall contain the name, business address and a photograph of the applicant, and the name of the owner of the vehicles to be operated by the applicant and, if different, the name of the company for which the applicant will be driving. The driver shall post his permit card in full view of the passenger in any for-hire car which is being operated or is in charge of the applicant. The permit shall be valid only for the operation of such vehicles owned by the person listed on such permit card and shall not be valid for operation of any other for-hire vehicle until such time as the driver has provided written notification, on a form provided by the chief of police, and shall have had the name of the owner of such other vehicles indicated on his permit.

(b) The possession by a person of a valid current driver's license issued by the state department of motor vehicles shall create a presumption that such person has the minimum physical and mental qualifications provided in this division for driving a for-hire car. If the chief of police has doubts as to an applicant's physical or mental capability, then the chief of police may require the applicant to submit to a physical examination by a licensed doctor of medicine and to verify by written report filed by such doctor the applicant's physical or mental capabilities.

(Code 1980, § 20.2-33; Code 1995, § 21-93; Ord. No. 996, § 3, 12-14-1999)

Sec. 21-106. Grounds for denial.

Subject to the provisions of section 21-108, the chief of police shall refuse to issue a driver's permit to a person who has filed an application as set forth in this division if, based upon the application and after investigation, the chief of police finds any of the following:

(1) The applicant, within the past three years, has been convicted of, pleaded guilty to or pleaded nolo contendere to any felony;

(2) The applicant, within the past 12 months, has been convicted of, pleaded guilty to or pleaded nolo contendere to any larceny, assault, battery, crime of moral turpitude or illegal possession of controlled substances where such crime is other than a felony;

(3) The applicant, within the past 12 months, has been convicted of, pleaded guilty to or pleaded nolo contendere to operating a motor vehicle while under the influence of alcohol or drugs;

(4) The applicant, within the past 12 months, has been convicted of, pleaded guilty to or pleaded nolo contendere to three or more moving violations under the motor vehicle laws of this state other than those involving operating a motor vehicle while under the influence of alcohol or drugs;

(5) The applicant, within the past 12 months, has been convicted of, pleaded guilty to or pleaded nolo contendere to three or more violations of this article or of any other local law in this state governing the

operating of taxicabs or other for-hire cars;

(6) The applicant has ever been convicted of, pleaded guilty to or pleaded nolo contendere to any felony involving violence, or distribution of a controlled substance, or to any other felony, or combination of felonies, which indicates to the chief of police that the applicant is of unfit or unworthy character. The chief shall consider the period of time that has passed since the conviction or plea as well as any other mitigating circumstances presented by the applicant;

(7) The applicant is prohibited from operating a taxicab pursuant to Code of Virginia § 46.2-2011.33.

(8) The applicant knowingly makes or causes to be made, either directly or indirectly, any false statement on his application;

(9) The applicant otherwise lacks the following minimum physical or mental qualifications:

a. Drivers shall have no mental, nervous, organic or functional disease likely to interfere with safe driving;

b. Drivers shall have no loss or impairment of use of a foot, leg, fingers, hand or arms or other structural defect or limitation likely to interfere with safe driving;

c. Drivers shall in all other respects satisfy the minimum physical and mental requirements for issuance of a driver's license by the state department of motor vehicles;

(10) The applicant is less than 18 years of age; or

(11) The applicant does not possess a valid and current driver's license issued by the state department of motor vehicles.

(Code 1980, § 20.2-34; Code 1995, § 21-94; Ord. No. 996, § 4, 12-14-1999)

Sec. 21-107. Grounds for revocation.

(a) Subject to the provisions of section 21-108, the permit of any driver of a for-hire car shall immediately become void and shall be immediately surrendered upon the occurrence of any of the following:

(1) The driver is convicted of, pleads guilty to or pleads nolo contendere to any felony;

(2) The driver is convicted of, pleads guilty to or pleads nolo contendere to any larceny, assault, battery, crime of moral turpitude or illegal possession of controlled substances where such crime is other than a felony;

(3) The driver is convicted of, pleads guilty to or pleads nolo contendere to operating a motor vehicle while under the influence of alcohol or drugs;

(4) The driver, within a 12-month period, is convicted of, pleads guilty to or pleads nolo contendere to three or more moving violations under the motor vehicle laws of this state other than those involving operating a motor vehicle while under the influence of alcohol or drugs;

(5) The driver, within a 12-month period, is convicted of, pleads guilty to or pleads nolo contendere to three or more violations of this article or of any other local law in this state governing the operation of taxicabs or other for-hire cars or vehicles;

(6) The driver becomes prohibited from operating a taxicab pursuant to Code of Virginia, § 46.2-2011.33.

(7) The chief of police finds, after investigation, that the driver, within a three-year period, has on two or more occasions made a charge above or below the rates prescribed by section 21-139(b);

(8) The chief of police finds, after investigation, that the driver knowingly made or caused to be made, either directly or indirectly, any false statement on the application for a permit which was issued;

(9) The chief of police finds, after investigation, that the driver no longer possesses the physical or mental qualifications prescribed in section 21-106(9); or

(10) The driver no longer possesses a valid and current driver's license issued by the state department of motor vehicles.

(b) All drivers and certificate holders shall notify the chief of police within 15 days of the occurrence of any

event enumerated in subsection (a)(1), (2), (3), (4), (5), (6) or (10) of this section.
(Code 1980, § 20.2-35; Code 1995, § 21-95)

Sec. 21-108. Hearing on denial or revocation; appeals.

If an application for a driver's permit is refused, or if a driver's permit is revoked, the chief of police shall notify in writing the applicant or permit holder of such decision, the reason therefor and the right to a hearing if a request therefor is made in writing to the chief of police within ten days of the notice. If a request for a hearing is not made within ten days of notice, the decision of the chief of police shall be final. The hearing shall be held by the chief of police or his designee and the applicant or permit holder shall have the right to present his own case or have counsel do so. Within a reasonable time after the hearing, the chief of police shall render his decision. If the chief of police shall refuse to issue or shall revoke a permit after a hearing, the holder thereof may, within ten days after the date of such action, file with the circuit court of the county a petition, in writing, to review the action of the chief of police, with a copy of such petition to be served on the chief of police. The filing of the petition with the circuit court shall not postpone the effective date of the decision of the chief of police except by order of the court.

(Code 1980, § 20.2-41; Code 1995, § 21-96)

Sec. 21-109. Issuance after denial or revocation.

Except as provided in section 21-110, any person refused a driver's permit under the provisions of section 21-106 or whose driver's permit is revoked under the provisions of section 21-107 shall not be eligible for issuance of a new permit until such time as the grounds for refusal of a permit under section 21-107 no longer apply. If a driver's permit is refused or revoked for knowingly making or causing to be made, either directly or indirectly, any false statement or for making charges above or below the rates prescribed by section 21-139(b), or if a driver's permit is revoked under section 21-107(a)(3), (4) or (5), such driver shall not be eligible until 12 months from the date of refusal or revocation or from the date the chief of police was informed of the grounds supporting such revocation, whichever is later.

(Code 1980, § 20.2-36; Code 1995, § 21-97; Ord. No. 996, § 6, 12-14-1999)

Sec. 21-110. Probationary permit.

(a) The chief of police may issue a probationary permit to an applicant for a driver's permit who fails to meet the standards set forth in section 21-106(1) upon the recommendation of a court whose conviction of the applicant resulted in ineligibility for a permit under this division. A probationary permit shall not be issued to any such applicant who has, within 12 months of the date of application, been convicted at trial of a felony, or who has pleaded guilty or nolo contendere thereto.
(b) The chief of police may issue a probationary permit to a driver, following revocation of such driver's permit under section 21-107(a)(1), upon the recommendation of a court whose conviction of the driver resulted in ineligibility for a permit under this division. A probationary permit shall not be issued to such driver sooner than 12 months from the date of revocation of the driver's permit.
(c) A probationary permit shall be effective until such time as the driver is eligible for reissuance under section 21-109; provided, however, that a probationary permit may be revoked at any time by the chief of police upon a finding of violation of any provisions of this article.
(Code 1980, § 20.2-37; Code 1995, § 21-98)

Sec. 21-111. Submitting false application.

It shall be unlawful for any person to knowingly make or cause to be made, either directly or indirectly,

any false statement on an application for a driver's permit required under the provisions of this division.

(Code 1980, § 20.2-42; Code 1995, § 21-99)

Secs. 21-112—21-135. Reserved.

DIVISION 4. OPERATING REGULATIONS

Sec. 21-136. Color scheme for vehicles; identification on vehicles; decals.

(a) There shall be displayed on every for-hire car lettering clearly showing the name and number of the owner thereof and indicating that such vehicle is a for-hire car. Taxicabs shall use only the words "taxi," "cab" or "taxicab" to indicate that such vehicle is a for-hire car. The color scheme and the size, content and character of such lettering and the position thereof on each such vehicle shall be approved by the chief of police and no vehicle shall be operated under the provisions of this article unless and until such specifications have been complied with. The failure of any owner to comply with such specifications shall constitute a violation of this article.

(b) No vehicle shall be operated under the provisions of this article unless the chief of police has first assigned to such vehicle a decal which shall be affixed to and visible from the left rear of the vehicle and which shall contain a number registered with the chief of police. Such decal shall not be transferred to another vehicle, shall be displayed at all times and shall not be removed except when such vehicle is no longer in service in the certificate holder's fleet or except upon direction of the chief of police.

(c) If a vehicle is for any reason taken out of service as a for-hire car on a permanent basis, the owner of the vehicle shall, within 72 hours, remove the assigned decal along with all other indicia of the vehicle's use as a taxicab.

(d) It shall be unlawful to operate a vehicle which does not meet the requirements of this section.

(Code 1980, § 20.2-4; Code 1995, § 21-121)

Sec. 21-137. Taximeters.

Every taxicab shall be equipped with a taximeter prescribed by the chief of police by which the charge for hire is mechanically or electronically calculated, both for distance traveled and for waiting time, and upon which such charge shall be indicated by means of figures clearly visible to the passenger. The taximeters shall be equipped with a mechanical or electronic device by which the driver of a taxicab can put the taximeter in operation, and the device shall be kept in an operating position at all times during the transportation of paying passengers. Roof lights and meters shall operate by use of one switch only so that the light will automatically be lit when the meter is not running. It shall be unlawful for a driver to fail, refuse or neglect to put the taximeter in operation by means of the device when the transportation of every passenger is begun in the county and to keep the device in an operating position at all times during the transportation of each passenger. Taximeters shall be inspected and validated for accuracy during such inspections provided in section 21-27, provided that the chief of police may require the meter's accuracy to be validated by such independent testing agencies as may be approved by the chief of police. If such independent testing agency is used, the owner shall pay the costs of such validation. Any taxicab found to have a defective taximeter shall not be operated as a for-hire car until such defect is corrected.

(Code 1980, § 20.2-5; Code 1995, § 21-122)

Sec. 21-138. Roof light.

Each taxicab shall be equipped with a light prescribed by the chief of police mounted to the roof of the taxicab, which shall indicate to the public that the vehicle is or is not under hire. The roof light shall be lit

when the car is available to the public for hire. It shall be unlawful for a driver to fail, refuse or neglect to operate such roof light or to operate such light in a misleading manner. Such light shall be inspected during such inspections provided in section 21-27. Any taxicab found to have a defective roof light shall not be operated as a for-hire car until such defect is corrected.

(Code 1980, § 20.2-9; Code 1995, § 21-123)

Sec. 21-139. Rates.

(a) *Generally.* Except as otherwise provided for in this article, rates to be charged to passengers engaging a for-hire car shall be fixed, prescribed or established by the board of supervisors. It shall be unlawful for the owner or driver of any such vehicle to charge a rate above or below the rate so fixed, prescribed or established.

(b) *Specific rates; special contracts.*

(1) The rates to be charged passengers by certificate holders or drivers of taxicabs shall be as follows, and it shall be unlawful for a certificate holder to permit or a driver to make any greater or lesser charge for the transportation of passengers and baggage:

a. For the first one-fifth mile: $2.50.

b. For each succeeding one-fifth mile: $0.50.

c. For each 80 seconds of waiting time: $0.50.

(2) Waiting time shall include the time consumed while the taxicab is stopped or moving at a speed less than 15 miles per hour and time consumed waiting for a passenger beginning five minutes after the time of arrival at the place to which it has been called and the time consumed while it is standing at the direction of the passenger. Waiting time shall not include, and no charge shall be made for, the time lost on account of inefficiency of the taxicab, or its operation, or time consumed by premature response to a call. No charge shall be made for mileage while waiting time is being charged.

(3) For each additional passenger over one, an additional charge of $1.00 shall be made; provided that children six years of age or younger, when accompanying a fee-paying passenger, shall not be deemed additional passengers for the assessment of such additional charge.

(4) For a trip originating between the hours of 9:00 p.m. and 6:00 a.m. of the day following, in addition to the charges registered on the meter, a surcharge of $1.00 per trip shall be added to compute the fare for such trip.

(5) For a trip originating at Richmond International Airport, the rate shall be $10.00 or the charge registered on the meter, whichever is greater, plus $2.30.

(6) The owner of any cab may, upon receipt of satisfactory proof that a person is 65 years of age or older, disabled, or active or reserve duty United States military or veteran, offer a discount not to exceed 20 percent of the total charge for transportation and services. For purposes of eligibility under this subsection, disabled persons include individuals who are physically, hearing, mentally or visually impaired. The following identification may serve as satisfactory proof of age or disability: a valid driver's license, a valid GRTC Senior Citizens ID or Medicare Card, a valid GRTC Handicapped or Disabled Identification Card, or a valid identification card issued by a public transportation provider to meet the requirements of the federal Americans with Disabilities Act, or a valid military or veteran identification card.

(7) The owner of any taxicab may enter into written contracts with organizations and companies to provide taxicab services on a negotiated basis. The owner of any taxicab may enter into written contracts with individuals to provide, on a negotiated basis, regular service, as defined in section 21-19. All such contracts must be kept and preserved, and shall be subject to inspection, in the main offices of the taxicab company during the terms of the contract and for 12 months after termination of the contract. The rates to be charged for such services under written contract shall not be fixed, prescribed or established by the board of supervisors. As required by section 21-137, taximeters shall be in operation at all times during the

transportation of passengers; however, the charge for such services shall be governed by the written contract, and not the taximeter.

(c) *Display.* No for-hire car shall be operated on the streets of the county in which there is not displayed at some conspicuous point inside of such vehicle, in full view of the passenger or person hiring such vehicle, the rates fixed, prescribed or established for the use of any such vehicle. Such rates shall also be displayed on the exterior of each side of for-hire cars in a manner to be approved by the chief of police.

(Code 1980, §§ 20.2-6—20.2-8; Code 1995, § 21-124; Ord. No. 996, § 6, 12-14-1999; Ord. No. 1077, § 1, 9-13-2005; Ord. No. 1112, § 1, 10-9-2007; Ord. No. 1129, § 1, 12-9-2008)

Sec. 21-140. Liability insurance.

No owner shall be permitted to operate a for-hire car within the county unless and until such owner shall have secured and deposited with the chief of police a certificate of insurance against public liability and property damage for each such vehicle so operated within the county, issued by a solvent insurance company licensed and duly authorized to execute such policy within the state and to carry on business within the state. Such certificate of insurance shall be issued to such owner on each for-hire car owned or operated by such owner within the county and shall provide for the payment of any final judgment, not to exceed the sum of $100,000.00 for injury or death to any one person, the sum of $500,000.00 for a total public liability for any one accident, the sum of $50,000.00 for property damage in any accident, and the sum of $10,000.00 for cargo liability, which may be rendered against such insured for or on account of damage to property for which such owner and drivers may be liable while operating or permitting to be operated such for-hire car within the county, or by reason of or growing out of the careless or negligent operation of such vehicle by such insured or his agents, drivers or employees within the county. Such certificate of insurance shall contain a clause obligating the company issuing the certificate of insurance to give ten days' written notice to the chief of police before cancellation thereof. The insurance certificates required under Code of Virginia, § 46.2-2053, to be submitted to the state shall be accepted in satisfaction of this section.

(Code 1980, § 20.2-30; Code 1995, § 21-125)

Sec. 21-141. Business telephone listing.

Every owner holding a certificate of public convenience and necessity shall provide and maintain at all times in the Greater Richmond telephone directory a listed telephone in the name in which the certificate holder is doing for-hire business by which calls may be made for for-hire service. If the certificate holder operates five or more for-hire cars, the telephone listing shall also appear in the Greater Richmond classified telephone directory. If there has not yet been an opportunity to publish the listing in the required directories, the telephone number shall be available from the Greater Richmond directory assistance service.

(Code 1980, § 20.2-25; Code 1995, § 21-126)

Sec. 21-142. Manifest.

(a) The owner and the driver of a for-hire car shall keep a manifest, which shall be a permanent record of the transportation of each passenger. Each manifest shall include:

(1) The name of the driver of the for-hire car.

(2) The number of the for-hire car approved by the chief of police.

(3) The address or place where the transportation of each passenger originated, and the date and time thereof.

(4) The address or place, date and time the transportation of each paying passenger terminated, which shall be recorded on the manifest upon the termination of each such transportation and before transportation of

any other paying passenger has begun.

(5) The date and time each shift begins and ends.

(b) A manifest shall be carried by the driver in the for-hire car at all times during the operation of such vehicle and a separate manifest shall be kept for each day of operation of the vehicle; provided that a driver operating a for-hire car at midnight may continue to use the manifest bearing the date the work period commenced through the end of such work period. No later than 24 hours after the final entry on a manifest, it shall be delivered to the main office of the for-hire owner. The manifest, whether in possession of the driver or at the place from which the business is conducted or directed, shall be subject at all times to examination or inspection by the chief of police or his designee. Each manifest shall be kept and preserved for 12 months, and thereafter any manifest involved in any investigation made or being made by any police officer shall be kept and preserved for such length of time as the chief of police shall require upon written notice from the chief of police to the certificate holder to that effect. No owner or driver of a for-hire car shall exhibit a manifest or be compelled to exhibit a manifest except to the chief of police or to such person as the chief of police may direct, or upon court order.

(Code 1980, § 20.2-29; Code 1995, § 21-127)

Sec. 21-143. Solicitation of patronage.

No driver, or any other person on behalf of a driver, shall solicit patronage for any for-hire car by word, signal or otherwise on any public street or public property in the county other than at such stands as may be designated and assigned in accordance with ordinances of the board of supervisors; provided that this section shall not be construed to prevent a customer from hailing a for-hire car.

(Code 1980, § 20.2-10; Code 1995, § 21-128)

Sec. 21-144. Taxicab stands.

(a) *Designation.* The chief of police shall designate such places in the streets of the county as taxicab stands as will, in the opinion of the chief of police, best serve the convenience of the public, and shall prescribe the number of taxicabs that may be parked or stopped in each stand at any one time.

(b) *Use.* Any taxicab for the operation of which a certificate of convenience and necessity has been issued shall have the privilege of parking or stopping in any taxicab stand when space is available therefor. It shall be unlawful for a driver to park or stop a taxicab at or near a taxicab stand when the number of taxicabs prescribed for the stand are parked or stopped in the stand. Only taxicabs may park at taxicab stands.

(Code 1980, § 20.2-11; Code 1995, § 21-129)

Sec. 21-145. Carrying more than one passenger in taxicab.

No person other than the first person taken into a taxicab for transportation shall be allowed to enter the taxicab except upon the direction of the first person so taken into the cab, and the certificate holder shall not authorize or permit the driver of the taxicab or any other person to request, nor shall the driver or any other person request, the first person taken into a taxicab for transportation to allow any other to be transported in the taxicab. Should the first person taken into a taxicab for transportation direct the driver to allow another to be transported in the taxicab, the first person so taken into the taxicab shall be liable for the payment of the fare for the transportation of all persons transported at the rates prescribed in section 21-139(b), unless otherwise agreed upon by the driver and any one or all of the persons transported in the taxicab.

(Code 1980, § 20.2-12; Code 1995, § 21-130)

Sec. 21-146. Maximum number of passengers in taxicab.

It shall be unlawful for a driver to transport in a taxicab more than the number of passengers for which the vehicle is equipped with operable seat belts that have been lawfully installed, which in any event shall not exceed six passengers.

(Code 1980, § 20.2-13; Code 1995, § 21-131)

Sec. 21-147. Transportation of passengers by most direct route; payment of toll charge.

Every driver of a for-hire car shall transport each passenger from the place the passenger is received in such vehicle to the destination of the passenger by the most direct route, unless otherwise directed by the passenger. When such route requires the payment of a toll, the driver shall embark on the route only after informing the passenger of the toll and receiving agreement from the passenger to pay the toll charge.

(Code 1980, § 20.2-14; Code 1995, § 21-132)

Sec. 21-148. Nonpaying passengers.

No nonpaying passenger shall be transported with a paying passenger in any for-hire car, except a police officer engaged in the performance of his duty and unable to obtain other adequate means of transportation.

(Code 1980, § 20.2-15; Code 1995, § 21-133)

Sec. 21-149. Refusal of drivers to make trips; preference in response to service requests.

(a) No owner or driver of any for-hire car shall refuse to transport any passenger to any part of the county or to the City of Richmond or counties of Chesterfield and Hanover for a trip originating in the county; provided, however, no driver shall be required to drive the vehicle operated by him to any place when it may be physically detrimental to such vehicle to do so or when it may endanger the driver or any of the occupants thereof.

(b) Every certificate holder and driver shall give preference to calls or other requests for taxicab service in the order of their receipt.

(Code 1980, § 20.2-16; Code 1995, § 21-134)

Sec. 21-150. Receiving and discharging passengers.

Every for-hire car shall receive and discharge passengers only at the righthand curb of the street and only when at a full stop, except that passengers may enter or leave a taxicab from the left side at the left-hand curb of a one-way street.

(Code 1980, § 20.2-17; Code 1995, § 21-135)

Sec. 21-151. Driver to remain with vehicle.

The driver of any for-hire car shall remain in the vehicle or within five feet of the vehicle at all times while such car is on the streets while under hire or parked at a taxicab stand, except while engaged at the request of the passenger hiring the vehicle in loading or unloading the baggage or other property of such passenger or in the event of an emergency.

(Code 1980, § 20.2-18; Code 1995, § 21-136)

Sec. 21-152. Driving or being on duty while under influence of intoxicating beverage or drug; possession of alcoholic beverage by driver.

It shall be unlawful for a driver to be under the influence of any intoxicating beverage, narcotic, sedative, barbiturate, marijuana or other substance producing the effects of a narcotic or sedative while on duty to provide taxicab service, whether or not actually operating or driving a for-hire car, or to operate and drive a for-hire car at any time with any alcoholic beverage in any quantity in his possession, either on his person or in the taxicab.

(Code 1980, § 20.2-19; Code 1995, § 21-137)

Sec. 21-153. Use of vehicle for lewd or indecent purpose or for acquisition or transport of alcoholic beverages or drugs.

It shall be unlawful for a driver to permit a for-hire car to be used for lewd or indecent purposes, or to transport any person in a for-hire car to any place for such purposes, or to knowingly acquire or transport for another in a for-hire car any alcoholic beverage, narcotics or marijuana or any controlled substance.

(Code 1980, § 20.2-20; Code 1995, § 21-138)

Sec. 21-154. Possession of weapons by driver.

It shall be unlawful for a driver to operate and drive a for-hire car at any time with a dirk, Bowie knife, nunchahka, nunchuck, shuriken, throwing star, oriental dart, blackjack, brass or metal knuckles or knife with a blade longer than three inches in length in his possession or in the for-hire car.

(Code 1980, § 20.2-21; Code 1995, § 21-139)

Sec. 21-155. Duty of driver to keep vehicle clean and lighted.

It shall be unlawful for a driver to fail, refuse or neglect to keep any vehicle which he operates under the provisions of this article clean and sufficiently lighted at night through the use of properly functioning interior lights, headlights, and such other vehicle lights as may be installed in the vehicle or required by law.

(Code 1980, § 20.2-22; Code 1995, § 21-140)

Sec. 21-156. Maximum time driver may drive or be on duty.

No certificate holder shall require a driver to, and no driver shall, drive a taxicab or remain on duty for such purposes longer than 13 hours in any 24-hour period.

(Code 1980, § 20.2-23; Code 1995, § 21-141)

Sec. 21-157. False calls; interference with taxicab service.

No person shall in any way intentionally hinder, retard or interfere with, or cause to be hindered, retarded or interfered with, the furnishing of transportation by any taxicab or for-hire car. Improper, misleading, false or unauthorized calls for taxicab service shall be prima facie evidence of the intention to hinder, retard or interfere with the proper operation of a taxicab and the furnishing of transportation thereby.

(Code 1980, § 20.2-24; Code 1995, § 21-142)

Sec. 21-158. Monitoring radio dispatches.

It shall be unlawful to have radio frequency scanning or similar electronic devices in a for-hire vehicle. It shall also be unlawful to monitor communications between a dispatcher and a for-hire vehicle or between two or more for-hire vehicles for the purpose of responding to a call for for-hire service without the permission of the participants to the communication or of the company for whom they are employed.

(Code 1980, § 20.2-26; Code 1995, § 21-143)

Sec. 21-159. Disposition of property left in vehicle.

(a) It shall be unlawful for a driver to knowingly fail, refuse or neglect to preserve any property left in a for-hire car by any passenger and to thereafter deliver it to the certificate holder.
(b) Each certificate holder shall carefully preserve all property left in a for-hire car by any passenger and delivered to the certificate holder by a driver. When the property shall have been identified and ownership established, it shall be promptly delivered to its owner during normal business hours at the certificate holder's business location or at a location arranged by the certificate holder and property owner. Any property which shall not be called for within 30 days may be disposed of according to law.
(Code 1980, § 20.2-27; Code 1995, § 21-144)

Sec. 21-160. Applicability of traffic laws.

Every for-hire operating on the streets of the county shall be subject to all laws and ordinances regulating traffic applicable to other vehicles.

(Code 1980, § 20.2-28; Code 1995, § 21-145)

Sec. 21-161. Dress code.

Taxicab drivers shall be fully and neatly dressed and exhibit good personal hygiene without offensive body odor. All clothing shall be clean, free of holes, rips or tears, and present a professional appearance; clothing shall not exhibit any symbols, phrases or renderings that are obscene and shall comply with the following standards:

(1) Male drivers are required to wear long pants or professional length uniform shorts, buttoned shirts with fold-down collars and sleeves, and shoes. Pullover "polo" shirts, with fold-down collars, buttons and short sleeves, are permitted. Shoes shall be clean, closed-in and worn with socks. Hair, beards and moustaches must be neat, trimmed and present a groomed appearance.
(2) Female drivers are required to wear long pants, professional length shorts, skirts or dresses, shirts or blouses, and shoes. Pullover "polo" shirts, with fold-down collars, buttons and short sleeves, are permitted. Shoes shall be clean, closed-in and worn with socks or stockings. Hair must be neat, trimmed and present a groomed appearance.
(Code 1995, § 21-146; Ord. No. 996, § 7, 12-14-1999)

Chapter 22 - TRAFFIC AND VEHICLES

***Cross reference—**Court costs, § 2-126 et seq.; inoperable motor vehicles, § 10-3; noise regulations, § 10-71 et seq.; motor vehicles in parks, § 14-42; traffic accident reports, § 15-50; streets and sidewalks, ch. 18; obstruction of vision at intersection prohibited, § 18-7; taxicabs and other vehicles for hire, ch. 21.

***State law reference—**Traffic generally, Code of Virginia, § 46.2-100 et seq.; power of local governments, Code of Virginia, § 46.2-1300 et seq.

ARTICLE I. IN GENERAL

Sec. 22-1. Title of chapter.

The provisions of this chapter shall be known as the Traffic Code of the County of Henrico, and may be so cited.

(Code 1980, § 14-1; Code 1995, § 22-1)

Sec. 22-2. Adoption of state law.

(a) Pursuant to the authority in Code of Virginia, § 46.2-1313, all of the provisions and requirements of the laws of the state contained in Code of Virginia, title 46.2 (Code of Virginia, § 46.2-1-101 et seq.) and Code of Virginia, title 18.2, ch. 7, art. 2 (Code of Virginia, § 18.2-266 et seq.), and Code of Virginia, title 16.1, ch. 11, art. 9 (Code of Virginia, § 16.1-278 et seq.) except those provisions and requirements the violation of which constitutes a felony, and except those provisions and requirements which by their very nature can have no application to or within the county, are hereby adopted and incorporated in this chapter by reference and made applicable within the county.

(b) References to "highways of the state" or "highways of the commonwealth" contained in the provisions and requirements adopted by this section shall be deemed to refer to the streets, highways and other public ways within the county. Such provisions and requirements are hereby adopted, mutatis mutandis, and made a part of this chapter as fully as though set forth at length in this chapter, and it shall be unlawful for any person within the county to violate or fail, neglect or refuse to comply with any provision in Code of Virginia, title 46.2 (Code of Virginia, § 46.2-1-101 et seq.) and Code of Virginia, title 18.2, ch. 7, art. 2 (Code of Virginia, § 18.2-266 et seq.), which is adopted by this section, provided that in no event shall the penalty imposed for the violation of any provision or requirement adopted by this section exceed the penalty imposed for a similar offense under in Code of Virginia, title 46.2 (Code of Virginia, § 46.2-1-101 et seq.) and Code of Virginia, title 18.2, ch. 7, art. 2 (Code of Virginia, § 18.2-266 et seq.), and Code of Virginia, title 16.1, ch. 11, art. 9 (Code of Virginia, § 16.1-278 et seq.).

(Code 1980, § 14-2; Code 1995, § 22-2)

State law reference—Penalty, Code of Virginia, § 46.2-113; powers of local governments, Code of Virginia, § 46.2-1300 et seq.; disposition of fines, Code of Virginia, § 46.2-1308.

Sec. 22-3. Powers and duties of director of public safety and traffic engineer.

(a) *Generally.* The director of public safety shall have general supervision and control of the management and direction of all vehicular and pedestrian traffic and of the parking and routing of vehicles in the interest of the public safety, comfort and convenience not inconsistent with the provisions of Code of Virginia, title 46.2 (Code of Virginia, § 46.2-1-101 et seq.). He may cause appropriate signs to be erected and maintained, designating residence and business districts, school, hospital and safety zones, highways and railway

crossings, arterial streets, arterial stops, turns at intersections, traffic lanes and such other signs as may be necessary to carry out the provisions of this chapter. He shall have power to regulate traffic by means of traffic officers or semaphores or other signaling devices on any portion of the highway where traffic is heavy or continuous, or where, in his judgment, conditions may require, and may prohibit other than one-way traffic upon certain highways, and may regulate the use of the highways by processions and assemblages. He may adopt any such regulations not inconsistent with the provisions of this chapter as he shall deem advisable and necessary; and repeal, amend or modify any such regulation; provided that such regulations, laws or rules shall not be deemed to be violated, if at the time of the alleged violation any sign or designation required under the terms of this chapter is missing, effaced, mutilated or defaced so that an ordinarily observant person under the same circumstances would not be apprised of or aware of the existence of such rule.

(b) *Engineering and traffic investigations.* The director of public safety shall conduct engineering and traffic investigations in determining that the regulations adopted will promote the public safety, comfort and convenience.

(c) *Changes in speed limits.* The director of public safety is authorized to change speed limits in the county, provided such change in speed is based upon an engineering and traffic investigation and provided such speed area or zone is clearly indicated by markers or signs. The director of public safety or traffic engineer is authorized to reduce the speed limit on any portion of any county-maintained highway on which men are working or where the highway is under construction or repair for up to 60 days without an engineering or traffic investigation.

(Code 1980, § 14-3; Code 1995, § 22-3; Ord. No. 1101, § 1, 3-27-2007)

State law reference—Powers of local authorities generally, Code of Virginia, § 46.2-1300 et seq.; authority to designate an officer of county to designate certain specific street regulations, Code of Virginia, § 46.2-1301.

Sec. 22-4. Obedience to traffic control devices.

It shall be unlawful for the driver of any vehicle to disobey county road signs, traffic signals, markings or lights within the county system of streets and roads. Unless another penalty is otherwise provided by law, every person convicted of violating this section shall be guilty of a traffic infraction and punished as provided in Code of Virginia, § 46.2-113, as amended.

(Code 1980, § 14-3.1; Code 1995, § 22-4)

State law reference—Obedience to traffic signs, Code of Virginia, § 46.2-830; power to erect signs, penalty limitation, Code of Virginia, § 46.2-1300.

Sec. 22-5. Penalty.

Unless another penalty is provided in this chapter or as otherwise provided by law, violations of this chapter shall constitute a traffic infraction punishable as provided in Code of Virginia, § 46.2-113, as amended.

(Code 1995, § 22-5)

Secs. 22-6—22-28. Reserved.

ARTICLE II. OPERATION OF VEHICLES; RULES OF THE ROAD

Sec. 22-29. Damaging or interfering with operation of vehicle.

Any person who shall, individually or in association with one or more others, willfully break, injure, tamper with or remove any part of any vehicle for the purpose of injuring, defacing or destroying such vehicle, or temporarily or permanently preventing its useful operation, or for any purpose against the will or without the consent of the owner of such vehicle, or who shall in any other manner willfully or maliciously interfere with or prevent the running or operation of such vehicle, shall be guilty of a misdemeanor.

(Code 1980, § 14-4; Code 1995, § 22-31)

State law reference—Similar provisions, Code of Virginia, § 18.2-146.

Sec. 22-30. Entering vehicle or setting vehicle in motion.

Any person who shall, without the consent of the owner or person in charge of a vehicle, climb into or upon such vehicle, with intent to commit any crime, malicious mischief or injury thereto, or who, while a vehicle is at rest and unattended, shall attempt to manipulate any of the levers and starting crank or other device, brakes or mechanism thereof or to set such vehicle in motion, with the intent to commit any crime, malicious mischief or injury thereto, shall be guilty of a misdemeanor, except that the provisions of this section shall not apply when any such act is done in an emergency or in furtherance of public safety or by or under the direction of an officer in the regulation of traffic or performance of any other official duty.

(Code 1980, § 14-5; Code 1995, § 22-32)

State law reference—Similar provisions, Code of Virginia, § 18.2-147.

Sec. 22-31. Applicability to repossession of vehicle under lien.

The provisions of sections 22-29 and 22-30 shall not apply to a bona fide repossession of a vehicle by the holder of a lien on such vehicle or by the agents or employees of such lienholder.

(Code 1980, § 14-6; Code 1995, § 22-32)

State law reference—Similar provisions, Code of Virginia, § 18.2-148.

Sec. 22-32. Washing or greasing vehicle on highway or sidewalk.

No person shall, for compensation, wash, polish or grease a vehicle upon a highway or sidewalk, nor shall the owner of a vehicle permit it to be washed, polished or greased, for compensation, upon a highway or sidewalk.

(Code 1980, § 14-7; Code 1995, § 22-34)

Sec. 22-33. Driving through funeral or other procession; manner of driving in funeral procession.

(a) No operator of a vehicle shall drive between the vehicles, persons or animals comprising a funeral or other authorized procession traveling under a police escort, except when otherwise directed by a police officer. This subsection shall not apply to authorized emergency vehicles as defined in this chapter.

(b) Each driver in a funeral procession shall drive as near to the righthand edge of the roadway as is practicable and shall follow the vehicle ahead as close as is practicable and safe.

(c) All motor vehicles participating in a funeral procession, when proceeding to any place of burial, shall display illuminated headlamps thereon and such other identification as the director of public safety may prescribe.

(d) All motor vehicles in a funeral procession under police escort shall have the right-of-way over all other

vehicles, except fire apparatus, ambulances and police vehicles, at any street or highway intersection within the county, and may proceed through a stop street or signalized intersection with proper caution and safety.
(Code 1980, §§ 14-10, 14-11; Code 1995, § 22-36)

State law reference—Funeral processions, Code of Virginia, § 46.2-828.

Sec. 22-34. Boarding or alighting from vehicle in motion.

No person shall board or alight from any vehicle while such vehicle is in motion.

(Code 1980, § 14-12; Code 1995, § 22-37)

Sec. 22-35. Unlawful riding.

No person shall ride on any vehicle upon any portion thereof not designed or intended for the use of passengers. This section shall not apply to an employee engaged in the necessary discharge of a duty, or to persons riding within truck bodies in space intended for merchandise.

(Code 1980, § 14-13; Code 1995, § 22-38)

Sec. 22-36. Unnecessary noise in operation of vehicle.

(a) *Generally.* No vehicle shall be loaded with materials likely to create loud noises by striking together, without using every reasonable effort to deaden the noise. The use in, upon or attached to any motor vehicle operating on any street of the county, of any radio, phonograph, musical instrument, bell, whistle, loudspeaker, amplifier or device of any kind whatsoever whereby sound therefrom is cast upon any street to promote or advertise the sale of goods, wares or merchandise, or for the purpose of advertising auction sales, sporting events or other businesses or things advertised thereby, is prohibited. The provisions of this subsection shall not apply to motor vehicles driven in a duly authorized parade. The use of a loudspeaker on a motor vehicle for making auction sales in streets directly in front of the property then being sold, and entirely outside of the business districts of the county, shall not be construed as a violation of this subsection when such use is limited strictly to the selling at auction of such property.
(b) *Motorcycles.* It shall be unlawful for any person, in operating a motorcycle within the county, to create in the operation thereof any unreasonably loud, disturbing or unnecessary noise. In operating a motorcycle the following acts, among others, are declared to create loud, disturbing and unnecessary noises in violation of this section, but such enumeration shall not be deemed to be exclusive:
(1) The use of a motorcycle so out of repair as to cause thereby loud and unnecessary grating, grinding, rattling or any of such noises, or any other unnecessary noise.
(2) The practice of unnecessarily racing the motor of a motorcycle while standing or moving, thereby causing unnecessary noise from such motor.
(3) The practice of unnecessarily retarding the spark to the motor and thereby causing unnecessary, loud or explosive noise from the motor.
(4) In starting a motorcycle off from a standing position, the practice of gaining speed unnecessarily quickly and thereby causing unnecessary and loud noise from the motor.
(5) The practice of coming to an unreasonably quick stop with a motorcycle and thereby causing unnecessary grinding of brakes and screeching of tires or either of such noises.
(Code 1980, § 14-15; Code 1995, § 22-39)

Cross reference—Noise regulations, § 10-67 et seq.

State law reference—Mufflers, Code of Virginia, §§ 15.2-919, 46.2-1050.

Sec. 22-37. Obstruction of streets by railroad cars; standing vehicle on railroad track.

It shall be unlawful for any railroad company, or any receiver or trustee operating a railroad, to obstruct for a longer period than five minutes the free passage on any street or road by standing cars or trains across the street or road, except a passenger train while receiving or discharging passengers, but a passway shall be kept open to allow normal flow of traffic. It shall be unlawful to stand any wagon or other vehicle on the track of any railroad which will hinder or endanger a moving train. When a train has been uncoupled, so as to make a passway, the time necessarily required, not exceeding three minutes, to pump up the air after the train has been recoupled shall not be included in considering the time such cars or trains were standing across such street or road. Any such railroad company, receiver or trustee, or driver of any such wagon or vehicle, violating any of the provisions of this section shall be fined not less than $100.00 and not more than $500.00, provided that the fine may be $100.00 for each minute beyond the permitted time but the total fine shall not exceed $500.00. This section shall not apply when the train is stopped due to breakdown, mechanical failure or emergency.

(Code 1980, § 14-16; Code 1995, § 22-40)

Cross reference—Streets, sidewalks and other public property, ch. 18.

State law reference—Similar provisions, Code of Virginia, § 56-412.1.

Sec. 22-38. Putting glass or other hazardous material on street.

(a) *Prohibited.* No person shall throw or deposit or cause to be deposited upon any street or highway any glass bottle, glass, nails, tacks, wires or cans, or any other substance likely to injure any person or animal or damage any vehicle upon such street or highway, nor shall any person throw or deposit or cause to be thrown or deposited upon any street or highway any soil, sand, mud, gravel or other substances so as to create a hazard to the traveling public.

(b) *Removal.* Any person who drops, or permits to be dropped or thrown, upon any street or highway any destructive, hazardous or injurious material shall immediately remove the material or cause it to be removed.

(c) *Materials dropped from wrecked or damaged vehicle.* Any person removing a wrecked or damaged vehicle from a street or highway shall remove any glass or other injurious substance dropped upon the street or highway from such vehicle.

(d) *Exemption.* This section shall not apply to the use, by a law-enforcement officer while in the discharge of official duties, of any device designed to deflate tires.

(e) *Penalty.* Violation of this section shall constitute a misdemeanor and shall be punished as provided in section 1-13.

(Code 1980, § 14-17; Code 1995, § 22-41)

Cross reference—Trash, garbage, refuse and litter, § 10-97 et seq.; dumping waste on premises other than sanitary landfills, § 17-25; streets, sidewalks and other public property, ch. 18.

State law reference—Similar provisions, Code of Virginia, § 18.2-324.

Sec. 22-39. Depositing refuse on highway, right-of-way or private property.

(a) *Prohibited.* It is unlawful for any person to dump or otherwise dispose of trash, garbage, refuse, litter, a companion animal for the purpose of disposal or other unsightly matter from a vehicle, on public property, including a public highway or right-of-way, property adjacent to such highway or right-of-way or on private

property without the written consent of the owner thereof or his agent.

(b) *Enforcement.* When any person is arrested for a violation of this section, and the matter alleged to have been dumped or disposed of has been ejected from a vehicle or transported to the disposal site in a motor vehicle, the arresting officer may comply with the provisions of Code of Virginia, § 46.2-936, as amended, in making such arrest.

(c) *Presumption of responsibility for violations.* When a violation of the provisions of this section has been observed by any person, and the matter 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. Such presumption shall be rebuttable by competent evidence.

(d) *Penalty.* Any person convicted of a violation of this section shall be guilty of a misdemeanor punishable by confinement in jail for not more than 12 months and a fine of not less than $250.00 or more than $2,500.00, either or both. In lieu of the imposition of confinement in jail, the court may order the defendant to perform community service in litter abatement activities. Upon conviction of any person for a violation of this section, the court may suspend the imposition of any sentence on condition that the defendant volunteer his services for such period of time as the court may designate to remove litter from the highway.

(e) *Landfills.* The provisions of this section shall not apply to the lawful disposal of such matter in landfills.

(Code 1980, § 14-18; Code 1995, § 22-42)

Cross reference—Trash, garbage, refuse and litter, § 10-97 et seq.; dumping waste on premises other than sanitary landfills, § 17-25.

State law reference—Similar provisions, Code of Virginia, § 33.2-802.

Sec. 22-40. Backing.

The operator of any vehicle in the county shall not back such vehicle unless such movement can be made with safety and without interfering with other traffic.

(Code 1980, § 14-19; Code 1995, § 22-43)

Sec. 22-41. Blocking intersections.

No operator of a vehicle shall enter an intersection or a marked crosswalk unless there is sufficient space beyond such intersection or crosswalk in the direction in which such vehicle is proceeding to accommodate the vehicle without obstructing the passage of other vehicles or pedestrians, notwithstanding any traffic control signal indication to proceed.

(Code 1980, § 14-20; Code 1995, § 22-44)

Sec. 22-42. Driving vehicle other than bicycle, electric power-assisted bicycles, or electric personal assistive mobility devices on sidewalk.

(a) No person shall ride or drive any vehicle other than the following on the sidewalks of the county:

(1) An emergency vehicle, as defined in Code of Virginia, § 46.2-920, as amended;

(2) A vehicle engaged in snow or ice removal and control operations;

(3) A wheelchair or wheelchair conveyance, whether self-propelled or otherwise;

(4) A bicycle;

(5) An electric personal assistive mobility device; or

(6) An electric power-assisted bicycle.

(b) Any person who violates this section shall, upon conviction, be fined as provided in section 22-5.

(Code 1980, § 14-21(a); Code 1995, § 22-45)

State law reference—Similar provisions, Code of Virginia, § 46.2-903.

Secs. 22-43—22-72. Reserved.

ARTICLE III. - SPECIFIC STREET REGULATIONS

***Cross reference—**Ordinances providing for traffic regulations in specific locations saved from repeal, § 1-10(a)(11); streets, sidewalks and other public property, ch. 18.

DIVISION 1. GENERALLY

Secs. 22-73—22-102. Reserved.

DIVISION 2. YIELD RIGHT-OF-WAY, STOP, ARTERIAL AND ONE-WAY STREETS

***State law reference—**Authority to authorize an officer of the county to designate intersection at which vehicles shall stop or yield the right-of-way, Code of Virginia, § 46.2-1301.

Sec. 22-103. One-way streets.

(a) The director of public safety shall have the authority to designate any highway in the county system of roads for one-way traffic and shall erect appropriate signs, and traffic thereon shall move only in the direction designated.
(b) This section shall become effective as to any such one-way street when signs have been provided therefor.
(c) The director of public safety is authorized and directed to provide signs on the one-way streets so designated as will apprise an ordinarily observant person of such one-way streets.
(d) When it can be demonstrated to the satisfaction of the director of public safety or his duly authorized representative that the strict enforcement of this section will cause an unreasonable hardship relative to the loading or unloading of trucks or other vehicles on such one-way streets, the director of public safety or his duly authorized representative is authorized to issue a special permit to such person permitting a variance from the provisions of this section. Any such special permit shall be in writing and shall specify the nature of such variance and the place and period of time when such variance shall be permitted. Such permit shall only be issued when it can be demonstrated to the satisfaction of the director of public safety or his duly authorized representative that the granting of such permit will alleviate a clearly demonstrable hardship as distinguished from a special privilege or convenience to the person who seeks such permit.
(Code 1980, § 14-22; Code 1995, § 22-91)

Sec. 22-104. Stop and yield right-of-way intersections.

The director of public safety shall designate intersections at which vehicles shall come to a full stop or yield the right-of-way; provided that no failure to stop or yield at such signs shall be a violation if, at the time of the alleged violation, the sign or marker placed in conformity with this section is missing or is defaced so that an ordinarily observant person under the same circumstances would not be aware of the existence of the regulation.

(Code 1980, § 14-23; Code 1995, § 22-92)

Sec. 22-105. Through streets.

For the purpose of promoting the safe use of the streets of the county, the director of public safety or his duly authorized representative shall have the authority to designate, according to his judgment, certain streets as through or arterial streets. All traffic proceeding regularly along such designated through or arterial streets shall have the right-of-way over traffic entering such streets.

(Code 1980, § 14-24; Code 1995, § 22-93)

Secs. 22-106—22-123. Reserved.

DIVISION 3. WEIGHT LIMITATIONS

***Cross reference—** Hauling houses or heavy loads over streets, rights-of-way, etc., § 18-8.

Sec. 22-124. Weight limits generally; assessment against owner or operator of overweight vehicle.

(a) Pursuant to the authority of Code of Virginia, § 46.2-1313, as amended, the weight limits set forth in Code of Virginia, title 46.2, ch. 10 (Code of Virginia, § 46.2-100 et seq.), as amended, are hereby established and shall apply to any vehicle or combination of vehicles passing over roads under the jurisdiction of the county. There are hereby established liquidated damages as to overweight vehicles at the rates and amounts provided in Code of Virginia, § 46.2-1135, as amended.

(b) All citations issued for violations of this section shall be processed in the same manner as described in Code of Virginia, §§ 46.2-1133, 46.2-1134 and 46.2-1135, as amended. The county attorney or his designee shall represent the county in any court proceeding and any assessment order entered by the state department of motor vehicles pursuant to this section shall be entered as a judgment for the county and shall constitute a lien upon the vehicle in favor of the county.

(c) Upon a finding of a violation of any weight limit prescribed in this section, the court shall assess the owner, operator or other person causing the operation of such overweight vehicle at such rate and amount as provided in Code of Virginia, § 46.2-1135, as amended. The assessment shall be entered by the court as a judgment for the county and payment shall be made to the state department of motor vehicles. The disposition of the case shall be recorded in an appropriate order, a copy of which shall be sent to the state department of motor vehicles. The entry of judgment shall constitute a lien in favor of the county upon the overweight vehicle.

(d) Civil penalties, processing fees, liquidated damages and weighing fees assessed for violations of this section shall be payable through the state department of motor vehicles whether or not the citation charging a violation of any such weight limit is contested, and whether or not judgment is entered by the court. All sums for civil penalties, liquidated damages and weighing fees collected by the state department of motor vehicles pursuant to this section shall be paid into the treasury of the county and allocated to the fund for the construction and maintenance of roads under the county's jurisdiction.

(Code 1980, § 14-2.1; Code 1995, § 22-111)

State law reference— Authority to adopt, Code of Virginia, § 46.2-1313; weight limits, Code of Virginia, § 46.2-1101 et seq.

Sec. 22-125. Temporary reduction of weight limits.

(a) *Authority of county engineer.* The county engineer is authorized to decrease the weight limits prescribed within the motor vehicle code, adopted by reference in section 22-2, for any vehicle or combination of vehicles passing over roads under the jurisdiction of the county for a total period not to exceed 90 days in any calendar year, whenever an engineering study discloses that operation over such roads by reason of deterioration, rain, snow or other climatic conditions will seriously damage such roads unless such weights

are reduced.

(b) *Engineering study.* The engineering study shall include a determination as to:

(1) When the moisture content of the base and surface materials is critical and the continuation of heavy traffic thereover may cause breakup or distress of that section of roadway.

(2) When the depth and extent to which freezing has occurred within and under the roadway is such that the continuation of heavy traffic thereover may cause breakup or distress of that section of roadway.

(3) When rutting surface cracks or other surface changes occur which indicate that the carrying ability of the road has been impaired.

(4) When an inspection of a bridge or culvert discloses conditions which indicate impairment of its carrying ability.

(5) When in the judgment of the engineer such other conditions exist as will indicate impairment of the carrying ability of the roadway.

(c) *Placement of signs.* In all instances where the weight limits have been reduced by the county engineer, he shall cause signs stating the weight permitted on such road or section thereof for any vehicle or combination of vehicles to be erected at each end of the section of road affected, and no such reduced weight limits shall be effective until such signs shall have been posted. It shall be unlawful to operate a vehicle or combination of vehicles over or upon any road or section thereof when the weight exceeds such maximum posted weight limit.

(d) *Penalty.* Any violation of this section shall be punishable as a class 2 misdemeanor, and the vehicle or combination of vehicles involved in such violation may be held upon an order of the court until all fines and costs have been satisfied.

(Code 1980, § 14-26; Code 1995, § 22-112)

State law reference—Authority to reduce weight limits, Code of Virginia, § 46.2-1104; penalty for class 2 misdemeanor, Code of Virginia, § 18.2-11.

Sec. 22-126. Weight limits for specific streets.

(a) It shall be unlawful for any person to use or cause to be used any motor trucks with a gross weight in excess of 5,000 pounds, except for the purpose of receiving loads or making deliveries, on Rodney Road, Morrison Road, Dean Road between Coleman Road and Morrison Road, Oakland Avenue, Kenmore Road and Battery Avenue.

(b) It shall be unlawful for any person to use or cause to be used any trucks, pickup or panel trucks, tractor trucks and trailers having a registered gross weight in excess of 7,500 pounds on Miller Road between Seven Hills Boulevard and Darbytown Road, except for the purpose of receiving loads or making deliveries on such portion of Miller Road.

(c) It shall be unlawful for any person to use or cause to be used any trucks, pickup or panel trucks, tractor trucks and trailers having a registered gross weight in excess of 7,500 pounds on Wilkinson Road between U.S. Route 1 and U.S. Route 301, except for the purpose of receiving loads or making deliveries on such portion of Wilkinson Road.

(d) It shall be unlawful for any person to use or cause to be used any trucks, pickup or panel trucks, tractor trucks and trailers, having a registered gross weight in excess of 7,500 pounds, on the following roads, except for the purpose of receiving loads or making deliveries on such portion of these roads:

(1) Hermitage Road between Woodman Road and Oakview Avenue.

(2) St. Charles Road between Parham Road and Ironington Drive.

(3) Franconia Road between Parham Road and Ironington Drive.

(4) Fredonia Road between Parham Road and Ironington Drive.

(5) Colwyck Drive between Laburnum Avenue and Meadowspring Road.
(6) Meadowspring Road between Colwyck Drive and Nine Mile Road (State Route 33).
(7) New York Avenue between Mountain Road and U.S. Route 1.
(8) Robins Road between Williamsburg Road (U.S. Route 60) and Eubank Road.
(9) Raleigh Road between Williamsburg Road (U.S. Route 60) and Eubank Road.
(10) Coxson Road between Williamsburg Road (U.S. Route 60) and Eubank Road.
(11) Derbyshire Road between Gaskins Road and Parham Road.
(12) River Road between Gaskins Road and Parham Road.
(13) Huron Avenue between Springfield Road and West End Drive.
(14) Hanover Road between Mary Street and N. Airport Drive (State Route 156).
(15) Meadow Road between Hanover Road and Dry Bridge Road.
(16) Grapevine Road between Meadow Road and Old Hanover Road.
(17) Old Hanover Road between the west dead end of Old Hanover Road, approximately 1700 feet west of Grapevine Road, and N. Airport Drive (State Route 156).
(18) Probst Street between Allenshaw Drive and Oakleys Lane.
(19) Strath Road between Darbytown Road and New Market Road (State Route 5).
(20) White Oak Road between Elko Road (State Route 156) and Williamsburg Road (State Route 60).
(21) Portugee Road between Elko Road (State Route 156) and Technology Boulevard.
(Code 1980, § 14-27; Code 1995, § 22-113; Ord. No. 941, § 1, 1-22-1997; Ord. No. 969, § 1, 2-25-1998; Ord. No. 1013, § 1, 7-10-2001; Ord. No. 1027, § 1, 5-14-2002; Ord. No. 1124, § 1, 8-12-2008)

State law reference—Authority to establish weight limits, Code of Virginia, § 46.2-1304.

Secs. 22-127—22-150. Reserved.

ARTICLE IV. STOPPING, STANDING AND PARKING

*__Cross reference—__Parking or storage of vehicles used to transport inflammable liquids in residential areas, § 11-16; parking vehicles dripping oil or fuel on asphalt roadway prohibited, § 18-6.

*__State law reference—__Authority to regulate parking, Code of Virginia, §§ 46.2-1220, 46.2-1221.

Sec. 22-151. Penalty.

Unless another penalty is imposed pursuant to section 22-162 or is otherwise provided by law, every person convicted of a violation of any of the provisions of this article shall be guilty of a traffic infraction and punishable as provided in section 22-5.

(Code 1980, § 14-46; Code 1995, § 22-141)

State law reference—Definition and scope of traffic infractions, Code of Virginia, §§ 46.2-100, 46.2-937, 18.2-8.

Sec. 22-152. Designation of limited or prohibited parking areas.

(a) Notwithstanding any other provisions of this chapter, the county manager or his duly authorized representative is hereby authorized, when in his judgment it is in the public interest so to do, to set apart on any of the highways of the county spaces for loading and unloading merchandise, bus stops, taxistands and other places in which no general parking shall be permitted; and he is further authorized to set aside spaces in which parking time shall be further limited; provided that signs shall be posted within or near such spaces

so as to advise the public of such parking prohibitions or regulations. It shall be unlawful for any person to fail to comply with the requirements of such signs. If any such regulation concerns parking on the interstate system or the arterial network of the primary system or any extension thereof of the arterial network, it shall be subject to the approval of the state highway commissioner.

(b) Notwithstanding any other provisions of this chapter, upon request of the governing body of any political subdivision, including, but not limited to, the Capital Region Airport Commission, owning property in the county, the county manager or his duly authorized representative is hereby authorized, when in his judgment it is in the public interest so to do, to set apart areas on any of the streets or roads within such property, regardless of whether such streets or roads are part of the county road system, expressly for loading and unloading merchandise, bus stops, taxistands and any other places in which no general parking shall be permitted; and he is further authorized to designate areas on such properties as the exclusive and only areas within which the designated activity is permitted on the property; and he is further authorized to set aside spaces in which parking time shall be further limited; provided that signs shall be posted within or near such spaces so as to advise the public of such parking prohibitions or regulations. It shall be unlawful for any person to fail to comply with the requirements of such signs.

(Code 1980, § 14-30; Code 1995, § 22-142)

Sec. 22-153. Stopping, standing or parking prohibited in specified places; towing of vehicles.

(a) It shall be unlawful for any person to stop, stand or park a vehicle, except in compliance with the directions of a police officer or traffic control device, in any of the following places:

(1) On a sidewalk.

(2) In front of a public or private driveway.

(3) Within an intersection.

(4) Within 15 feet of a fire hydrant.

(5) In a crosswalk.

(6) Within 20 feet from the intersection of curblines or, if none, then within 15 feet of the intersection of property lines at an intersection of highways.

(7) Within 50 feet of the nearest rail of a railroad grade crossing.

(8) Within 15 feet of the driveway entrance to any fire station or within 15 feet of the entrance to a building housing rescue squad equipment or ambulances, provided that such buildings are plainly designated.

(9) Alongside or opposite any street excavation or obstruction when such parking would obstruct traffic.

(10) On the roadway side of any vehicle parked at the edge of the curb of a roadway.

(11) Upon any bridge or other elevated structure upon a roadway or highway, or within a tunnel.

(12) At any place where official signs prohibit parking.

(b) Police officers may move a vehicle out of a prohibited area or away from a curb or start or cause to be started the motor of any motor vehicle in order to move it when necessary in the performance of their duties.

(c) When any vehicle is stopped, standing or parked on any highway and constitutes a hazard to traffic or is in violation of any of the provisions of this article, it shall be lawful for a police officer to have it removed by towing the vehicle to a licensed garage for storage until called for by the owner or his agent. In the event of such removal and storage, the owner of the vehicle shall be chargeable with and such vehicle may be held for a reasonable charge for its removal and storage.

(d) This section shall not apply to police or fire vehicles temporarily parked due to an emergency.

(Code 1980, § 14-31; Code 1995, § 22-143)

State law reference—Parking in certain places, Code of Virginia, § 46.2-1239.

Sec. 22-154. Parking for certain purposes prohibited.

(a) It shall be unlawful for any commercial motor vehicle dealer to park any automobile, truck, trailer or other vehicle upon or in any highway, alley or publicly maintained parking lot for the purpose of selling or offering the vehicle for sale or rent. No sign or lettering shall be attached to or placed upon any automobile, truck, trailer or other vehicle parked in or upon any highway, alley or publicly maintained parking lot in the county indicating that such vehicle is offered for sale or rent by any commercial motor vehicle dealer, leasing or rental firm.

(b) It shall be unlawful to park any vehicle upon any highway, alley or publicly maintained parking lot in a district where the property contiguous to the abutting curb or edge of the roadway has been zoned for business, commercial or industrial use for the purpose of offering for sale any merchandise to the public or displaying thereupon or therein advertisements for any article.

(Code 1980, § 14-33; Code 1995, § 22-145)

State law reference—Authority to prohibit parking of vehicles for commercial purposes, Code of Virginia, § 46.2-1224.

Sec. 22-155. Parking unlicensed vehicle.

It shall be unlawful to park any vehicle not having a current state license, and a current county license as required by the provisions of article VI of this chapter, on any highway, roadway or public alley in the county.

(Code 1980, § 14-34; Code 1995, § 22-146)

Sec. 22-156. Angle parking.

(a) Notwithstanding any of the provisions of this chapter, the county manager or his duly authorized representative may, when in his discretion the public interest so requires, provide for angle parking on any street or portion thereof, provided that such streets are marked so as to advise the public of the regulation.

(b) Unless the markings required in subsection (a) of this section are installed, it shall be unlawful for any person to park any motor vehicle or other automotive equipment other than parallel to the curb or edge of the roadway.

(c) The provisions of this section shall not apply to motorcycles when parked with the rear wheel next to the curb or edge of roadway in a manner that does not obstruct moving traffic.

(Code 1980, § 14-35; Code 1995, § 22-147)

Sec. 22-157. Parking on private property.

No person shall stand or park a vehicle on any private lot or lot area without the express or implied consent of the owner thereof. Whenever signs or markings have been erected on any lot or lot area contiguous or adjacent to a highway, street or alley stating no vehicles are permitted to stand or park thereon, it shall be unlawful for any person to drive a vehicle across any curb or lot line or over any driveway from a highway, street or alley into such lot or area for the purpose of standing or parking such vehicle, or for any person to stop, stand or park any vehicle in such lot or lot area.

(Code 1980, § 14-36; Code 1995, § 22-148)

Sec. 22-158. Use of loading zones.

Where a loading or unloading zone has been set apart by the county manager or his duly authorized

representative in accordance with applicable provisions of this chapter, the following regulations shall apply with respect to the use of such areas:

(1) No person shall stop, stand or park a vehicle for any purpose or length of time, other than for the expeditious unloading and delivery or pickup and loading of materials, in any place marked as a curb loading zone during hours when the provisions applicable to such zones are in effect. All delivery vehicles, other than regular delivery trucks using such loading zones, shall be identified by the owner's or company's name in letters at least three inches high on both sides of the vehicle.

(2) The driver of a passenger vehicle may stop temporarily in a space marked as a curb loading zone for the purpose of and while actively engaged in loading or unloading passengers or bundles when such stopping does not interfere with any vehicle used for the transportation of materials which is waiting to enter or is about to enter such loading space.

(Code 1980, § 14-42; Code 1995, § 22-149)

Sec. 22-159. Use of bus stops and taxicab stands.

When a bus stop or taxicab stand has been set apart by the county manager or his duly authorized representative in accordance with the applicable provisions of this chapter, no person shall stop, stand or park a vehicle other than a bus in a bus stop, or other than a taxicab in a taxicab stand, when such stop or stand has been officially designated and identified with approved signs; except that the driver of a passenger vehicle may temporarily stop therein for the purpose of and while actively engaged in the expeditious loading or unloading of passengers when such stopping does not interfere with any bus or taxicab waiting to enter or about to enter such zone. No taxicab shall be parked in a taxicab stand and no bus shall be parked in a bus stop without an operator in immediate attendance of the vehicle.

(Code 1980, § 14-43; Code 1995, § 22-150)

Cross reference—Taxicabs, ch. 21.

Sec. 22-160. Parking in alleys.

No person shall park a motor vehicle, trailer or semitrailer in such a manner as to leave available less than ten feet of the width of an alley for the free movement of vehicular traffic. No person shall stop, stand or park a vehicle within a public or private alley in such a position as to block the driveway, garage or any other type entrance to any abutting property where the owner of such abutting property has the right to use such alley as a means of access to and from a highway and cannot physically enter his property due to the parked vehicle.

(Code 1980, § 14-44; Code 1995, § 22-151)

Sec. 22-161. Removal and disposition of vehicles unlawfully parked on private property.

It shall be lawful for any owner, operator or lessee of any parking lot or parking area or space therein or part thereof or any lot or building, publicly owned, to have any motor vehicle or other vehicle occupying such lot, area, space or building or part thereof left unattended for more than ten days without the permission of such owner, operator, lessee or authorized agent of the one having the control of such premises removed, by towing or otherwise, to a licensed garage for storage until called for by the owner of the vehicle or his agent. Notice of such action shall be first or simultaneously given to the state department of motor vehicles and the division of police. In the event of such removal and storage, the owner of the vehicle involved shall be chargeable with and such vehicle may be held for a reasonable charge for its removal and storage. This section shall not apply to police or fire vehicles or where a vehicle shall, because of wreck or

other emergency, be parked or left temporarily upon the property of another.

(Code 1980, § 14-45; Code 1995, § 22-152)

State law reference—Authority to remove unattended, etc., vehicles, Code of Virginia, §§ 46.2-1213, 46.2-1232.

Sec. 22-162. Citations and fines; issuance of summons.

(a) *Issuance of citation.* Whenever any motor vehicle, trailer or semitrailer without a driver is found parked or stopped in violation of any of the restrictions imposed by this article, the sworn officer having police powers finding such vehicle shall record the vehicle registration number and may take any other information displayed on the vehicle which may identify its user. The officer shall conspicuously affix to such vehicle a traffic citation provided by the chief of police and approved by the county manager. The affixing of the citation shall constitute prima facie evidence that the owner or operator received notice of the violation. The citation shall notify such person that he must either pay a fine for the violation in accordance with the schedule contained in subsection (d) of this section, or appear before the county general district court in accordance with the time scheduled by the chief judge of such court. The citation shall further notify such person that the fine may be paid in cash, by money order or check to the county director of finance, in person or by mail, at his office within five calendar days from the date of the violation. The citation shall further notify such person that, if he pays such fine as provided in this section, no further action shall be taken against him for the violation set forth in the citation.

(b) *Notice before issuance of summons.* In response to a citation, if such person does not either pay the applicable fine or contest the citation as provided in this section, then the citation shall be considered delinquent. No summons shall be issued for the prosecution of a delinquent citation until the director of finance shall send to the owner of the motor vehicle, trailer or semitrailer to which the traffic citation was affixed a notification by certified mail to his last known address or to the address shown for such person on the records of the state department of motor vehicles. The notice to the violator shall be contained in an envelope bearing the words "Law Enforcement Notice" at least one-half inch in height on the face thereof. The notice sent by the director of finance to the violator pursuant to this subsection shall inform such violator that he must pay the fine plus penalty, as described in subsection (e) of this section, to the director of finance.

(c) *Issuance of summons.* If the notice is mailed and the fine plus penalty is not paid within ten calendar days from the date of such notice, then the director of finance shall cause a summons to be issued charging a violation of this article. The officer issuing the citation shall be notified by the director of finance that a summons has been issued.

(d) *Amount of fine when paid before notice.* Every person charged with violating a provision of this article shall pay to the director of finance a fine according to the following schedule; provided, however, that payment is received by the director before the notice described in subsection (b) of this section is mailed:

Exceeding the time limit	$20.00
Parking on an angle (parallel prescribed)	20.00
Parking away from the curb	20.00
Parking in a crosswalk area	20.00
Parking in a loading zone	20.00

Parking in a bus zone or cab stand	20.00
Parking within 15 feet of an intersection	20.00
Parking or stopping on the wrong side of the street	10.00
Blocking a driveway	20.00
Parking within 15 feet of a fire hydrant	20.00
Parking within 15 feet of an entrance to a fire station or rescue squad building	20.00
Parking in vicinity of an emergency in such a manner as to interfere	50.00
Creating a traffic hazard	20.00
Double parking	20.00
Parking on a public sidewalk	20.00
Stopping, standing or parking in a prohibited zone	50.00
Parking in a space reserved for the handicapped	100.00
Blocking an alley	20.00
Parking in a prohibited alley	20.00
Blocking a fire lane	50.00

(e) *Payment of fine after notice and before summons.* After a notice is mailed, but before a summons is issued, every person charged with violating a provision of this article shall pay to the director of finance the applicable fine listed in subsection (d) of this section plus a penalty according to the following schedule:

Fine	*Penalty*	*Total*
$10.00	$3.00	$13.00
20.00	6.00	26.00
50.00	15.00	65.00
100.00	30.00	130.00

(f) *Contest of citation.* Every person charged with a violation of any provision of this article may, before the citation is considered delinquent as defined in subsection (b) of this section, elect to contest the charge by filing a written protest with the director of finance. Such protest shall identify the charge by citation number and date of issuance. The protest shall be signed by the person charged and shall request that the citation be certified to the general district court. The director of finance shall certify to the general district court in writing, on an appropriate form, the fact that the citation is contested. In both contested and uncontested cases, the defendant, if found guilty, shall pay court costs in addition to any fine imposed upon him.
(Code 1980, § 14-47; Code 1995, § 22-153; Ord. No. 964, § 1, 10-22-1997)

Sec. 22-163. Presumption as to responsibility for violation.

In any prosecution charging a violation of this article, proof that the vehicle described in the complaint, citation, summons or warrant was parked in violation of this article, together with proof that the defendant was at the time the registered owner of the vehicle, as required by Code of Virginia, title 46.2, ch. 6 (Code of Virginia, § 46.2-600 et seq.), shall constitute in evidence a prima facie presumption that such registered owner of the vehicle was the person who committed such violation.

(Code 1980, § 14-48; Code 1995, § 22-154)

State law reference—Similar provisions, Code of Virginia, § 46.2-1220.

Secs. 22-164—22-194. Reserved.

ARTICLE V. PEDESTRIANS

Sec. 22-195. Distributing handbills, soliciting contributions or selling merchandise or services in highway.

(a) It shall be unlawful for any person while in the highway to:

(1) Distribute handbills, leaflets, bulletins, literature, advertisements or similar material to the drivers of motor vehicles or passengers therein on highways located within the county.

(2) Solicit contributions of any nature from the drivers of motor vehicles or passengers therein on highways located within the county.

(3) Sell or attempt to sell merchandise or services to the drivers of motor vehicles or passengers therein on highways located within the county.

(b) For purposes of this section, the term "highway" means the entire width of a road or street that is improved, designed, or ordinarily used for vehicular travel and the shoulder, the median, and the area between the travel lane and the back of the curb.

(Code 1980, § 14-28; Code 1995, § 22-181; Ord. No. 1123, § 1, 8-12-2008)

State law reference—Authority to enact section, Code of Virginia, § 46.2-931(A).

Sec. 22-196. Obedience to traffic control devices and orders of police officers.

Pedestrians shall obey signs and signals erected on highways or streets for the direction and control of travel and traffic, and they shall obey the orders of police officers engaged in directing travel and traffic on the highways and streets.

(Code 1980, § 14-29; Code 1995, § 22-182)

State law reference—Authority to enact section, Code of Virginia, § 46.2-935.

Secs. 22-197—22-215. Reserved.

ARTICLE VI. VEHICLE LICENSES

***Cross reference—**Taxation, ch. 20; taxicabs, ch. 21.

***State law reference—**State registration and licensing, Code of Virginia, § 46.2-600 et seq.; authority to impose motor vehicle license taxes, Code of Virginia, § 46.2-752 et seq.

Sec. 22-216. Penalty; issuance of summons.

(a) Violations of the requirements of this article shall be punished as a class 4 misdemeanor.

(b) All fines shall be recoverable before the general district court upon a summons issued by sworn employees of the revenue division of the department of finance.

(Code 1980, § 14-65; Code 1995, § 22-211; Ord. No. 1097, § 1, 3-13-2007)

State law reference—Maximum penalty authorized, Code of Virginia, § 46.2-752(K); penalty for class 4 misdemeanor, Code of Virginia, § 18.2-11.

Sec. 22-217. Gross weight defined.

As used in this article, the term "gross weight" means the aggregate weight of a vehicle, or combination of vehicles and its load.

(Code 1980, § 14-49; Code 1995, § 22-212)

Sec. 22-218. Levy of tax; exceptions.

(a) Every motor vehicle, trailer and semitrailer operated on the streets, highways or roads within the county in business or for the private use or benefit of the owner shall be subject to a license tax as provided in this article.

(b) The tax for those vehicles issued a Virginia National Guard license plate by the state, pursuant to Code of Virginia, § 46.2-744, shall be one-half the tax prescribed in this article.

(c) Nothing in this article shall be construed to require the payment of a license tax on farm vehicles as defined in Code of Virginia, title 46.2, ch. 6, art. 6 (Code of Virginia, § 46.2-662 et seq.) and Code of Virginia, § 46.2-698.

(d) Nothing in this article shall be construed to require a license tax of a person exempted under the provisions of Code of Virginia, § 46.2-755.

(Code 1980, § 14-50; Code 1995, § 22-213)

Sec. 22-219. Situs requirements.

The license taxes imposed by this article shall apply to all vehicles normally garaged, stored or parked within the county.

(Code 1980, § 14-51; Code 1995, § 22-214)

Sec. 22-220. Amount of tax for passenger automobiles and motorcycles.

On each automobile weighing 4,000 pounds or less there shall be a tax under this article of $20.00. For each automobile exceeding 4,000 pounds in weight there shall be a tax of $25.00. On each motorcycle there shall be a tax of $15.00.

(Code 1980, § 14-52; Code 1995, § 22-215)

State law reference—Maximum tax Code of Virginia, § 46.2-694.

Sec. 22-221. Amount of tax for vehicles not designed for transportation of passengers.

(a) Every automobile, truck, trailer, semitrailer and auto wagon, not designed and used for the transportation of passengers, operated on the streets, highways and roads within the county shall be licensed, and the license tax therefor shall be determined by the gross weight of the vehicle, or combination of vehicles of which it is a part, when loaded to the maximum capacity for which it is registered. For each 1,000 pounds of gross weight, or major fraction thereof, for which any such vehicle is taxable, there shall be paid to the county for such license a license tax as indicated in the following schedule immediately opposite the weight group into which such vehicle, or any combination of vehicles of which it is a part, falls when loaded to the maximum capacity for which it is taxable under this article; provided that in no case shall the

license tax be less than $20.00, except as provided in this article, or more than $64.00. The tax for a pickup or panel truck shall be $20.00 if the gross weight is 4,000 pounds or less and $25.00 if the gross weight is 4,001 pounds through 6,500 pounds, and the tax shall be $27.00 for a motor vehicle with a gross weight of 6,501 pounds through 10,000 pounds.

Gross Weight Groups (pounds)	*Tax per 1,000 Pounds of Gross Weight*
10,001—11,000	$1.30
11,001—12,000	1.40
12,001—13,000	1.50
13,001—14,000	1.60
14,001—15,000	1.70
15,001—16,000	1.80
16,001—17,000	2.00
17,001—18,000	2.20
18,001—19,000	2.40
19,001 and over	2.60

(b) For all such motor vehicles having a gross weight in excess of 10,000 pounds, an additional tax in the amount of $15.00 shall be imposed.
(Code 1980, § 14-53; Code 1995, § 22-216)

State law reference—Maximum tax Code of Virginia, § 46.2-697.

Sec. 22-222. Amount of tax for combination vehicles.

In case of a combination of a truck, tractor truck and trailer or semitrailer, each vehicle constituting a part of such combination shall be licensed as a separate vehicle but, for the purpose of determining the gross weight group into which any such vehicle falls pursuant to section 22-221, the combination of vehicles of which such vehicle constitutes a part shall be considered a unit and the aggregate gross weight of the entire combination shall determine such gross weight group. The tax for a truck or tractor truck shall be $64.00. The tax to be paid on account of any trailer or semitrailer which constitutes a part of any such combination of vehicles shall be $22.00 on those with a gross weight of 4,001 pounds and over, and $17.00 for those with a gross weight in excess of 1,500 pounds and not over 4,000 pounds, and the tax for all trailers designed to transport boats and all trailers having a gross weight of 1,500 pounds or less shall be $6.50.

(Code 1980, § 14-54; Code 1995, § 22-217; Ord. No. 1097, § 2, 3-13-2007)

State law reference—Maximum tax, Code of Virginia, § 46.2-697.

Sec. 22-223. Amount of tax for vehicles carrying well-drilling machinery.

The county license tax to be paid by the owner of any motor vehicle, trailer or semitrailer, upon which well-drilling machinery is attached and which is permanently used solely for transporting such machinery, shall be $15.00.

(Code 1980, § 14-55; Code 1995, § 22-218; Ord. No. 1097, § 3, 3-13-2007)

State law reference—Maximum tax Code of Virginia, § 46.2-700.

Sec. 22-224. Tax year.

The license tax year for license taxes imposed by this article shall commence on February 16 of each year and shall expire on February 15 of the following year.

(Code 1980, § 14-58.1; Code 1995, § 22-219; Ord. No. 953, § 1, 7-23-1997)

Sec. 22-225. Proration of tax.

(a) Only one-half of the license taxes prescribed by this article shall be assessed and collected whenever any such license tax first becomes assessable during the period beginning on July 1 in any year and ending on December 31 in the same license tax year. No license tax shall be assessed and collected whenever any such license tax first becomes assessable after December 31 in the same license tax year.

(b) Motor vehicles, trailers and semitrailers moving into the county from out-of-state or from a Virginia locality to which no license fee or tax has been paid or from which no license decal purchased shall first become assessable upon moving into the county.

(c) Motor vehicles, trailers and semitrailers moving into the county from a Virginia locality to which a license fee or tax has been paid or from which a license decal purchased shall first become assessable only after the fee, tax or decal expires, as follows:

(1) If the period covered by the license fee or tax paid to or vehicle decal purchased from the other Virginia locality expires during the period February 16 through June 30 of the county license tax year, the license tax shall become assessable on July 1 of that same county license tax year; or

(2) If the period covered by the license fee or tax paid to or vehicle decal purchased from the other Virginia locality expires during the period July 1 through February 15 of the county license tax year, then no license tax shall be assessable for that same license tax year and the license tax shall first become assessable on February 16 of the next county license tax year.

(Code 1980, § 14-56.1; Code 1995, § 22-220; Ord. No. 953, § 1, 7-23-1997; Ord. No. 1022, § 1, 1-22-2002; Ord. No. 1110, § 1, 8-14-2007)

Sec. 22-226. Refund of unused portion of tax on disposal of vehicle.

Every person having a currently licensed motor vehicle who, on or before July 1 of the then current license tax year, disposes of the vehicle and does not purchase another vehicle of same class for tax purposes shall be entitled to a refund of one-half of the license tax paid by him, upon the production of a certificate from the state motor vehicle commission or other proper state officer that the state license plates and registration certificate have been surrendered. Such a refund shall be made by the director of finance from the treasury of the county.

(Code 1980, § 14-57.1; Code 1995, § 22-221; Ord. No. 953, § 1, 7-23-1997; Ord. No. 1022, § 2, 1-22-2002; Ord. No. 1097, § 4, 3-13-2007)

Sec. 22-227. Quarterly licensing.

(a) In lieu of registering and licensing a truck, tractor truck or trailer, not including trailers designed for use as living quarters or trailers with gross weights of 1,500 pounds or less, as provided in sections 22-221 and 22-222, for an entire licensing year, the owner thereof may elect to register and license such vehicle only for one or more quarters of a licensing year, provided the owner obtained state licenses for such vehicle for the same quarterly basis. The tax for quarterly licensing shall be 25 percent of the annual tax plus $1.00 for each quarter that the vehicle is registered and licensed.

(b) All registrations and licenses issued for less than a full year shall expire on the last day of the quarterly period for which licensed. The month of issue will be counted as the first month regardless of the date.

(Code 1980, § 14-59; Code 1995, § 22-222)

Sec. 22-228. Grace period for payment of tax by persons purchasing vehicle.

Purchasers of new or used motor vehicles shall be allowed a ten-day grace period, beginning with the date of purchase, during which to register with the county.

(Code 1995, § 22-223)

State law reference—Similar provisions, Code of Virginia, § 46.2-752(I).

Secs. 22-229—22-251. Reserved.

ARTICLE VII. ABANDONED MOTOR VEHICLES

***State law reference—**Authority to remove and dispose of abandoned vehicles, Code of Virginia, §§ 46.2-1201, 46.2-1217, 46.2-1233.

Sec. 22-252. 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:

Abandoned motor vehicle means a motor vehicle, trailer or semitrailer that:

(1) Is left unattended on public property in violation of a state law or local ordinance, for more than 48 hours;
(2) Has remained for more than 48 hours on private property without the consent of the property's owner, regardless of whether it was brought onto the private property with the consent of the owner or person in control of the private property; or
(3) Is left unattended on the shoulder of a primary highway.

Commissioner means the commissioner of the state department of motor vehicles.

Department means the state department of motor vehicles.

Scrap metal processor means any person who is engaged in the business of processing motor vehicles into scrap for remelting purposes who, from a fixed location, utilizes machinery and equipment for processing and manufacturing ferrous and nonferrous metallic scrap into prepared grades, and whose principal product is metallic scrap.

Vehicle removal certificate means a transferable document issued by the department for any abandoned motor vehicle that authorizes the removal and destruction of the vehicle.

(Code 1980, § 14-66; Code 1995, § 22-251)

Cross reference—Definitions and rules of construction, § 1-2.

State law reference—Similar provisions, Code of Virginia, § 46.2-1200.

Sec. 22-253. Abandoning motor vehicles prohibited; civil penalty.

(a) No person shall cause any motor vehicle to become an abandoned motor vehicle as defined in section 22-252. In any prosecution for a violation of this section, proof that the defendant was, at the time that the

vehicle was found abandoned, the owner of the vehicle shall constitute in evidence a rebuttable presumption that the owner was the person who committed the violation. Such presumption, however, shall not arise if the owner of the vehicle provided notice to the state department of motor vehicles as provided in Code of Virginia, § 46.2-604, as amended, that he had sold or otherwise transferred the ownership of the vehicle.

(b) Any person convicted of a violation of this section shall be subject to a civil penalty of no more than $500.00. If any person fails to pay any such penalty, his privilege to drive a motor vehicle on the highways of the state shall be suspended as provided in Code of Virginia, § 46.2-395, as amended.

(Code 1995, § 22-252)

State law reference—Similar provisions, Code of Virginia, § 46.2-1200.1.

Sec. 22-254. Authority to take vehicles into custody.

The chief of police may cause to be taken into custody any abandoned motor vehicle. In such connection, the county may employ its own personnel, equipment and facilities or hire persons, equipment and facilities or firms or corporations that may be independent contractors for the purpose of removing, preserving, storing and selling at public auction abandoned motor vehicles. For the purposes of this section, the term "public auction" shall include an Internet sale by auction.

(Code 1980, § 14-67; Code 1995, § 22-253; Ord. No. 952, § 1, 7-23-1997)

State law reference—Authority, Code of Virginia, § 46.2-1201.

Sec. 22-255. Responsibility to initiate search for owner and/or lienholder.

(a) Any person in possession of an abandoned motor vehicle shall initiate with the department, in a manner prescribed by the commissioner, a search for the owner and/or lienholder of record of the vehicle, requesting the name and address of the owner of record of the motor vehicle and all persons having security interests in the motor vehicle on record in the office of the department, describing, if ascertainable, the motor vehicle by year, make, model, and vehicle identification number.

(b) The department shall check its own records, the records of a nationally recognized crime database, and records of a nationally recognized motor vehicle title database for owner and lienholder information. If a vehicle has been reported as stolen, the department shall notify the appropriate law-enforcement agency of that fact. If a vehicle has been found to have been titled in another jurisdiction, the department shall notify the applicant of that jurisdiction. In cases of motor vehicles titled in other jurisdictions, the commissioner shall issue certificates of title on proof satisfactory to the commissioner that the persons required to be notified by registered or certified mail have received actual notice fully containing the information required by this section.

(c) If records of the department contain no address for the owner or no address of any person shown by the department's records to have a security interest, or if the identity and addresses of the owner and all persons having security interests cannot be determined with reasonable certainty, the person in possession of the abandoned motor vehicle shall obtain from the department in a manner prescribed by the commissioner, a vehicle removal certificate. The vehicle may be sold or transferred to a licensee or a scrap metal processor.

(d) Whenever a vehicle is shown by the department's records to be owned by a person who has indicated that he is on active military duty or service, the department shall notify the requestor of such information. Any person having an interest in such vehicle under the provisions of this article shall comply with the provisions of the federal Servicemembers Civil Relief Act (50 USC 501 et seq.).

(e) If records of the department contain no address for the owner or no address of any person shown by the department's records to have a security interest, or if the identity and addresses of the owner and all persons having security interests cannot be determined with reasonable certainty, the person in possession of the

abandoned motor vehicle shall obtain from the department in a manner prescribed by the commissioner, a vehicle removal certificate. The vehicle may be sold or transferred to a licensee or a scrap metal processor, as defined in section 22-252.

(Code 1980, § 14-68; Code 1995, § 22-254; Ord. No. 952, § 2, 7-23-1997)

State law reference—Similar provisions, Code of Virginia, § 46.2-1202.

Sec. 22-256. Vehicle removal certificates.

(a) The person in possession of an abandoned motor vehicle shall obtain from the department in a manner prescribed by the commissioner, a vehicle removal certificate. The vehicle may be sold or transferred to a licensee or a scrap metal processor.

(b) If the person in possession of an abandoned motor vehicle desires to obtain title to the vehicle, that person shall post notice for at least 21 days of his intent to auction the motor vehicle. Postings of intent shall be in an electronic manner prescribed by the commissioner who shall also ensure that written notice of intent is provided in public locations throughout the commonwealth. If the department confirms a lien, the person proposing the sale of the motor vehicle shall notify the lienholder of record, by certified mail, at the address on the certificate of title of the time and place of the proposed sale ten days prior thereto.

(c) A purchaser of the motor vehicle may apply for a title upon payment of the applicable fees and taxes, and by supplying the department with the completed vehicle removal certificate and the transcript from the department that indicates that the department has no record of the abandoned motor vehicle.

State law reference—Similar provisions, Code of Virginia, § 46.2-1202.1.

Sec. 22-257. Surrender of certificate of title by demolisher; records to be kept by demolishers.

(a) No demolisher or scrap metal processor who purchases or otherwise acquires a motor vehicle for wrecking, dismantling, or demolition shall be required to obtain a certificate of title for the motor vehicle in his own name. After the motor vehicle has been demolished, processed, or changed so that it physically is no longer a motor vehicle, the demolisher or scrap metal processor shall surrender to the department for cancellation the certificate of title, vehicle removal certificate, properly executed vehicle disposition history, or sales receipt from a foreign jurisdiction for the vehicle.

(b) Demolishers and scrap metal processors shall keep accurate and complete records, in accordance with Code of Virginia, § 46.2-1608, of all motor vehicles purchased or received by them in the course of their business. Demolishers and scrap metal processors shall also collect and verify:

(1) The towing company's name and, if applicable, the license number issued to the towing company by the Virginia Board for Towing and Recovery Operators,

(2) One of the ownership or possession documents set out in this section following verification of its accuracy; and

(3) The driver's license of the person delivering the motor vehicle.

(c) If the delivering vehicle does not possess a license number issued by the Virginia Board for Towing and Recovery Operators, the license plate number of the vehicle that delivered the motor vehicle or scrap shall also be collected and maintained.

(d) In addition, a photocopy or electronic copy of the appropriate ownership document or a vehicle removal certificate presented by the customer shall be maintained. Ownership documents shall consist of either a motor vehicle title or a sales receipt from a foreign jurisdiction or a vehicle disposition history. These records shall be maintained in a permanent ledger in a manner acceptable to the department at the place of business or at another readily accessible and secure location within the commonwealth for at least five years. The personal identifying information contained within these records shall be protected from unauthorized disclosure through the ultimate destruction of the information. Disclosure of personal identifying

information by anyone other than the department is subject to the Driver's Privacy Protection Act (18 USC 2721 et seq.).

(e) If requested by a law enforcement officer, a licensee shall make available, during regular business hours, a report of all the purchases of motor vehicles. Each report shall include the information set out in this article and be available electronically or in an agreed-upon format. Any person who violates any provision of this chapter or who falsifies any of the information required to be maintained by this article shall be guilty of a class 3 misdemeanor for the first offense. Any licensee or scrap metal processor who is found guilty of second or subsequent violations shall be guilty of a class 1 misdemeanor.

(f) If the vehicle identification number has been altered, is missing, or appears to have been otherwise tampered with, the demolisher or scrap metal processor shall take no further action with regard to the vehicle except to safeguard it in its then-existing condition and shall promptly notify the department. In no event shall the motor vehicle be disassembled, demolished, processed, or otherwise modified or removed prior to authorization by the department. If the vehicle is a motorcycle, the demolisher or scrap metal processor shall cause to be noted on the title or salvage certificate, certifying on the face of the document, in addition to the above requirements, the frame number of the motorcycle and motor number, if available.

(Code 1980, § 14-71; Code 1995, § 22-257)

State law reference—Similar provisions, Code of Virginia, § 46.2-1206; penalty for misdemeanors, Code of Virginia, § 18.2-11.

Secs. 22-258—22-283. Reserved.

ARTICLE VIII. BICYCLES, MOTORCYCLES AND MOPEDS

***State law reference—**Authority to regulate bicycles, Code of Virginia, § 15.2-1720; authority to regulate motorcycle and moped noise, Code of Virginia, § 46.2-919.

DIVISION 1. GENERALLY

Sec. 22-284. Disposition of unclaimed bicycles and mopeds.

(a) Any bicycle or moped which has been in the possession of the division of police, unclaimed, for more than 30 days may be sold by the division at public sale or donated to a charitable organization, after compliance with the requirements of this section.

(b) Any bicycle or moped which has been in the possession of the division of police and unclaimed for a period of more than 60 days may be retained for use by the division of police pursuant to the provisions of chapter 15.

(c) Any bicycle or moped found and delivered to the division of police by a private person which thereafter remains unclaimed for 30 days after the final date of publication required by this section may be given to the finder.

(d) The chief of police, or his duly authorized agent, prior to the sale of an unclaimed bicycle or moped, shall cause to be inserted in a newspaper of general circulation in the county, once a week for two successive weeks, notice that there will be a public display and sale of bicycles or mopeds which have been in its possession, unclaimed, for more than 30 days. The notice shall contain the following: a general description of such bicycles or mopeds, the location of the public viewing, and the date, time and place of such sale.

(e) The proceeds from the sale of any bicycle or moped under this section shall, after payment of costs and expenses incurred by the division of police, be credited to the account of the general fund of the county.

(Code 1980, §§ 14-79—14-81; Code 1995, § 22-281; Ord. No. 947, § 1, 5-14-1997)

Cross reference—Unclaimed personal property, § 15-76 et seq.

State law reference—Disposition of unclaimed bicycles, Code of Virginia, § 15.2-1720.

Secs. 22-285—22-301. Reserved.

DIVISION 2. MOTORCYCLES

Sec. 22-302. Operation of unlicensed motorcycle.

(a) *Generally.* It shall be unlawful for any person to operate any motorcycle, as defined in Code of Virginia, § 46.2-100, which does not comply with the registration and licensing requirements of the Code of Virginia, on the public highways of the county, or upon the driveways or premises of a church, school, recreational facility or business property open to the public, unless authorized by the owner of the property or his agent. The owner of any privately owned property desiring enforcement upon his property of this section shall notify the chief of police in writing of his desire, and the owner shall post notices on his property adequate to inform the public that operation of such vehicles upon that property is unlawful.

(b) *Seizure of vehicle.* Where any officer charged with the enforcement of this chapter arrests any person and charges him with a violation of subsection (a) of this section, he shall seize the motorcycle, giving a receipt for the motorcycle, and deliver it to the chief of police or his designee. The vehicle shall be held by the chief of police or his designee until the charge is disposed of by the court having jurisdiction. Seizure shall not be made of any motorcycle operated on private property unless the owner complies with the requirements of subsection (a) of this section. In disposing of the charge, the court shall order the vehicle returned to its owner.

(c) *Holding of vehicle.* When any person has been convicted of a second or subsequent violation of this section, the judge may order such vehicle held by the chief of police for a period not to exceed 90 days.

(d) *Payment of towing and storage charges.* Should it become necessary for any officer charged with the enforcement of this section to utilize a commercial towing service to transport a motorcycle seized in accordance with the provisions of this section to the storage site designated by the chief of police, then upon conviction the owner shall be assessed the costs related to the towing and storage prior to the release of the seized motorcycle.

(e) *Procedure on failure to claim vehicle.* If any person fails to claim any motorcycle seized under the provisions of this section within 15 days of the date specified by the court, the chief of police or his designee shall notify the owner of record and all persons having security interests therein, if known, by registered or certified mail, return receipt requested, that the vehicle has been taken into custody. The notice shall describe the year, make, model and serial number of the seized motorcycle, set forth the location of the facility where the motorcycle is being held, and inform the owner and any persons having security interests of their right to claim the motorcycle within 15 days after the date of the notice, and state that failure of the owner or persons having security interests to exercise their right to reclaim the motorcycle within the time provided shall be deemed a waiver by the owner of all right, title and interest in the motorcycle, and consent to the sale of the motorcycle at a public auction, all in accordance with the provisions of Code of Virginia, § 46.2-1202. The motorcycle shall then be disposed of in accordance with the provisions of Code of Virginia, § 46.2-1203.
(Code 1980, § 14-14; Code 1995, § 22-301)

State law reference—Authority to regulate unlicensed motorcycles, Code of Virginia, § 46.2-916.

Secs. 22-303—22-322. Reserved.

DIVISION 3. MOPEDS

Sec. 22-323. Safety equipment.

(a) *Required equipment.* Every person operating a moped, as defined in Code of Virginia, § 46.2-100, on a public street or highway shall wear a face shield, safety glasses or goggles of a type approved by the superintendent of state police, or have his moped equipped with safety glass or a windshield at all times while operating such vehicle. Operators and passengers thereon, if any, shall wear protective helmets of a type approved by the superintendent.

(b) *Penalty.* Any person who knowingly violates the provisions of this section shall be guilty of a traffic infraction and be subject to a fine of not more than $50.00.

(Code 1980, § 14-2.2; Code 1995, § 22-321)

State law reference—Authority to so provide, Code of Virginia, § 46.2-915.2.

Secs. 22-324—22-349. Reserved.

DIVISION 4. BICYCLES

Sec. 22-350. Riding on sidewalk or crosswalk.

(a) No person shall ride a bicycle on designated sidewalks or crosswalks, including those of any church, school, recreational facility, or any business property open to the public where such activity is prohibited. Signs indicating such prohibition shall be conspicuously posted in general areas where bicycle riding is prohibited.

(b) In locations where the riding of bicycles on sidewalks or crosswalks is not prohibited:

(1) A person riding a bicycle upon and along a sidewalk, or across a roadway upon and along a crosswalk, shall yield the right-of-way to any pedestrian and shall give an audible signal before overtaking and passing such pedestrian.

(2) A person shall not ride a bicycle upon and along a sidewalk, or across a roadway upon and along a sidewalk, where such use of bicycles is prohibited by official traffic control devices.

(3) A person riding a bicycle upon and along a sidewalk, or across a roadway upon and along a crosswalk, shall have all the rights and duties of a pedestrian under the same circumstances.

(Code 1980, § 14-21(b), (c); Code 1995, § 22-341)

Cross reference—Streets, sidewalks and other public property, ch. 18.

State law reference—Riding bicycles on sidewalks, etc., Code of Virginia, § 46.2-904.

Sec. 22-351. Certificate of registration required; display of registration number.

It shall be unlawful for any person to operate or use a bicycle propelled wholly or in part by muscular power upon any of the streets, roads or public highways of the county without first obtaining a certificate of registration from the chief of police and attaching to such bicycle a metallic registration number.

(Code 1980, § 14-73; Code 1995, § 22-342)

Sec. 22-352. Registration plate generally; records of registered bicycles.

The county shall provide metallic registration plates and seals, together with registration cards. The metallic registration plates and registration cards shall be numbered in numerical order, beginning with

number 1, and the design, color and identification lettering thereon shall be approved by the chief of police. It shall be the duty of the chief of police to cause to be attached one of such metallic registration plates to the frame of each bicycle and to issue a corresponding registration card to the owner of such bicycle upon the payment of the registration fee required by section 22-356. Such metallic registration plate shall remain attached to the bicycle for which it was issued during the period such bicycle is operated within the county. The chief of police shall keep a permanent register in which shall be entered the name, address and age of the owner of each registered bicycle, the date of registration and sufficient information to identify such bicycle.

(Code 1980, § 14-74; Code 1995, § 22-343)

Sec. 22-353. Notification of police on transfer of ownership; transfer of registration.

It shall be unlawful for any person to sell or transfer ownership of any bicycle without reporting to the chief of police within 48 hours from the time thereof full and complete information relative to such transfer so that such bicycle may be registered in the name of the transferee. The purchaser or transferee of any such bicycle shall apply for a transfer of registration therefor within five days from the time it is acquired by him.

(Code 1980, § 14-75; Code 1995, § 22-344)

Sec. 22-354. Report of purchases by dealers of secondhand bicycles and parts.

It shall be unlawful for any person engaged in the business of buying secondhand bicycles, or any parts of secondhand bicycles, to fail to report to the chief of police within 48 hours after acquiring any secondhand bicycle, or part thereof. Such report shall include the registration number of such bicycle, a description of each bicycle acquired, and the frame number thereof, together with the name and address of the person from whom it was acquired. In case of the purchase of any parts of bicycles, the report shall describe each part and give the name and address of the person from whom it was acquired.

(Code 1980, § 14-76; Code 1995, § 22-345)

Sec. 22-355. Removal, destruction or alteration of frame number, registration plate or registration card.

It shall be unlawful for any person willfully or maliciously to remove, destroy, mutilate or alter the number of any bicycle frame registered pursuant to this chapter. It shall also be unlawful for any person willfully or maliciously to remove, destroy, mutilate or alter any registration plate or registration card issued pursuant to the provisions of this chapter during the time in which such registration plate or card is operative. It shall also be unlawful for any person to possess a bicycle whose frame number has been removed, destroyed or altered; provided, however, that nothing in this chapter shall prohibit the chief of police from stamping a number on the frame of a bicycle on which no serial number can be found or on which such number is illegible or insufficient for identification purposes.

(Code 1980, § 14-77; Code 1995, § 22-346)

Sec. 22-356. Registration fee; transfer of plates; replacement of plates.

The registration fee to be paid for each bicycle registered shall be $1.00. Upon the sale or other transfer of a licensed bicycle the licensee shall remove the license plate and shall either surrender it to the chief of police or may upon proper application, but without payment of an additional fee, have such plate assigned to another bicycle owned by the applicant. Once a bicycle has been registered in a given name, the registration thereof may be transferred from one owner to another without the payment of an additional fee. The fee required in this section shall cover all charges incident to registration and issuance of registration plates and cards. All fees collected shall be paid into the county treasury. Should the metallic registration number

attached to any bicycle become lost, altered or mutilated, the owner thereof shall apply to the chief of police for another such number, certifying by a writing under oath that the metallic registration number has been so lost, altered or mutilated, and the chief of police shall then issue to such person a metallic registration number identical with that theretofore issued and cause it to be attached to the bicycle upon the payment by such owner of a fee of $1.00.

(Code 1980, § 14-78; Code 1995, § 22-347)

Secs. 22-357—22-385. Reserved.

ARTICLE IX. PARKING PRIVILEGES FOR DISABLED PERSONS

Sec. 22-386. 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:

Commissioner and *department* mean the commissioner of the state department of motor vehicles and the state department of motor vehicles, respectively.

Disabled parking sign means any sign used to identify parking spaces for use by vehicles bearing valid organizational, permanent, or temporary removable windshield placards, disabled parking license plates, or disabled parking license plates issued under Code of Virginia, § 46.2-739. All disabled parking signs shall be erected and maintained in accordance with signage requirements specified in Code of Virginia, § 36-99.11.

Organizational removable windshield placard means a two-sided, hooked placard which includes on each side:

(1) The international symbol of access at least three inches in height, centered on the placard, and shown in white on a green background;
(2) The name of the institution or organization;
(3) An identification number;
(4) An expiration date imprinted on the placard and indicated by a month and year hole-punch system or an alternative system designed by the department;
(5) A misuse hotline number designated by the department;
(6) A warning of the penalties for placard misuse; and
(7) The seal or identifying symbol of the issuing authority.

Permanent removable windshield placard means a two-sided, hooked placard which includes on each side:

(1) The international symbol of access at least three inches in height, centered on the placard, and shown in white on a blue background;
(2) The name, age, and sex of the person to whom issued;
(3) An identification number;
(4) An expiration date imprinted on the placard and indicated by a month and year hole-punch system or an alternative system designed by the department;
(5) A misuse hotline number designated by the department;
(6) A warning of the penalties for placard misuse; and
(7) The seal or other identifying symbol of the issuing authority.

However, the person to whom the placard is issued may cover his name and/or age, as shown on the

placard, with opaque, removable tape, provided that no other data on the placard is covered or obscured by such tape.

Person with a disability that limits or impairs his ability to walk or that creates a concern for his safety while walking means a person who, as determined by a licensed physician, podiatrist, or chiropractor:

(1) Cannot walk 200 feet without stopping to rest;

(2) Cannot walk without the use of or assistance from a brace, cane, crutch, another person, prosthetic device, wheelchair, or other assistive device;

(3) Is restricted by lung disease to such an extent that his force (respiratory) expiratory volume for one second, when measured by spirometry, is less than one liter, or when at rest, his arterial oxygen tension is less than 60 millimeters of mercury on room air;

(4) Uses portable oxygen;

(5) Has a cardiac condition to the extent that his functional limitations are classified in severity as Class III or Class IV according to standards set by the American Heart Association;

(6) Is severely limited in his ability to walk due to an arthritic, neurological, or orthopedic condition;

(7) Has some other debilitating condition that, in the view of a licensed physician, podiatrist, or chiropractor limits or impairs his ability to walk;

(8) Has been diagnosed with a mental or developmental amentia or delay that impairs judgment including, but not limited to, an autism spectrum disorder;

(9) Has been diagnosed with Alzheimer's disease or another form of dementia;

(10) Is legally blind or deaf; or

(11) Has some other condition that, in the view of a licensed physician creates a safety concern while walking because of impaired judgment or other physical, developmental, or mental limitation. For the purposes of this definition, a determination of a disability by a podiatrist or chiropractor shall be limited to those conditions specified in subsections (1), (2), (6) or (7) of this definition.

Any licensed physician, nurse practitioner, physician assistant, podiatrist, or chiropractor who signs a certification that states that an applicant is disabled under subsection (7) of this definition shall specify, in a space provided on the certification form, the medical condition that limits or impairs the applicant's ability to walk. Any licensed physician, licensed nurse practitioner, or licensed physician assistant who signs a certification that states that an applicant is disabled under subsection (11) of this definition shall specify, in a space provided on the certification form, the physical, developmental, or mental condition that creates the safety concern.

Temporary removable windshield placard means a two-sided, hooked placard which includes on each side:

(1) The international symbol of access at least three inches in height, centered on the placard, and shown in white on a red background;

(2) The name, age, and sex of the person to whom issued;

(3) An identification number;

(4) An expiration date imprinted on the placard and indicated by a month and year hole-punch system or an alternative system designed by the department;

(5) A misuse hotline number;

(6) A warning of the penalties for placard misuse; and

(7) The seal or other identifying symbol of the issuing authority.

However, the person to whom the placard is issued may cover his name and/or age, as shown on the placard, with opaque, removable tape, provided that no other data on the placard is covered or obscured by such tape.

(Code 1995, § 22-348; Ord. No. 963, § 2, 10-22-1997)

Cross reference—Definitions and rules of construction, § 1-2.

State law reference—Similar provisions, Code of Virginia, § 46.2-1240.

Sec. 22-387. Parking by those not disabled prohibited.

It shall be unlawful for a vehicle not displaying disabled parking license plates, an organizational removable windshield placard, a permanent removable windshield placard or a temporary removable windshield placard issued under Code of Virginia, § 46.2-1241, or DV disabled parking license plates issued under Code of Virginia, § 46.2-739(B) to be parked in a parking space reserved for persons with disabilities that limit or impair their ability to walk or for a person who is not limited or impaired in his ability to walk to park a vehicle in a parking space so designated except when transporting a person with such a disability in the vehicle.

(Code 1995, § 22-349; Ord. No. 963, § 2, 10-22-1997)

State law reference—Authority to so provide, Code of Virginia, § 46.2-1242(B).

Sec. 22-388. Issuance of summons.

A summons or parking ticket for the violation of section 22-387 may be issued by law enforcement officers and other uniformed personnel employed by the county to enforce parking regulations without the necessity of a warrant being obtained by the owner of any private parking area.

(Code 1995, § 22-350; Ord. No. 963, § 2, 10-22-1997)

State law reference—Authority to so provide, Code of Virginia, § 46.2-1242(B)(2).

Sec. 22-389. Signage requirements.

No violation of section 22-387 shall be dismissed for a property owner's failure to comply strictly with the requirements for disabled parking signs set forth in Virginia Code, § 36-99.11, provided the space is clearly distinguishable as a parking space reserved for persons with disabilities that limit or impair their ability to walk.

(Code 1995, § 22-351; Ord. No. 963, § 2, 10-22-1997)

State law reference—Similar provisions, Code of Virginia, § 46.2-1242(D).

Sec. 22-390. Display of disabled parking placards.

Organizational removable windshield placards, permanent removable windshield placards and temporary removable windshield placards shall be displayed in such a manner that they may be viewed from the front and rear of the vehicle and be hanging from the rearview mirror of a vehicle utilizing a parking space reserved for persons with disabilities that limit or impair their ability to walk. When there is no rearview mirror, the placard shall be displayed on the vehicle's dashboard. No placard shall be displayed from the rearview mirror while a vehicle is in motion.

(Code 1995, § 22-352; Ord. No. 963, § 2, 10-22-1997)

State law reference—Similar provisions, Code of Virginia, § 46.2-1241(E).

Sec. 22-391. Reciprocity.

Disabled parking license plates, permanent removable windshield placards, temporary removable windshield placards and DV disabled parking license plates issued by other states and countries for the purpose of identifying vehicles permitted to use parking spaces reserved for persons with disabilities that limit or impair their ability to walk shall be accorded all rights and privileges accorded vehicles displaying such devices in the state.

(Code 1995, § 22-353; Ord. No. 963, § 2, 10-22-1997)

State law reference—Similar provisions, Code of Virginia, § 46.2-1258.

Sec. 22-392. Towing of unauthorized vehicles.

The owner or duly authorized agent of the owner of a parking space properly designated and clearly marked as reserved for use by persons with disabilities that limit or impair their ability to walk may have any vehicle not displaying disabled parking license plates, organizational removable windshield placards, permanent removable windshield placards, temporary removable windshield placards or DV disabled parking license plates removed from the parking space and stored. The owner of a vehicle which has been removed and stored may regain possession of his vehicle on payment to the person who removed and stored the vehicle all reasonable costs incidental to the removal and storage. The owner of the vehicle, on notice to the owner or duly authorized agent of the owner of the parking space, may also petition the general district court having jurisdiction over the location where the parking occurred for an immediate determination as to whether the removal of the vehicle was lawful. If the court finds that the removal was unlawful, the court shall direct the owner of the parking space to pay the costs incidental to the removal and storage of the vehicle and return the vehicle to its owner.

(Code 1995, § 22-354; Ord. No. 963, § 2, 10-22-1997)

State law reference—Similar provisions, Code of Virginia, § 46.2-1246.

Sec. 22-393. DMV registration to constitute prima facie evidence that registered owner committed violation.

In any prosecution charging a violation of section 22-387, proof that the vehicle described in the complaint, summons, parking ticket, citation or warrant was parked in violation of the ordinance, together with proof that the defendant was at the time the registered owner of the vehicle, as required by Code of Virginia, title 46.2, ch. 6 (Code of Virginia, § 46.2-600 et seq.), as amended, shall constitute prima facie evidence that the registered owner of the vehicle was the person who committed the violation.

(Code 1995, § 22-355; Ord. No. 963, § 2, 10-22-1997)

State law reference—Similar provisions, Code of Virginia, § 46.2-1242(C).

Sec. 22-394. Penalty.

A violation of section 22-387 shall be punishable by a fine of not less than $100.00 nor more than $500.00. However, if there is a placard within a vehicle utilizing a parking space reserved for persons with disabilities, but that placard is not displayed as required by section 22 387, the fine shall be not less than $20.00 nor more than $50.00.

(Code 1995, § 22-356; Ord. No. 963, § 2, 10-22-1997; Ord. No. 1125, § 1, 9-8-2008)

State law reference—Authority to so provide, Code of Virginia, § 46.2-1242(B), (B)(1).

Secs. 22-395—22-416. Reserved.

ARTICLE X. PARADES

***Cross reference—**Authority to regulate assemblages, § 13-19.

Sec. 22-417. Purpose of article.

This article is enacted for the purpose of protecting the public health, safety and welfare of county citizens, ensuring the free and safe passage of pedestrians and vehicles on the streets and highways of the county and encouraging the exercise of the rights to free speech and assembly.

(Code 1995, § 22-361; Ord. No. 1102, § 2, 3-27-2007)

Sec. 22-418. 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:

Parade means any march, procession, motorcade, marathon or race consisting of people, animals or vehicles, or a combination thereof, upon the streets, highways, sidewalks or other public rights-of-way within the county, which has a substantial likelihood of interfering with the normal flow or regulation of pedestrian or vehicular traffic.

Spontaneous event means an unplanned or unannounced coming together of persons, animals or vehicles in a parade that is caused by, or in response to, unforeseen circumstances or events.

(Code 1995, § 22-362; Ord. No. 1102, § 2, 3-27-2007)

Cross reference—Definitions and rules of construction, § 1-2.

Sec. 22-419. Permit required; penalty.

(a) It shall be unlawful to conduct a parade within the county except in accordance with a permit issued by the chief of police and such other regulations in this article which may apply. Violation of this section shall constitute a class 3 misdemeanor.

(b) The provisions of this section shall not apply to:

(1) Spontaneous events;

(2) Funeral processions;

(3) Parades conducted by the United States armed forces, the military forces of the state, or the divisions of fire and police of the county;

(4) Any gathering that is not substantially likely to require closing a street, highway or other public right-of-way within the county.

(Code 1995, § 22-363; Ord. No. 1102, § 2, 3-27-2007)

State law reference—Penalty for class 3 misdemeanor, Code of Virginia, § 18.2-11.

Sec. 22-420. Permit application.

(a) Application for a permit under this article shall be made in writing on forms provided for this purpose

and filed with the chief of police at least 30 days before the date of the parade. Applicants shall provide the following:

(1) The name, address and telephone numbers of the applicant.

(2) The name, address and telephone numbers of any organization sponsoring or organizing the parade, as well as a statement concerning the nature of any such organization.

(3) A statement specifying the nature, type and size of the parade, including: the purpose of the parade; whether pedestrians, vehicles or animals will participate; the types and approximate numbers of vehicles anticipated; and the approximate number of runners, foot units or other groups of persons anticipated.

(4) A statement specifying the proposed parade date and times for formation, starting and ending; parade route; and the locations for formation and disbanding.

(5) A map of the proposed parade route.

(6) If the proposed route traverses or crosses any part of the state's primary highway system, written permission from the resident engineer of the Virginia Department of Transportation must be attached to the application for the application to be deemed complete.

(7) Any other information that the chief of police deems necessary in order to grant a permit in accordance with the provisions of this article.

(b) The chief of police shall have the authority to consider and act upon an application filed less than 30 days before the proposed parade, if in his judgment time and resources permit such consideration in accordance with the provisions of this article.

(Code 1995, § 22-364; Ord. No. 1102, § 2, 3-27-2007)

Sec. 22-421. Issuance or denial of permit.

(a) The chief of police shall issue or deny a permit within 15 days of the filing of an application completed in accordance with section 22-420. Nothing in this article shall permit the chief of police to base his decision on the content of any speech, message or viewpoint to be expressed in the proposed parade. A permit shall be issued if the chief of police determines that:

(1) All applicable provisions of this article have been met, including an agreement to pay the fee specified in section 22-422;

(2) Adequate traffic and crowd control can be provided for the parade to protect the public health, safety and welfare;

(3) The parade will not violate any applicable state laws or regulations; and

(4) The parade will not interfere with a previously scheduled parade or other event.

(b) The chief of police may issue a permit with restrictions or other modifications to the proposed parade as he deems advisable to protect the public health, safety and welfare.

(c) Should a permit be denied, the chief of police shall so notify the applicant and state the grounds for denial within 15 days of the filing of the application.

(Code 1995, § 22-365; Ord. No. 1102, § 2, 3-27-2007)

Sec. 22-422. Fee.

Prior to the issuance of a permit, an applicant shall agree to pay the reasonable cost of providing traffic and crowd control for the parade. The fee shall be based on the uniform schedule of fees maintained by the chief of police, the number of personnel providing services and the duration of the services. Nothing in this article shall permit the chief of police to assess a fee based upon the content of any speech, message or viewpoint to be expressed in the proposed parade.

(Code 1995, § 22-366; Ord. No. 1102, § 2, 3-27-2007)

Sec. 22-423. Revocation.

The chief of police shall have the authority to revoke any permit issued pursuant to this article if any information supplied by the applicant is discovered to be false or intentionally misleading, or if any term, condition or restriction of the permit has been substantially violated.

(Code 1995, § 22-367; Ord. No. 1102, § 2, 3-27-2007)

Chapter 23 - WATER AND SEWER

***Cross reference—**Solid waste, ch. 17; obstruction of roads, ditches or drains prohibited, § 18-3; approval of installation of culvert pipes for walkways, driveways or other purposes required, § 18-4; use of streets for water and sewer systems, § 18-75 et seq.

***State law reference—**State Water Control Law, Code of Virginia, § 62.1-44.2 et seq.; powers of localities concerning public utilities including waterworks, sewerage, and other services, Code of Virginia, § 15.2-2109; regulation by locality of stormwater, Code of Virginia, § 15.2-2114.

ARTICLE I. IN GENERAL

Sec. 23-1. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Act means the Federal Water Pollution Control Act (Clean Water Act), 33 U.S.C. § 1251 et seq., including implementing federal regulations.

Applicant means a person or business or industrial establishment which has requested utility services. An application of a husband or wife is to be considered as an application by both individually and jointly. The applicant is responsible for payment.

Assisted living facility means any congregate residential setting, as defined in Code of Virginia § 63.2-100, that provides or coordinates personal and health care services, 24-hour supervision, and assistance for the maintenance or care of four or more adults who are aged, infirm or disabled and who are cared for in a primarily residential setting.

Authorized representative of industrial user means:

(1) For corporations, a principal executive officer of at least the level of vice-president.
(2) For a partnership or proprietorship, a general partner or proprietor.
(3) An authorized representative of the industrial user who is responsible for discharges into the county's system.

Backup facilities means the components of the county's water and sewer systems which deliver water to or collect wastewater from local areas. The term includes the county's complete water and sewer systems except local facilities. Water system backup facilities include source of supply and treatment facilities, water transmission mains, pumping stations, storage facilities and general plant equipment items. Sewer system backup facilities include interceptor and trunk sewers, pumping stations and force mains, wastewater treatment and disposal facilities and general plant equipment.

Backup service connection means an additional water service connection to ensure continuous water service if the regular water service connection fails. The backup service connection shall be taken out of service when the regular service connection is restored to service.

Best management practices or *BMPs* means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in 9 VAC 25-31-770 and to prevent or reduce the pollution of surface waters. BMPs also include treatment requirements, operating

procedures, and practices to control plant site run-off, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

Biochemical oxygen demand (BOD_5) means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five days at 20 degrees Celsius, expressed in terms of weight and concentration (milligrams per liter).

Categorical standards means national categorical pretreatment standards promulgated by the United States Environmental Protection Agency at 40 C.F.R. § 403.

Chesapeake Bay Preservation Areas means resource protection areas and resource management areas, as defined in section 24-106.3.

Connected but not metered means property served by the county sewer system which does not have water consumption or wastewater discharges measured by a meter approved by the director.

Connection fee means a charge for connecting to a county water or sewer system.

Connector means the person, firm or corporation connecting to the county water or sewer system.

Contract user means any user of the county water or sewer system located outside the county or with service requirements that the director has determined are so unique as to require a contractual agreement for service.

Department means the department of public utilities.

Director means the director of public utilities.

Discharge means any spilling, leaking, pumping, pouring, emitting, emptying or dumping of a substance into the county sewer system.

Dormitory means a building primarily providing sleeping and residential quarters for large numbers of persons such as students. The term shall also include a hostel for tourists and other transients but shall not include motels and hotels.

Elderly person means a person who is at least 62 years old.

Environmental Protection Agency (EPA) means the United States Environmental Protection Agency or, where appropriate, the administrator or other official of the EPA.

Fire service means a connection from the county water main to the property line to supply water to a private fire protection system.

Generator permit means written authorization to an originator of wastes, other than septic, grease trap or portable toilet wastes, that permits a waste hauler to discharge them at the county's wastewater treatment facility.

Handicapped person means a person with a physical or mental impairment that:

(1) Is expected to be of long or indefinite duration;
(2) Substantially impedes the person's ability to live independently; and
(3) Is such that the person's ability to live independently could be improved by more suitable housing

conditions.

Health officer and *health department* mean the county health director or his authorized representative, or the county health department.

Indirect discharge permit means written authorization by the director to discharge septic, grease trap or portable toilet wastes at the county's wastewater treatment facility.

Industrial sewage or wastes means sewage or waste from any facility engaged in the conversion or combining of materials into a new or different material or processing of materials or objects for use or reuse, generally not for sale at retail on the premises of the manufacturing or processing facility.

Install and *repair* mean installation and repair performed in accordance with the specifications and standards established in this chapter.

Interference means inhibition or disruption of POTW processes or operations that contributes to a violation of the county's VPDES permit. The term includes any inhibition or disruption preventing sewage sludge use or disposal in accordance with section 405 of the Act (33 U.S.C. § 1345), or any criteria, guidelines or regulations developed pursuant to the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, or any more stringent state standard, including those contained in any state sludge management plan prepared pursuant to title IV of the Clean Water Act, applicable to the method of disposal or use employed by the county.

Liquid waste means domestic septage, chemical toilet waste, grease and sand trap waste, non-hazardous commercial and industrial (categorical and non-categorical) waste, groundwater remediation site waste, and landfill leachate.

Local facilities means the components of the county's water and sewer systems which deliver water to or collect wastewater from individual users. Included are local water distribution mains and valves, local wastewater collection mains, water service lines, meter setters, meter boxes, wastewater lateral lines to the user's premises, and fire hydrants.

Monitoring manhole means a manhole with an opening at least 24 inches in diameter that is installed on the discharge line from a user in order to facilitate collection of wastewater from only that user.

Multifamily units means two or more single-family units in one structure, including condominiums and townhouses.

Multimeter installations means the installation of two or more meters in the same or adjoining vault and served by a single service connection.

National categorical pretreatment standard and *pretreatment standard* mean any regulation containing pollutant discharge limits promulgated by the EPA in accordance with 33 U.S.C. § 1342 that applies to a specific category of industrial user.

Not connected means not physically connected to the county system after having paid connection fees.

Nursing facility means any facility or any identifiable component of any facility, as defined in Code of Virginia § 32.1-123, licensed by the Virginia Department of Health in which the primary function is the provision, on a continuing basis, of nursing services and health-related services for the treatment and inpatient care of two or more nonrelated individuals.

Off-site extension means an extension to the existing county utility system off of the connector's property and not in a public right-of-way or easement adjacent to connector's property. Pump stations are included in this definition when built to serve others.

On-site extension means an extension to the existing county utility system, in accordance with plans approved by the department, on the connector's property or in a public right-of-way or easement adjacent to the connector's property.

Pass-through means discharge of pollutants through POTWs, as defined in the act.

pH means the logarithm (base 10) of the reciprocal of the concentration of hydrogen ions expressed in grams per liter of solution.

Pollutant means any dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, and any industrial, municipal and agricultural waste intended for or discharged into the sewer system.

POTW means publicly owned treatment works and includes wastewater treatment or reclamation facilities, sewage pumping stations, and sewer mains, laterals and other publicly-owned sewage conveyances.

Premises means the property to which utility services will be, are being or have been supplied.

Pretreatment and *treatment* mean, for wastewater, the elimination or reduction of pollutants or the alteration of pollutant properties to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into a POTW. The reduction or alteration can be obtained by physical, chemical or biological processes or process changes or other means, except as prohibited by 40 C.F.R. § 403.6(d) and state law.

Septage means wastes removed from septic tanks, grease traps, portable toilets and the like.

Service charge means a charge based on the size of the water meter. Where water is not metered, the charge may be a flat rate as determined from special studies. Except for residential units, all water entering the sanitary sewer system must be metered, either as it enters or as it is discharged from the premises.

Service connection means a pipe and meter within a public right-of-way or easement conveying water to a premises or a pipe within a public right-of-way or easement from the building sewer or private sewer system to the collector sewer that conveys wastewater.

Sewer system means pipelines or conduits, pumping stations and force mains and all other components for transporting sewage, industrial wastes or other wastes to a point of ultimate disposal.

Significant industrial user means:

(1) All categorical industrial users; or

(2) Any noncategorical industrial user which:

a. Discharges 25,000 gallons per day or more of process wastewater. The term "process wastewater" excludes sanitary, noncontact cooling, and boiler blowdown wastewaters;

b. Contributes a process waste stream which makes up five percent or more of the average dry weather

hydraulic or organic (BOD_5, total suspended solids, etc.) capacity of the treatment plant; or

c. Has in the opinion of the director a reasonable potential to adversely affect the treatment plant, pass through pollutants, contaminate sludge or endanger treatment plant workers.

Significant violator means any person who fails to correct a violation for 45 days after notification of noncompliance, shows a pattern of noncompliance, fails to accurately report noncompliance, or causes the county to exercise its emergency authority.

Single-family residential unit means a group of rooms including cooking facilities occupied exclusively by one or more persons living as a single housekeeping unit.

Slug discharge means any discharge of a nonroutine, episodic nature, including an accidental spill or a noncustomary batch discharge which has a reasonable potential to cause interference or pass through, or in any other way violate this chapter, local limits or permit conditions.

Special discharge permit means written authorization by the director to discharge other than septic, grease trap or portable toilet wastes at the county's wastewater treatment facility.

Standard industrial classification (SIC) means a classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget (1987) or its successor.

Strong waste means wastewater discharged to the sanitary sewer system that exceeds 275 milligrams per liter of suspended solids or a biochemical oxygen demand of 250 milligrams per liter.

Suspended solids means all solids that either float on the surface or are in suspension in water, sewage, wastewater or other liquids and which are removable by laboratory filtering.

Tenant means an occupant who does not own the premises.

Underground leak means a water leak in pipes that cannot be seen without digging, destroying or removing property on the premises of a user whose system is connected to the county system. Leaks due to faulty installation of private systems, even if underground, and leaks due to mechanical failure or malfunction are specifically excluded from this definition.

User means a person, business or industrial establishment which benefits from the use of utility services, or an applicant.

Virginia Pollution Discharge Elimination System permit (VPDES permit) means a permit issued by the Virginia Department of Environmental Quality pursuant to section 402 of the act (33 U.S.C. § 1342).

Volume charge means a charge in proportion to volume of water used or sewage contributed.

Wastewater means the liquid and water-carried industrial or domestic waste from dwellings, commercial buildings, industrial facilities and institutions, together with any groundwater, surface water and stormwater that may be present, whether treated or untreated, which is contributed into or permitted to enter the POTW.

(Code 1980, § 21-1; Code 1995, § 23-1; Ord. No. 1130, § 1, 12-9-2008; Ord. No. 1131, § 1, 12-9-2008)

Cross reference—Definitions and rules of construction, § 1-2.

Sec. 23-2. Management and records of water and sewer system.

The director shall be responsible for the construction, operation and maintenance of the water and sewer systems of the county. The director shall maintain the records and plans of the water and sewer systems, including the location of all service connections, pipes and equipment.

(Code 1980, §§ 21-6, 21-7, 21-39, 21-40; Code 1995, § 23-3)

Sec. 23-3. Right of entry by county.

Every person occupying premises to which water and sewer service is provided shall permit county employees to enter the premises at reasonable times to examine the service lines, meters or other equipment and to take up, repair or remove them so as to determine compliance with this Code or other county regulations. Examinations shall comply with all constitutional requirements.

(Code 1980, § 21-41; Code 1995, § 23-4)

Sec. 23-4. Extensions to existing lines.

No extensions shall be made to existing water or sewer mains without the director's written approval. Applicants for approval shall submit at least four copies of plans and specifications prepared by a registered engineer licensed to do business in the state. In the case of subdivisions, site plans and plans of development, the plans may also be prepared by a licensed land surveyor.

(Code 1980, §§ 21-12, 21-45; Code 1995, § 23-5)

Sec. 23-5. Approval of development not using public water and sewer.

(a) For any development which will not use public water and sewer, the health department must inspect the property and approve the water supply and sewage disposal plans before the building official may issue a building permit. The health department shall note any restrictions on its approval.
(b) It shall be unlawful to start any development designed for human use without the health department's approval of the plans for water supply and sewage disposal unless public water and sewer are to be provided.
(Code 1980, § 21-73; Code 1995, § 23-6)

Secs. 23-6—23-28. Reserved.

ARTICLE II. SANITARY SEWAGE DISPOSAL

***Cross reference—**Sewage disposal in parks, § 14-40; sanitary sewer system in subdivisions, § 19-165.

***State law reference—**Localities authorized to establish sewage disposal systems, Code of Virginia, § 15.2-2122 et seq.; sanitary sewers, Code of Virginia, § 32.1-163 et seq.; regulations concerning water, sewer and other facilities in subdivisions, Code of Virginia, § 15.2-2121.

DIVISION 1. GENERALLY

Sec. 23-29. Discharging sewage onto land or into water body.

It shall be unlawful to discharge untreated sewage or septage onto the land or into the waters of the state.

(Code 1980, § 21-77; Code 1995, § 23-31)

State law reference—Prohibition of discharges, Code of Virginia, § 62.1-44.5.

Sec. 23-30. Sewage disposal required.

It shall be unlawful for the owner of any house, warehouse, building or other structure where human beings congregate or are employed to use or occupy or to rent or lease the property for use or occupancy until the property is supplied with an approved method of disposal of human excrement that complies with state law and this chapter.

(Code 1980, § 21-3; Code 1995, § 23-32)

Sec. 23-31. Approved methods of sewage disposal.

For the purpose of this chapter, an approved method of disposal of human excrement shall be deemed to be:

(1) A properly installed and properly functioning flush toilet connected to one of the following:
a. An approved public or privately owned sewage disposal system; or
b. An approved properly installed septic tank system.
(2) A standard pit privy constructed in accordance with specifications established by the state department of health pamphlet entitled The Standard Pit Privy, dated 1973.
(Code 1980, § 21-4; Code 1995, § 23-33)

Sec. 23-32. Location and construction of sewage disposal system.

Any approved method of disposal of human excrement shall be located and constructed so that it will not endanger a source of drinking water or be accessible to flies, other insects or animals.

(Code 1980, § 21-5; Code 1995, § 23-34)

Sec. 23-33. Maintenance of sewage disposal system; pump-out requirement.

It shall be unlawful for any owner, tenant or lessee of premises supplied with a sanitary privy, flush toilet or other approved device for the disposal of human excrement to allow it or cause it to be unsanitary. In addition, owners of all private sewage disposal systems and septic tank systems in the Chesapeake Bay Preservation Areas (as defined in section 24-3) shall, at least once every five years, either pump out their septic tanks and submit documentation thereof or submit documentation, certified by an operator or on-site soil evaluator licensed or certified under chapter 23 of Title 54.1 of the Code of Virginia as being qualified to operate, maintain, or design on-site sewage systems, that the septic system has been inspected within the last five years, is functioning properly, and the tank does not need to have the effluent pumped out of it. All documentation shall be submitted to the director of public works.

(Code 1980, § 21-72; Code 1995, § 23-35; Ord. No. 968, § 1, 2-25-1998)

Sec. 23-34. Connection to sewer.

If a public or private sewer is within 300 feet of the building for which a septic tank or privy is to be installed, the owner shall connect to the sewer if the owner of the sewer consents. If a public or private sewer is within 300 feet of the building for which a septic tank or privy is to be repaired, the owner shall connect to the sewer if the sewer owner consents and if the health officer determines that correction of an unsanitary condition due to a malfunctioning sewage disposal device would necessitate major repairs.

(Code 1980, § 21-70; Code 1995, § 23-36)

State law reference—Water and sewer connections, exceptions, Code of Virginia, § 15.2-5137.

Secs. 23-35—23-56. Reserved.

DIVISION 2. PRIVATE SEWAGE DISPOSAL SYSTEMS

***State law reference—**Septic tank permit, Code of Virginia, § 32.1-164.

Sec. 23-57. Approval of plans.

Before construction is begun on any privately owned sewage disposal system or standard pit privy, plans shall be approved by the health director and, if required, by the state health department and the state water control board.

(Code 1980, § 21-2; Code 1995, § 23-61)

Sec. 23-58. Septic tank permit.

(a) *Required; application.* It shall be unlawful to install or repair, have installed or repaired, allow to be installed or repaired, or contract to install or repair a septic tank system without first obtaining a septic tank permit from the health department. The applicant shall provide the legal description, location and dimensions of the land on which the septic tank, distribution box and drain tile are to be installed, the proposed and existing structures and driveways, all underground utilities, the adjacent soil absorption systems, the bodies of water, drainageways, and wells and springs within 200 feet of the proposed building site, and the plans and specifications of the proposed septic tank system. The application shall also show the location of Chesapeake Bay Preservation Areas and the reserve drainfield required by section 23-60.

(b) *Determination by health officer.* Upon receipt of a permit application and a fee of $50.00, the health officer shall determine whether the land is suitable for installation and use of a septic tank system. The health officer shall follow the sewage handling and disposal regulations of the state board of health. In addition, the health officer shall ensure that septic systems are not located within ten feet of any wetlands, resource protection areas as defined in section 24-106.3, reserve drainfields required by section 23-64 or buffers required by zoning proffers or section 24-106.2.

(c) *Issuance.* Upon approval of the application, the health officer shall issue a permit for the installation or repair of the septic tank system in accordance with the plans and specifications. If the plans are not approved but the size and topography of the land and the type of soil are suitable for a septic tank system, the health officer shall set out proper plans and issue the permit for such plans.

(Code 1980, § 21-74; Code 1995, § 23-62)

Sec. 23-59. Installation and location.

(a) *Size of excavation; removal of obstructions.* All excavations and trenches for a private sewage disposal system shall be of sufficient size to permit installation of sewers, tanks and other structures and to permit removal of any obstructing material within the purification field or trees located closer than ten feet to any part of the septic tank system. Where it is necessary to remove any trees, removal must be done prior to installation and final approval of the septic tank system.

(b) *Removal of trees.* If trees interfere with the proper functioning of a septic tank system, the owner must remove them or take other corrective actions. Correction shall be made according to health department directions, which may require that any or all trees within ten feet of any part of the septic tank system be removed. Where it is necessary to remove any trees, removal must be done prior to installation and final

approval of the septic tank system.

(c) *Criteria for installation and location.* Location and installation of the sewage disposal system shall ensure that it will function in a sanitary manner with reasonable maintenance and will not create a nuisance or endanger the safety of any domestic water supply. In determining a suitable location for the system, consideration shall be given to the nature of the soil, the size and shape of the lot, the slope of the natural and finished grade, the depth of the groundwater table, proximity to existing or future water supplies, proximity to Chesapeake Bay Preservation Areas, and possibilities for expansion of the system.

(d) *Location in relation to domestic water supplies.* No part of the system shall be located less than 50 feet from any water supply or where surface drainage from the system may reach any domestic water supply.

(e) *Minimum lot area.* The lot size shall be sufficient to permit proper location, installation and operation of the system and a replacement system. Any new lot with both a well and septic system shall not be less than one acre in area and 150 feet in lot width. The health officer shall verify that any lot not served by either public water or sewer meets the minimum requirements for lot area and width in accordance with the provisions of chapter 24.

(f) *Modification of requirements.* The health officer may modify the requirements of this section if he finds that modification will not adversely affect any other requirements of this chapter concerning water supply and disposal of sanitary wastes.

(Code 1980, § 21-75; Code 1995, § 23-63)

Sec. 23-60. Reserve drainfield.

A reserve sewage disposal site with a capacity equal to or greater than the primary drainfield must be provided wholly on each lot or acre for new construction. This reserve sewage disposal site requirement shall not apply to any lot or parcel recorded prior to October 1, 1989, if the health department determines the lot or parcel is not sufficient in capacity to accommodate a reserve sewage disposal area. Building shall be prohibited on the area of all primary and reserve sewage disposal sites until the structure is served by public sewer or an on-site sewage treatment system which operates under a permit issued by the state water control board.

(Code 1980, § 21-76; Code 1995, § 23-64; Ord. No. 1059, § 1, 11-12-2003)

Secs. 23-61—23-78. Reserved.

DIVISION 3. – LIQUID WASTE HAULING AND DISPOSAL

Sec. 23-79. Approval of equipment.

No person shall engage in the business of hauling sewage, septage or other liquid industrial or commercial wastes in the county unless the person has provided the director with copies of all required equipment inspection permits issued by the health department, the United States Department of Transportation, or other agency.

(Code 1980, § 21-78; Code 1995, § 23-81)

Sec. 23-80. Display of identification on equipment.

The name and address of the person owning and operating septage hauling equipment shall be displayed on the vehicle in letters at least four inches high prior to inspection and operation of the vehicle.

(Code 1980, § 21-79; Code 1995, § 23-82)

Sec. 23-81. Records of liquid waste haulers.

(a) Every waste hauler discharging in the county shall maintain a manifest containing the following information on each load:

(1) The name and address of the customer.

(2) The address of the load's origin.

(3) The nature and volume of the waste.

(4) The kind of facility serviced, e.g., grease trap, septic tank, etc.

(5) The date of the servicing.

(6) The location of the discharge.

(b) A copy of the manifest must be presented to the department at the time of discharge.

(Code 1980, § 21-80; Code 1995, § 23-83)

Sec. 23-82. Disposal of wastewater.

(a) *Generally.*

(1) *Location for discharge of waste.* It shall be unlawful to dispose of any truck-hauled wastewater removed from septic tanks, grease traps and portable toilets or wastes from any other source anywhere in the county except by depositing it at the wastewater treatment facility, 2601 Kingsland Road.

(2) *Discharge permit required; issuance; renewal.* Disposal of such wastes shall require an indirect discharge permit or special discharge permit issued by the director. The indirect discharge permit or special discharge permit shall be issued for a period of one year and shall be renewed only upon written request 30 days prior to expiration of the permit. The permit shall specify the conditions under which a discharge may be made to the sewer system.

(3) *Maintenance of sanitary conditions.* The waste material shall be carefully deposited. The surface of the ground or area surrounding the receptacles into which the deposit is made shall be maintained in a sanitary condition. Any spillage of material on the surface of the ground shall be promptly and completely removed by the discharger.

(b) *Types of discharge permits.* An indirect discharge permit is required for persons engaged in the business of discharging truck-hauled septic tank, grease trap or portable toilet wastes into the wastewater treatment facility. A special discharge permit is required by persons engaged in the business of discharging truck hauled wastes other than septic tank, grease trap or portable toilet wastes into the wastewater treatment facility.

(c) *Use of wastewater facility.* Disposal into the wastewater facility shall be in accordance with the following provisions:

(1) No material shall be deposited into the sewer system in conflict with other provisions of this Code.

(2) No material shall be deposited into the sewer system at any location except at the wastewater treatment facility.

(3) Any person disposing of septic tank or grease trap wastes, portable toilet wastes or other approved wastes shall be liable for a volume charge of $0.05 per gallon.

(4) Any person disposing of wastes other than septic tank, grease trap or portable toilet wastes may be subject to an additional charge based upon the strength and volume of the waste.

(5) No material in excess of the local effluent limits set forth in section 23-117 shall be deposited in the sewer system.

(d) *Authority to establish additional rules and regulations.* The director may establish rules and regulations to ensure compliance with the provisions of this chapter.

(e) *Generator permit.* Any person generating a liquid waste other than septic tank, grease trap or portable

toilet wastes is required to obtain a generator permit issued by the director to dispose of the waste at the wastewater treatment facility. A separate generator permit must be secured for each separate discharge unless wastewater is routinely produced and is of a quantity and quality allowed by the permit.

(f) *Violations.* Discharge of truck-hauled waste without a permit or in violation of a permit shall be punishable as provided in section 1-13.

(Code 1980, § 21-81; Code 1995, § 23-84)

Sec. 23-83. Insertion of hoses into manhole, sewer or water body.

No hose from a truck-hauled waste vehicle may be inserted into any county manhole or sewer, nor may it be inserted into any water of the state.

(Code 1980, § 21-82; Code 1995, § 23-85)

Secs. 23-84—23-109. Reserved.

DIVISION 4. COUNTY SEWER SYSTEM

Sec. 23-110. Service to be provided to property line.

Upon the director's approval, sewer service will be provided from the existing main in the street, alley or easement to the property line of an applicant.

(Code 1980, § 21-44; Code 1995, § 23-101)

Sec. 23-111. Damaging system.

It shall be unlawful for any person to deface, injure or destroy any structure, pipe or other fixture connected with the sewer system. Violators shall be subject to criminal charges and the cost of repair or replacement.

(Code 1980, § 21-42; Code 1995, § 23-102)

Sec. 23-112. Claims for damages caused by sewer backups.

Owners may submit a written claim for damages caused by a backup of a county sewer to the director. Claims must state the basis and amount of the claim and include copies of invoices or estimates for repair or replacement. The claim may be paid if the county caused the damages by negligent maintenance or operation, faulty construction, or overloading of the sewer line.

(Code 1980, § 21-42.1; Code 1995, § 23-103)

Sec. 23-113. Removal of manhole covers.

It is unlawful for any person to remove a manhole cover without the permission of the director or his designee.

(Code 1980, § 21-43.1; Code 1995, § 23-104)

Sec. 23-114. Monitoring facilities.

(a) A monitoring manhole shall be provided for all new construction and for all renovations or modifications of existing facilities if the new, renovated or modified facility will have discharges which are or may be

nondomestic in nature.

(b) The director may require a monitoring manhole in other cases where the director deems it to be necessary. The facility shall install the manhole at its own expense to meet the director's requirements.

(c) The monitoring manhole shall have an opening at least 24 inches in diameter to allow inspection, sampling and flow measurement from the building and its internal drainage systems. The monitoring manhole shall be located on the premises, except when the director determines such location would be impractical or would cause undue hardship, in which case the director may allow the manhole to be constructed on county property or in county easements.

(d) The monitoring manhole shall be constructed to provide ample room for accurate sampling and preparation of samples for analysis. The facility must maintain the manhole in a safe, accessible and proper operating condition at all times.

(Code 1980, § 21-43.3; Code 1995, § 23-106)

Sec. 23-115. Removal of plug from service line.

It shall be unlawful for any person to remove any plug from the sanitary sewer service line for any purpose other than to make the house connection. Such person shall pump dry the trench in which the house sewer is laid and remove the plug in such a way as to prevent the entry of any groundwater, surface water, trench water, silt or any combination thereof into the sewer system.

(Code 1980, § 21-43(k); Code 1995, § 23-107)

Sec. 23-116. Prohibited wastes.

It shall be unlawful to discharge or place, or to cause to be discharged or placed, or to permit the discharge or placing of, any of the following materials in the county's sewer system:

(1) Any liquid or vapor with a temperature higher than 150 degrees Fahrenheit or any discharge that causes the temperature of the influent at the wastewater treatment plant providing treatment to exceed 104 degrees Fahrenheit;

(2) Any flammable or explosive liquid, solid or gas;

(3) Any raw garbage except from residential garbage grinders, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, paunch manure, or any other materials that cause obstruction of sewer flow or interference with system operation;

(4) Any wastewater having a corrosive property that is likely to cause damage or injury to the system's structures, equipment or personnel;

(5) Any wastewater containing a substance that is likely to injure or interfere with any wastewater treatment process or which after treatment is likely to constitute or create a hazard to life or the environment;

(6) Any wastewater containing substances not susceptible to treatment by the wastewater treatment plant providing treatment;

(7) Any wastewater containing a pollutant that passes through as defined in section 23-1;

(8) Any wastewater containing a substance that would render the operation of the treatment system or plant through which it passes unlawful;

(9) Any noxious or malodorous gas or substance that creates a public nuisance;

(10) Any stormwater, surface water or subsurface water;

(11) Any gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates carbides, hydrides, sulfides, radioactive waste, steam condensate, and any other substance which the director, the state or the EPA has notified the user is a fire

hazard to the system;

(12) Solid or viscous substances which may cause flow obstructions or interference with the operation of wastewater treatment facilities;

(13) Any wastewater containing toxic pollutants which singularly or by interaction with other substances injure or interfere with any wastewater treatment process, constitute a hazard to humans or the environment, create a toxic effect in the receiving waters, or exceed the limitations set forth in a categorical pretreatment standard;

(14) Any wastewater with a color objectionable to the director which is not removed in the treatment process;

(15) Any pollutants, including oxygen-demanding pollutants (BOD_5, etc.) released at a flow rate or concentration which will cause interference with proper operation of the system;

(16) Any wastewater that causes a hazard to human life or that constitutes a public nuisance; or

(17) Any other material that the director deems to be inconsistent with the best management and operation of the POTW.

(Code 1980, § 21-43; Code 1995, § 23-108; Ord. No. 956, § 2, 8-13-1997)

Sec. 23-117. Restricted wastes.

(a) Unless permitted by a wastewater discharge permit or other document created pursuant to divisions 3, 4, or 5 of article II of this chapter, no user shall discharge wastewater to the POTW containing any of the following listed pollutants or characteristics in excess of the provided level or concentration:

Regulated Pollutant or Characteristic	*Maximum Daily Discharge**
Arsenic	4.9 mg/L
Cadmium	0.23 mg/L
Chromium	2.75 mg/L
Copper	1.16 mg/L
Cyanide	1.86 mg/L
Lead	0.44 mg/L
Mercury	0.0031 mg/L
Nickel	1.31 mg/L
Selenium	2.85 mg/L
Silver	1.58 mg/L
Zinc	4.27 mg/L
Oil and grease (petroleum-based)	100 mg/L
Oil and grease (animal- or vegetable-based)	300 mg/L
Total toxic organic compounds (TTO)	2.13 mg/L
pH	5—11 s.u.
Flashpoint less than 140 degrees F	

*All measurements shall be made in accordance with 40 CFR 136.

All concentrations for metallic substances are for total metal.

(b) The above limits apply at the point where the wastewater is discharged to the POTW. The director shall develop industrial user-specific local limits for appropriate pollutants of concern in accordance with state and federal Local Limits Guidance Criteria, and the director shall include the applicable limits in individual significant industrial user wastewater discharge permits.

(Code 1980, §§ 21-43.4, 21-64; Code 1995, § 23-109; Ord. No. 956, § 2, 8-13-1997; Ord. No. 1131, § 2, 12-9-2008)

Secs. 23-118—23-147. Reserved.

DIVISION 5. INDUSTRIAL PRETREATMENT

Sec. 23-148. State pretreatment standards.

Users must comply with all state pretreatment standards, as set out at 9 VAC § 25-31-730 through 9 VAC § 25-31-900, as they may be amended.

(Ord. No. 1131, § 3(23-127), 12-9-2008)

Sec. 23-149. Dilution.

No user shall attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with a discharge limit unless expressly authorized by an applicable pretreatment standard or permit requirement.

(Ord. No. 1131, § 4(23-128), 12-9-2008)

Sec. 23-150. Violations.

(a) Users shall orally notify the director of any violation of a permit or of divisions 3, 4, and 5 of article II of this chapter within 24 hours after becoming aware of the violation. Within five days after the date of the violation, the user shall submit to the director a detailed written statement describing the cause of the violation and the measures that the user is taking to prevent future violations. The director may require a user to correct a violation by taking measures to prevent the discharge of prohibited materials or other wastes that are regulated by Section 23-116 and Section 23-117. Users shall correct all violations promptly and shall take reasonable actions to prevent damage to the POTW or the public from the violation.

(b) The director shall annually publish a list of significant industrial users who have been in significant noncompliance during the previous 12 months. This list shall be published in the largest daily newspaper of general circulation in the county. A significant industrial user is in significant noncompliance if one or more of the following criteria apply:

(1) Sixty-six percent or more of wastewater measurements taken during a six- month period exceed the daily maximum limit for the same pollutant parameter ("chronic violations of wastewater discharge limits");

(2) Thirty-three percent or more of wastewater measurements taken for each pollutant parameter during a six-month period equal or exceed the product of the daily maximum limit multiplied by the applicable criteria (1.4 for BOD, total suspended solids, fats, oils, and grease, and 1.2 for all other pollutants, except pH) ("technical review criteria violations");

(3) Any other discharge violation that the director believes has caused, alone or in combination with other discharges, interference or pass through, or endangered the health of county personnel or the public;

(4) Any discharge of pollutants that has caused imminent danger to the environment or has required the director to exercise his emergency authority to halt or prevent such a discharge;

(5) Failure to meet a compliance schedule requirement contained in a wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance, within ninety (90) days of the scheduled date;

(6) Failure to provide any required reports, including baseline monitoring reports, reports on compliance with categorical pretreatment standard deadlines, periodic self-monitoring reports, and reports on compliance with compliance schedules, within forty-five (45) days after the due date;

(7) Failure to accurately report noncompliance; or

(8) Any other violation, which may include a violation of Best Management Practices, which the director determines will adversely affect the operation or implementation of the local pretreatment program.

(Ord. No. 1131, § 5(23-129), 12-9-2008)

Sec. 23-151. Administrative enforcement remedies.

(a) *Notice of violation.* When the director finds that a user has violated, or continues to violate, any provision of divisions 3, 4, or 5 of article II of this chapter, a wastewater discharge permit, an order issued hereunder, or any other pretreatment standard or requirement, the director may serve upon that user a written notice of violation.

(b) *Submission of plan.* Within five days of the receipt of such notice, the user shall provide the director a written explanation of the violation and a plan for the satisfactory correction and prevention of future violations, including specific required actions. Submission of a plan shall not relieve the user of liability for any violations occurring before or after receipt of the notice of violation. Nothing in this section shall limit the authority of the director to take any action, including emergency actions or any other enforcement action, without first issuing a notice of violation.

(c) *Show cause hearing.* The director may order a user who has violated, or continues to violate, any provision of divisions 3, 4, or 5 of article II this chapter, a wastewater discharge permit, an order issued hereunder, or any other pretreatment standard or requirement, to appear before the director and show cause why a proposed enforcement action should not be taken. Notice shall be served on the user specifying the time and place of the hearing, the proposed enforcement action, the reasons for such action, and a request that the user show cause why the proposed enforcement action should not be taken. If a civil penalty is proposed, the notice shall also include the facts and legal requirements related to the alleged violation and the amount of the proposed penalty. The notice of the hearing shall be served personally or by registered or certified mail (return receipt requested) on any authorized representative of the user at least thirty (30) days prior to the hearing date. At the hearing, the user may present evidence including witnesses regarding the occurrence of the alleged violation and the amount of the penalty, and the user may examine any witnesses for the locality. A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the user.

(d) *Consent orders.* The director may enter into a consent order, an agreement with assurances of voluntary compliance, or a similar document with any noncompliant user. Such document shall state specific action the user must take to correct the noncompliance within a specified time period. Such documents shall have the same force and effect as administrative orders issued pursuant to section 23-151(e) and shall be judicially enforceable.

(e) *Compliance orders.* When the director finds that a user has violated, or continues to violate, any provision of divisions 3, 4, or 5 of article II of this chapter, a wastewater discharge permit, an order issued hereunder, or any other pretreatment standard or requirement, the director may issue an order to the user responsible for the discharge directing that the user become compliant within a specified time. If the user does not become compliant within the time provided, the director may discontinue sewer service until the user installs and properly operates adequate treatment facilities, devices, or other related appurtenances. Compliance

orders also may contain other requirements to resolve the noncompliance, including additional self-monitoring and management actions designed to minimize the amount of pollutants discharged to the POTW. A compliance order may not extend the deadline for compliance established for a pretreatment standard or requirement, and a compliance order shall not relieve the user of liability for any violation, including a continuing violation. Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking any other action against the user.

(f) *Right to review*. Any order issued by the director shall inform the user of his right under Code of Virginia § 15.2-2122(10)(c) to seek reconsideration by the director and of the user's right to judicial review of any final order by appeal to the circuit court on the record of the proceedings before the director.

(g) *Emergency suspensions.* After informal notice to the user, the director may immediately suspend a user's right to discharge whenever suspension is necessary to stop an actual or threatened discharge which appears, in the director's reasonable judgment, to present an imminent or substantial danger to the health or welfare of the public. After notice and opportunity to respond, the director may also suspend a user's right to discharge if the discharge threatens to interfere with the operation of the POTW or presents, or may present, a danger to the environment.

(1) Any user notified of a suspension of its right to discharge shall immediately stop or eliminate its discharge to the POTW. If a user fails to immediately comply voluntarily with the suspension order, the director may take any steps he deems necessary to prevent or minimize damage to the POTW, its receiving stream, or danger to any person, including immediate severance of the sewer connection. Unless termination proceedings pursuant to section 23-151(i) are initiated, or have been initiated, against the user, the director may allow the user to recommence its discharge when the user has demonstrated, to the satisfaction of the director, that the period of endangerment has passed.

(2) Prior to the date of any show cause or termination hearing under section 23-151(c) or (i), a user that is responsible, in whole or in part, for any discharge presenting imminent danger to the public, the environment or to the operation of the POTW shall submit to the director a detailed written statement describing the causes of the harmful discharge and the measures taken to prevent any future occurrence. This section does not require a hearing prior to any emergency suspension.

(h) *Termination of right to discharge.* A user's right to discharge may be terminated if any of the following occur:

(1) User's violations of wastewater discharge permit conditions;

(2) User's failure to accurately report the wastewater constituents and characteristics of its discharge;

(3) User's failure to report significant changes in operations or wastewater volume, constituents, and characteristics prior to discharge;

(4) User's refusal of reasonable access to its premises for inspection, monitoring, or sampling; or

(5) User's violation of any pretreatment standard or requirement.

(i) The director shall notify the user of the proposed termination of its right to discharge and offer an opportunity to show why its right to discharge should not be terminated. Exercise of this option by the director shall not be a bar to, or a prerequisite for, any other action against the user.

(Ord. No. 1131, § 6(23-130), 12-9-2008)

Sec. 23-152. Enforcement.

(a) *Injunctive relief.* When the director finds that a user has violated, or continues to violate, any provision of divisions 3, 4, or 5 of article II of this chapter, a wastewater discharge permit, an order issued hereunder, or any other pretreatment standard or requirement, the director may petition the circuit court for a temporary or permanent injunction which restrains or compels compliance with the user's wastewater discharge permit, an order issued pursuant to this chapter, or other requirement imposed by this chapter. The director may also seek legal or equitable relief, including remediation of any environmental damage caused by the user's

violation or noncompliance. A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against a user.

(b) *Civil penalties.*

(1) The director's assessment of civil penalties shall be made in accordance with Code of Virginia § 15.2-2122(10). The court's assessment of civil penalties shall be made in accordance with Code of Virginia § 62.1-44.32(a).

(2) A user who has violated, or continues to violate, any provision of divisions 3, 4, or 5 of article II of this chapter, a wastewater discharge permit, an order issued hereunder, or any other pretreatment standard or requirement shall be liable to the county for a civil penalty of $1,000 up to $32,500.00 per violation, not to exceed $100,000 per order. In the case of violations of monthly or other average discharge limits, the director may assess penalties for each day of violation.

(3) In addition to a civil penalty, the director may recover reasonable attorney's fees, court costs, and other expenses associated with enforcement actions under divisions 3, 4, or 5 of article II of this chapter, including sampling and monitoring expenses and the cost of any actual damages to sewers, treatment works and appurtenances incurred by the county.

(4) In determining the amount of a civil penalty, the director shall consider the severity of the violation, the extent of any potential or actual environmental harm or facility damage, the compliance history of the user, any economic benefit realized from the noncompliance, and the ability of the user to pay the penalty.

(5) Filing suit for civil penalties shall not be a bar against, or a prerequisite for, taking any other action against a user.

(c) *Criminal prosecution.*

(1) A user who willfully or negligently violates any provision of divisions 3, 4, or 5 of article II of this chapter, a wastewater discharge permit, an order issued hereunder, or any other pretreatment standard or requirement, or who willfully or negligently introduces any substance into the POTW which causes personal injury or property damage, shall, upon conviction, be guilty of a class 1 misdemeanor, punishable by a fine of not more than $2,500.00, imprisonment for not more than 12 months, or both. This penalty shall be in addition to any other cause of action for personal injury or property damage available under state law.

(2) A user who knowingly makes any false statements, representations, or certifications in any application, record, report, plan, or other document filed or maintained pursuant to divisions 3, 4, or 5 of article II of this chapter or a wastewater discharge permit or order issued hereunder, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this chapter shall, upon conviction, be guilty of a class 1 misdemeanor punishable by a fine of not more than $2,500.00, imprisonment for not more than 12 months, or both.

(d) *Remedies nonexclusive.* The remedies provided for in division 5 of article II of this chapter are not exclusive. The director may take any, all, or any combination of these actions against a noncompliant user. Enforcement of pretreatment violations will generally be in accordance with the county's enforcement response plan. However, the director may take other action against any user when the circumstances warrant.

(Ord. No. 1131, § 7(23-131), 12-9-2008)

Sec. 23-153. Liability for damage caused by discharged substance.

If any discharged substance results in damage to the county sewer system, the wastewater treatment plant providing treatment or other real or personal property, or if it alters the nature or quality of the sludge generated by the wastewater treatment plant so as to increase the cost of either safe sludge removal or sludge disposal, the discharger shall be liable to the county for all damage.

(Code 1980, § 21-66; Code 1995, § 23-132)

Sec. 23-154. Applicability of categorical standards.

All discharges subject to categorical standards shall comply with the requirements of any applicable federal categorical standard, including the general pretreatment regulations set forth in the Code of Federal Regulations, and with the local limits contained in section 23-117. More stringent limits shall be imposed by the director where appropriate. In case of conflict, the more stringent limit shall apply.

(Code 1980, § 21-54; Code 1995, § 23-133; Ord. No. 1131, § 8(27-133), 12-9-2008)

Sec. 23-155. Industrial wastewater discharge permit requirements.

(a) No significant industrial user shall discharge wastewater into the POTW without first obtaining a wastewater discharge permit from the director, except that a significant industrial user that has filed a timely application pursuant to subsection (d) of this section may continue to discharge for the time period specified therein.

(b) The director may require users other than significant industrial users to obtain wastewater discharge permits when necessary to carry out the purpose of this chapter. Such users must obtain a discharge permit prior to discharging to the POTW.

(c) Obtaining a wastewater discharge permit does not relieve a permittee of its obligation to comply with all federal, state, and local laws, including the standards in this chapter, categorical pretreatment standards, and local discharge limits.

(d) Wastewater discharge permit application requirements.

(1) To apply for a wastewater discharge permit, the applicant shall submit a complete industrial waste survey form to the director.

(2) An application for a wastewater discharge permit must be filed at least 60 days before discharging to the POTW.

(3) Any user sent an industrial waste survey form by the director must complete and return the form to the director within 60 days of receipt.

(4) The director will not process incomplete or inaccurate industrial waste survey forms and will return them to the user for revision.

(e) Duty to reapply. All users shall reapply for authorization and reissuance of a permit to discharge at least 90 days before the expiration of the existing permit unless the director grants permission for a later date.

(Code 1980, § 21-55; Code 1995, § 23-134; Ord. No. 1131, § 9(23-134), 12-9-2008)

Sec. 23-156. Wastewater discharge permit conditions.

Wastewater discharge permits must contain, at a minimum, the following conditions:

(1) The permit's issuance date, the permit's effective date, the permit's duration (up to five years), and the permit's expiration date.

(2) Statement of nontransferability without prior notification to the director and certification that the existing permit and any orders issued under divisions 3, 4, or 5 of article II of this chapter have been provided to the new owner or operator.

(3) Effluent limits or best management practices, based on the applicable general pretreatment standards in division 5 of article II of this chapter, categorical pretreatment standards, and local limits.

(4) Self-monitoring and sampling provisions, and reporting, notification and recordkeeping requirements, including an identification of the pollutants to be monitored, sampling location, sampling frequency, and

sample type.

(5) Statement of applicable civil and criminal penalties for violation of pretreatment standards and other requirements; and any applicable compliance schedules, which may not extend beyond applicable federal and state deadlines.

(6) Any requirements to control slug discharges determined by the director.

(Code 1980, § 21-56; Code 1995, § 23-135; Ord. No. 1131, § 10(23-135), 12-9-2008)

Sec. 23-157. Amendments to discharge permit; renewal of permit.

(a) Discharge permits may be amended by the director in the following situations:

(1) To incorporate changes in federal, state or local requirements;

(2) When the director determines existing permit conditions are inadequate to ensure compliance with the requirements of the act, state law, or the requirements of this article; or

(3) To impose the terms of a compliance schedule.

(b) Permits shall continue in effect for the term specified therein, which may not exceed five years. Applicants desiring to continue to discharge substances after the expiration of the permit shall submit a reapplication to the director not less than 90 days prior to the permit expiration date. Reapplications shall be processed in the same way as initial applications.

(c) The permit holder shall notify the county of any changes in its operations that may change the regulated substances, the permit or the wastewater discharged.

(Code 1980, § 21-57; Code 1995, § 23-136)

Sec. 23-158. Suspension or revocation of discharge permit.

(a) The director is authorized to make rules for the suspension or revocation of discharge permits. Such rules shall provide for reasonable notice to the permit holder of a possible revocation or suspension and give an opportunity for a hearing. The rules may provide for suspension or revocation when:

(1) The permit holder is no longer in compliance with either the applicable effluent standards or the permit requirements;

(2) The substance discharged by the permit holder reasonably threatens the health, safety or welfare of the public;

(3) The substance discharged by the permit holder presents a danger to the environment; or

(4) The substance discharged by the permit holder interferes with or threatens the lawful operation of the county sewer system or the wastewater treatment plant.

(b) Upon suspension of a permit, the permit holder shall cease all discharges until all violations are corrected to the satisfaction of the director.

(c) Upon revocation of a permit, the permit holder shall cease all discharges until a new permit is issued.

(Code 1980, § 21-58; Code 1995, § 23-137)

Sec. 23-159. Correction of violations.

(a) Each permittee shall prevent accidental discharges and slug discharges of prohibited materials or other substances regulated by Section 23-116 and Section 23-117 at the permittee's expense. If an accidental discharge or slug discharge is released into the POTW, the permittee must immediately notify the director.

(b) The director shall evaluate whether each significant industrial user requires an accidental discharge/slug discharge control plan or other action to control accidental or slug discharges. The director may require any user to develop, submit for approval, and implement such a plan or take other action necessary to control accidental and slug discharges. Alternatively, the director may develop a control plan for any user. An

accidental discharge/slug discharge control plan shall address the following:

(1) Description of discharge practices, including nonroutine batch discharges;

(2) Description of stored chemicals;

(3) Procedures for immediately notifying the director of accidental or slug discharges, including any discharge that would violate a prohibition under section 23-116, and procedures for written notification to the director within five days; and

(4) Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures should include inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants, including solvents, and measures and equipment for emergency response.

(Code 1980, § 21-59; Code 1995, § 23-138; Ord. No. 1131, § 11(23-138), 12-9-2008)

Sec. 23-160. Transfer of discharge permit.

A discharge permit is not transferable. It is issued for a specific operation, based upon the information submitted. Any new dischargers shall apply for a new permit.

(Code 1980, § 21-61; Code 1995, § 23-139)

Sec. 23-161. Inspection and sampling.

The county shall inspect the facilities of any discharger to determine compliance with this Code. Persons or occupants of premises where wastewater is created or discharged or monitored shall give the director and his agents ready access to the premises at reasonable times for the purpose of inspection, sampling, record examination or monitoring.

(Code 1980, § 21-62; Code 1995, § 23-140)

Sec. 23-162. Confidentiality of information.

All reports and information submitted to the department under this subdivision are subject to disclosure under the Virginia Freedom of Information Act (Code of Virginia, § 2.2-3700 et seq.), except as confidential information under 40 C.F.R. § 403.14 is protected from disclosure under Code of Virginia, § 62.1-44.21.

(Code 1980, § 21-63; Code 1995, § 23-141)

Sec. 23-163. Notice to employees; employee education program.

(a) A notice to employees of a discharge permit holder advising them who to call in the event of an accidental or unlawful discharge shall be permanently posted on the permit holder's bulletin board and near each location where wastes may be discharged into the county sewer system.

(b) Each permit holder shall have an employee education program to instruct employees involved in waste management about the requirements of the permit holder's permit. A copy of the education program shall be submitted with each permit application.

(Code 1980, § 21-60; Code 1995, § 23-142)

Secs. 23-164—23-194. Reserved.

ARTICLE III. WATER SYSTEM

***Cross reference—**Water supply systems in subdivisions, § 19-164.

***State law reference—**Public water supplies, Code of Virginia, § 32.1-167 et seq.; water supplies and facilities, Code of Virginia, § 15.2-2143.

DIVISION 1. GENERALLY

Sec. 23-195. Water service generally.

The director shall oversee the delivery of public water in the county, including setting, resetting, taking out and changing meters, turning water service off and on, installing and protecting water system equipment, billing and collecting for water service, and all other necessary activities.

(Code 1980, §§ 21-8, 21-18; Code 1995, § 23-171)

Sec. 23-196. Connection to existing mains.

If a county-owned water supply and distribution system is within 300 feet of a structure for which a well is to be constructed to provide potable water, the owner must connect to the county water system.

(Code 1980, § 21-13; Code 1995, § 23-172)

Sec. 23-197. Interruption of service.

The county shall not be responsible for damages or payment refunds if water service is interrupted because of choking or accident to the water meter or service pipe, failure of the water supply, or stoppages for repairs and additions. The director is authorized to interrupt water service to make repairs or additions to pipes and meters.

(Code 1980, § 21-33; Code 1995, § 23-173)

Sec. 23-198. Application for service.

Application for water service should be made to the director at least three days prior to occupancy. If the occupant did not apply for service, he shall be secondarily liable for all water consumed since the previous regular reading, and the supply of water shall be shut off until he has made proper application.

(Code 1980, § 21-28; Code 1995, § 23-174)

Sec. 23-199. Exemption from disconnection in case of contagious or infectious diseases.

Notwithstanding any other provision of this chapter, water service shall not be stopped or shut off to any premises where the health officer finds there is contagious or infectious disease which could be spread to others by stopping or shutting off service. Service shall not be stopped or shut off unless the occupant remains in default on his water bill for a period of 30 days after the end of the contagious or infectious disease.

(Code 1980, § 21-25; Code 1995, § 23-175)

State law reference—Liens for unpaid charges, Code of Virginia, § 15.2-2120.

Sec. 23-200. Obstructing valves or other fixtures; wasting water; unlawful use of water; liability for damages.

(a) No person shall place any building material, rubbish or other matter on the stopcock or valve of a water main or service pipe, obstruct access to any system fixture, or open any pipe, fire hydrant, meter, meter box or valve so as to wastewater.

(b) The owner of the premises shall be responsible for the cost of all water obtained illegally from the service connection for the premises.

(c) Any person who damages water system property shall be responsible for the cost of repairs or replacement in addition to any criminal penalties.

(d) No person shall use water for which he has not made proper application unless authorized by the director or the provisions of this Code.

(Code 1980, § 21-10; Code 1995, § 23-176)

Sec. 23-201. Exceptions to use restrictions.

Notwithstanding any other provisions of this chapter, the occupant of premises supplied with county water whose hydrant or pipe is out of order may use water from the hydrant or pipe on another property with the owner's permission. Any person may use county water to put out a fire, and fire companies may use county water to practice and to examine, clean and put their engines and hoses in good condition.

(Code 1980, § 21-11; Code 1995, § 23-177)

Sec. 23-202. Notification of director on moving from premises; new service for delinquent users.

A water customer shall give the director at least three days notice before moving or the customer shall be charged for any water that passes through the meter before water service is cut off. Any water customer with an outstanding bill may not obtain service at a different address until the bill is paid unless:

(1) The health officer finds that water service is necessary to protect the health of the occupants or to prevent the risk of spreading a contagious or infectious disease; or

(2) The customer's water bills were being paid by a landlord and the customer was not in default on payments to the landlord.

(Code 1980, § 21-29; Code 1995, § 23-178)

State law reference—Charges, fees, rents, Code of Virginia, § 15.2-2111.

Secs. 23-203—23-227. Reserved.

DIVISION 2. WATER METERS AND BILLING

Sec. 23-228. Connection generally.

Upon approval of service, the department shall provide a suitable service line to deliver water from the main in the street easement or alley to the property line of the applicant and shall place a stopcock and a water meter on the service pipe near the property line. All meters shall be the property of the county. The applicant shall be responsible for all charges after the meter has been set.

(Code 1980, §§ 21-31, 21-36; Code 1995, § 23-201)

Sec. 23-229. Location of meter.

Water meters on the premises shall be set in places approved by the director and accessible to department employees. The owner shall be responsible for the cost of relocating a meter at his request.

(Code 1980, § 21-32; Code 1995, § 23-202)

Sec. 23-230. Damage to meter.

After a water meter has been set, the owner shall be responsible for the amount of any damage caused by hot water or steam settling back from a boiler. If the amount is not paid within five days of billing, the director shall turn off the water to the premises until the amount is paid. The director shall be responsible for investigating and determining responsibility for such damage and the cost of repairs.

(Code 1980, § 21-35; Code 1995, § 23-203)

Sec. 23-231. Disconnection of meter.

No water meter shall be disconnected, moved or disturbed without the director's permission, and the director shall be responsible for making any needed changes. The director shall charge a $35.00 reconnection fee for restoring service after a customer's water service is turned off.

(Code 1980, § 21-34; Code 1995, § 23-204; Ord. No. 1130, § 2, 12-9-2008)

Sec. 23-232. Reading meters.

The department shall read all water meters at least once every two months to ensure proper billing. No more than two consecutive bills may be for estimated usage except in emergencies. The water customer or owner shall be responsible for keeping the meter box free from debris and any obstacle or animal which hinders reading the meter.

(Code 1980, § 21-17; Code 1995, § 23-205)

Sec. 23-233. Billing; adjustment of bills.

Unless the director chooses to send monthly bills, the department shall bill on a bimonthly basis for all water passing through a meter, whether used or wasted, after installation of the water meter. If underground leaks occur in water pipes or metered services and the owner, tenant or customer has promptly made all necessary repairs, the director may rebate any charges in excess of double the amount of the average bimonthly bills for the premises. The director may give the same rebate where an unexplained problem causes metered water consumption to exceed double the average bimonthly bills and the director believes the water was not beneficially used. Adjustments for an unexplained problem may only be made once every three years except in cases of extreme hardship. Average bimonthly bills are to be determined by averaging bimonthly water consumption for three previous equivalent billing periods.

(Code 1980, §§ 21-20, 21-21; Code 1995, § 23-206; Ord. No. 1130, § 3, 12-9-2008)

Cross reference— Adjustment of sewer charge, § 23-363.

Sec. 23-234. Payment of charges by county departments.

County departments shall pay for their water consumption except for water used to extinguish fires.

(Code 1980, § 21-26; Code 1995, § 23-207)

Sec. 23-235. Determination of charges when meter is not operating.

If a customer has received the usual supply of water during a period when his water meter is not

operating for any reason, the director shall bill the customer for the average bimonthly amount of water used during the preceding six months, or longer period if deemed proper by the director. In the alternative, the director may bill for the percentage of average consumption shown by a test of the meter.

(Code 1980, § 21-27; Code 1995, § 23-208)

Secs. 23-236—23-263. Reserved.

DIVISION 3. WATER SHORTAGES

***Cross reference—**Open burning prohibited during drought conditions, § 11-19.

***State law reference—**Local water-saving ordinances, Code of Virginia, § 15.2-923; water supply emergency ordinances, Code of Virginia, § 15.2-924.

Sec. 23-264. Definitions.

The following words and phrases, when used in this division, shall have the meanings ascribed to them below, except in those instances when the context clearly indicates a different meaning:

Assessment date means the date of the water bill on which a fine for violation of this article is imposed.

Established landscaping means landscaping plantings including, but not limited to, gardens, flowers, trees and shrubs existing in an area after such period of time as to accomplish an establishment and maintenance of growth.

Established lawns means lawns existing in an area after such period of time as to accomplish an establishment and maintenance of growth.

Fountain means a water display where water is sprayed strictly for ornamental purposes.

Golf course means an irrigated and landscaped playing area made up of greens, tees, fairways, roughs and related areas used for the playing of golf.

New landscaping means any landscaping planted in or transplanted to an area within such period of time as to accomplish a reasonable establishment and maintenance of growth.

New lawns means lawns made up of sod or seeds planted in or transplanted to an area within such period of time as to accomplish a reasonable establishment and maintenance of growth. This does not include refurbishment of established lawns by means of aeration and seeding, dethatching and seeding, or power overseeding.

Swimming pool means any structure, basin, chamber, or tank including hot tubs, containing an artificial body of water for swimming, diving or recreational bathing and having a depth of two feet or more at any point.

(Code 1995, § 23-231; Ord. No. 1119, § 1, 1-8-2008)

Cross reference—Definitions and rules of construction, § 1-2.

Sec. 23-265. Mandatory public water use restrictions.

The use of the public water system shall be limited as follows:

(1) *Fountains.* Water use is prohibited.

(2) *Paved areas.* Washing is prohibited except for health and safety requirements.

(3) *Swimming pools.* Filling and replenishing to maintain health and safety is permitted. New or repaired pools may be filled as needed to maintain their structural integrity. All other uses are prohibited.

(4) *Vehicle washing.* Noncommercial washing of vehicles is prohibited, except that construction, emergency or public transportation vehicles may be washed as needed to preserve their proper functioning and safe operation. Commercial vehicle washing businesses are permitted to operate under normal conditions.

(5) *Established landscaping.* Watering is limited to three days per week by address. Addresses ending in an odd number may water only on Tuesday, Thursday and Saturday. Addresses ending with an even number, or with no number, may water only on Wednesday, Friday and Sunday. No watering is allowed on Mondays. Bucket watering (five-gallon maximum size) is permitted any time.

(6) *Established lawns.* Watering is prohibited except as follows:

a. Bucket watering (five-gallon maximum size) is permitted any time.

b. Watering is permitted for one day before and 30 days after refurbishment of established lawns by means of motorized core aeration and seeding, motorized thatching and seeding, or motorized light tilling and seeding, provided such refurbishment takes place between September 1 and October 31.

(7) *New landscaping.* Watering is permitted for the first 30 days after planting. Thereafter, the restriction for established landscaping shall apply.

(8) *New lawns.* Watering is permitted for the first 30 days after sodding or seeding. Thereafter, the restriction for established lawns shall apply. New lawns do not include refurbishment of established lawns by means of aeration and seeding, dethatching and seeding, or power overseeding.

(9) *Restaurants.* Water shall be served to customers only upon request.

(10) *Golf courses.* Watering is prohibited from 10:00 a.m. to 8:00 p.m., except for the watering of greens or watering by hand-held hoses that are one inch or smaller in diameter.

(11) *All other businesses.* Water use is limited to uses essential for business use and human hygiene.

(12) *Athletic fields.* Athletic fields may be watered only between 8:00 p.m. and 10:00 a.m. and only at a rate not exceeding a total of one inch during any ten-day period.

(Code 1995, § 23-232; Ord. No. 1119, § 2, 1-8-2008; Ord. No. 1134, § 1, 8-11-2009)

Sec. 23-266. When restrictions go into effect; notice.

(a) The water use restrictions set forth in this division shall take effect when any one or more of the following conditions occurs:

(1) The director of public utilities for the city or his designee advises the director of public utilities for the county in writing that the city is invoking mandatory water use restrictions;

(2) The director of public utilities for the county or his designee advises the county manager in writing that the James River flow levels meet the water treatment plant's DEQ intake permit requirements for mandatory water conservation; or

(3) The county manager declares in writing the need for mandatory water conservation for the county.

(b) The water use restrictions shall end when the notice that triggered them is superseded by a notice indicating the reason for the restrictions no longer exists.

(c) Notice of these public water use restrictions shall be published in the Richmond Times-Dispatch for a period of one day per week each week during which the restrictions are in effect.

(Code 1995, § 23-233; Ord. No. 1119, § 3, 1-8-2008)

Sec. 23-267. Violation and penalties.

(a) Any person who uses water, or allows or causes the use of water, in violation of any provision of this division after publication of notice pursuant to section 23-233(c) shall be subject to the following penalties:

(1) For the first offense, violators shall receive a written warning delivered in person or posted by a representative of the county department of public utilities.

(2) For the second offense, violators shall be fined $50.00, the fine to be imposed on the violator's next water bill.

(3) For the third and each subsequent offense, violators shall be fined $100.00 for each offense, the fine to be imposed on the violator's next water bill.

(4) Each violation by a person shall be counted as a separate violation by that person, irrespective of the location at which the violation occurs.

(b) Persons who have been assessed a penalty shall have the right to challenge the assessment by providing a written notice to the director of public utilities within ten days of the assessment date. The director shall determine whether the penalty was properly assessed and notify the complaining person in writing of his determination. Should the director determine that the penalty was properly assessed, the person may appeal that determination by providing written notice to the county manager within ten days of receiving the notice of determination. The county manager or his designee shall determine whether the penalty was properly assessed and notify the complaining person in writing of his determination.

(c) The director of public utilities may waive the penalty if he determines that the violation occurred due to no fault of the person.

(Code 1995, § 23-234; Ord. No. 1119, § 4, 1-8-2008)

Secs. 23-268—23-297. Reserved.

ARTICLE IV. FEES, CHARGES AND ASSESSMENTS FOR WATER AND SEWER SERVICE

***State law reference—** Fees and charges for sewer services, Code of Virginia, § 15.2-2119 et seq.

DIVISION 1. GENERALLY

Secs. 23-298—23-327. Reserved.

DIVISION 2. DEPOSITS AND PAYMENTS

Sec. 23-328. Service deposit.

(a) *Deposit required.* Persons applying for available water and sewer service to property they do not own shall pay a deposit to ensure payment for each type of service of $100.00 or another amount deemed necessary by the director to cover anticipated usage for one billing period. The deposit shall be billed to the customer's account. The county shall hold the deposit as surety without interest. A security deposit shall not be required if the customer is a lessee or tenant who has provided the director with a letter from the owner of the property where service is to be provided attaching documentation that such lessee or tenant receives need-based local, state or federal rental assistance.

(b) *Return of deposit.* The deposit shall be credited to the customer's account under the following circumstances:

(1) When service is discontinued; or

(2) If the customer has not been turned off for nonpayment and has not had more than one late payment on the account over the last 365 days.

In addition, the director shall have the right to return the deposit under other circumstances in his discretion.

(c) *Waiver of deposit.* A service deposit may be waived for a customer that has had a water or sewer account

with the county for at least 12 months during the 24 months preceding the application for service, if service under that account was not turned off for nonpayment and the customer had no more than one late payment during the 12-month period of service preceding the application date. A service deposit may be waived for a new customer to the county who provides a letter from the customer's previous water or sewer provider that states the customer had a satisfactory payment record for the 12 months prior to the application date.
(Code 1980, §§ 21-19, 21-46; Code 1995, § 23-281; Ord. No. 918, § 1, 4-24-1996; Ord. No. 943, § 1, 4-23-1997; Ord. No. 1130, § 4, 12-9-2008)

Sec. 23-329. Payments generally.

All fees, charges, assessments and deposits for water and sewer service shall be paid to the director of finance or authorized payment agents.

(Code 1980, § 21-19; Code 1995, § 23-282)

Sec. 23-330. Installment payments.

Upon written request, any owner may pay basic connection fees and local facilities fees in installments subject to the following provisions:

(1) Basic connection fees may be paid in up to 36 monthly installments and local facilities fees may be paid in up to 120 monthly installments. Interest based upon the Wall Street Journal Prime Rate in effect on the date of the contract plus one percent shall be charged on a per annum basis on the unpaid balance.
(2) The owner shall execute a contract and a note in a form approved by the county attorney to evidence and secure the obligation to make the installment payments. The contract and note shall state the amount and number of payments and other terms deemed necessary by the director. A memorandum of lien shall be recorded in the circuit court of the county.
(3) The county shall have the right to collect overdue amounts as provided by law or the contract between the parties.
(4) The note shall be paid in full prior to the owner's transfer of title to the property. If it is not, the county may, in addition to its other rights and remedies, remove all of its facilities and discontinue service if there is no danger to public health or safety. If service is subsequently reestablished, the county may require payment of the fees in effect at the time of reestablishment as if service had never been installed.
(Code 1980, §§ 21-38, 21-48; Code 1995, § 23-283; Ord. No. 1132, § 1, 1-13-2009)

Sec. 23-331. Overdue bills; discontinuance of service.

(a) All charges for water and sewer service shall be due within 30 days of billing, and a $1.00 service charge shall be added to all delinquent bills. If a due date falls on a weekend or holiday, the due date shall be the next business day. The director shall notify the owner or tenant in writing that the bill is delinquent, that the owner or tenant may contest the bill by contacting the director and that all utility service may be discontinued if the delinquent bill is not paid within 15 days of the notice. If the delinquent bill is not paid by the delinquent due date, refuse service may be discontinued and water service to the premises may be disconnected unless the health officer certifies that shutting off the water will endanger the health of the occupants of the premises or the health of others.
(b) Once disconnected and discontinued, the supply of water and refuse service shall not be restored until the outstanding balance and a charge of $35.00 for reconnecting water service is paid in full or until the director has approved other payment arrangements. If the owner or tenant vacates property with a delinquent utility bill, the outstanding balance may be transferred to any other property within the county

where the owner or tenant has utility service if the owner or tenant has been notified as provided in this section. If the outstanding balance is not paid within the time specified, water and refuse service at the property to which the balance has been transferred may be discontinued.

(c) In cases of delinquent bills where the county supplies sewer but not water service to the property, sewer service to the premises may be disconnected using the same procedures, and sewer and refuse service shall not be restored until the outstanding balance and the cost of disconnecting and reconnecting sewer service shall have been paid in full.

(Code 1980, §§ 21-22, 21-51; Code 1995, § 23-284; Ord. No. 1130, § 5, 12-9-2008)

Cross reference—Bill for refuse collection, etc., § 17-60.

Sec. 23-332. Charges to constitute lien.

All fees, charges and assessments for water and sewer service shall be a lien on the real estate served by the water and sewer systems. Where residential real estate is involved, no lien shall attach unless the user of the water or sewer service is also the owner of the real estate or unless the owner negotiated or executed the agreement by which water or sewer service is provided to the property.

(Code 1980, §§ 21-23, 21-52; Code 1995, § 23-285)

State law reference—Lien, Code of Virginia, § 15.2-2118.

Sec. 23-333. Enforcement of lien.

Any lien for water and sewer service fees, charges or assessments docketed in the circuit court may be enforced in the same manner as other county taxes.

(Code 1980, §§ 21-24, 21-53; Code 1995, § 23-286)

State law reference—Enforcement of lien, Code of Virginia, § 15.2-2120.

Sec. 23-334. Customer setup charges.

A customer setup charge of $14.00 shall be charged on the first bill of every new water or sewer account, whether established by a new customer or an existing customer.

(Code 1995, § 23-287; Ord. No. 944, § 1, 4-23-1997; Ord. No. 1120, § 2, 4-22-2008)

Sec. 23-335. Costs and fees for collecting delinquent utility charges.

If a person fails to timely pay a utility charge due the county, such person shall be liable for costs incurred by the county and attorney's or collection agency's fees equal to 20 percent of the delinquent utility bill associated with the collection of delinquent utility charges. Costs, attorney's and collection agency's fees may be recovered by an action at law or suit in equity.

(Code 1995, § 23-288; Ord. No. 951, § 1, 7-9-1997)

Secs. 23-336—23-358. Reserved.

DIVISION 3. CONNECTION FEES AND SERVICE CHARGES

Sec. 23-359. Water connection fees.

(a) *Components of fee.* The total water connection fee shall consist of costs for basic connection, local facilities, off-site extensions, and off-site and oversized main credits.

(b) *Basic connection fee.*

(1) The basic connection fee covers installation of the water meter and partial payment for backup facilities. The basic connection fee shall be assessed all connectors except for fire service and payment shall accompany the application for connection as follows:

Single-family dwellings, including semi-detached dwellings	$4,635.00/dwelling unit
Multifamily dwellings	4,270.00/dwelling unit
Motel and hotel	2,350.00/room
Hospital	5,430.00/bed
Nursing facility	3,625.00/bed
Assisted living facility	1,810.00/bed
Dormitory	1,360.00/bed
Facilities providing permanent housing for elderly or handicapped persons and operated by charitable, nonstock, nonprofit organizations which are exempted by section 501(c)(3) of the Internal Revenue Code	1,810.00/dwelling unit

(2) The basic connection fee for an existing single-family dwelling served by an individual private well shall be $2,315.00.

(3) The fee for all other business, industrial and public buildings will be based on meter size as follows:

Meter Size (inches)	*Basic Connection Fee*
⅝	$4,635.00
1	16,570.00
1½	33,060.00
2	65,615.00
3	131,235.00
4	205,050.00
6	410,105.00
8	656,160.00
10	943,130.00

The connection fee for a permanent connection which will be used at special events for no more than 12 days

per calendar year shall be ten percent of the basic connection fee above. If usage exceeds 12 days per year, the balance of the fees above shall be due within 30 days.

(4) There shall be no connection fee for a backup service connection as long as it is used only when the regular water service connection fails. If both the regular and the backup water connection are ever used simultaneously, the owner shall pay the basic connection fee in subsection (3) for the backup service connection.

(c) *Local facilities fee.* The connector shall pay for all local facilities subject to the off-site and oversized mains credit policy.

(1) Where local facilities are not available to the connector's property, the connector shall pay the full cost of the local facilities installed to serve the connector's property. Developers of new subdivisions shall install local water facilities in accordance with chapter 19 and water agreements approved by the board of supervisors. Along any public right-of-way or easement where the property owner desires service for his own personal use (i.e., a single-family residential unit in which the owner intends to reside), the county will extend the local facilities at the owner's expense. The cost of such extension shall be $30.00 per linear foot of water main extension, except that the cost for such extension to serve an existing single-family dwelling served by an individual private well shall be $15.00 per linear foot, plus the cost of installing the connection from the main to the property line as follows:

Water Meter Size (inches)	*Service Size (inches)*	*Installation Charge*	*Water Meter Charge*
⅝	1>	$2,625.00	$143.00
⅝	1½	3,360.00	143.00
1	1	2,775.00	186.00
1	1½	3,360.00	186.00
1	2	3,360.00	186.00
1½	1½	5,460.00	367.00
1½	2	5,460.00	367.00
2	2	5,460.00	482.00

The cost of a five-eighths-inch domestic meter is included in the basic connection fee for single-family residential connections.

(2) Where local facilities are available to the connector's property and where costs of the local facilities have not been previously assessed against the property being connected, a local facilities fee shall be required. The local facilities fee shall be as follows:

Meter Size (inches)	*Local Facilities Fee*
⅝	$2,625.00
1	3,360.00
1½	5,460.00
2	5,460.00

(d) *Off-site extensions.* The connector shall pay for all off-site extensions required to provide service to the

connector's property, subject to the off-site and oversized mains credit policy.

(e) *Off-site line credit policy.* The director shall give a credit against the basic water connection fee for any off-site waterline extension in excess of 300 feet required to provide water service to the property. No credit shall be given for off-site extensions of less than 300 feet, and the amount of the credit shall be based upon the length of the extension greater than 300 feet. Credits for construction of the waterline extension will be computed based on unit prices taken from recent bids received by the county or arms' length bids received by the applicant, whichever are less.

(f) *Oversized line credit.* The director shall give a credit against the basic water connection fee for any waterline larger than necessary to adequately serve the property. The amount of the credit shall be the difference in the estimated cost between the oversized waterline provided and the waterline size necessary to adequately serve the property.

(g) *Off-site and oversized line credit.* When the waterline provided is both off-site and oversized as specified in subsections (e) and (f) of this section, the amount of the credit shall be the sum of:

(1) For the on-site extension and the first 300 feet of the off-site extension, the difference in cost between the waterline provided and the waterline necessary to adequately serve the property; and

(2) 100 percent of the cost of the off-site extension in excess of 300 feet.

(h) *Credit transfer.* If an applicant becomes entitled to credits for a waterline extension approved by the director after May 11, 2004, and such credits exceed the water connection fees required for the project, the applicant may submit written authorization for a transfer of credits to other properties that are under contract with the county for service. Each transferred credit shall be applied to the property specified by the applicant and may not be applied to another property.

(i) *Bonus credit.* If the county requests off-site extension of a waterline for a distance greater than that required to provide water service to the property, and if the applicant provides the additional extension for the benefit of the county, the director shall give a bonus credit for the extension that exceeds the required distance. The amount of the bonus credit shall be 1.5 times the credit computed under subsections (e) through (g) of this section for the portion that exceeds the required distance and shall be added to the credit given under subsections (e) through (g) of this section for the required distance.

(j) *Credits for other facilities.* The director shall give a 100 percent credit for the cost of water facilities other than waterlines or their appurtenances provided by the applicant.

(Code 1980, § 21-37; Code 1995, § 23-311; Ord. No. 913, § 2, 1-10-1996; Ord. No. 918, § 2, 4-24-1996; Ord. No. 944, § 2, 4-23-1997; Ord. No. 974, § 1, 4-22-1998; Ord. No. 984, § 1, 4-27-1999; Ord. No. 1044, § 1, 5-27-2003; Ord. No. 1066, § 1, 5-11-2004; Ord. No. 1075, § 1, 4-26-2005; Ord. No. 1085, § 1, 4-25-2006; Ord. No. 1105, § 1, 4-24-2007; Ord. No. 1120, § 3, 4-22-2008)

Sec. 23-360. Sewer connection fees.

(a) *Components of fee.* The total sewer connection fee shall consist of costs for basic connection, local facilities, off-site extensions, and off-site and oversized main credits.

(b) *Basic connection fee.*

(1) The basic connection fee for all applicants is a partial payment for backup facilities. The basic connection fee shall be assessed to all connectors and the payment shall accompany the application as follows:

Single-family dwellings (including semi-detached dwellings)	$5,605.00/dwelling unit
Multifamily dwelling	5,170.00/dwelling unit
Motels and hotels	2,850.00/room
Hospitals	6,575.00/bed
Nursing facilities	4,380.00/bed

Assisted living facilities	2,190.00/bed
Dormitory	1,645.00/bed
Facilities providing permanent housing for elderly or handicapped persons and operated by charitable, nonstock, nonprofit organizations which are exempted by section 501(c)(3) of the Internal Revenue Code	2,190.00/dwelling unit

(2) The basic connection fee for an existing single-family dwelling served by an individual septic system shall be $2,805.00. For purposes of computing connection costs and fees under this section, a privy shall be treated as an individual septic system.

(3) Fees for all other business, industrial and public buildings will be based on meter size as follows:

Meter Size (inches)	*Basic Connection Fee*
⅝	$5,605.00
1	20,050.00
1½	40,015.00
2	79,415.00
3	158,830.00
4	248,175.00
6	496,340.00
8	794,145.00
10	1,141,585.00

The connection fee for a permanent connection which will be used at special events for no more than 12 days per calendar year shall be ten percent of the basic connection fee above. If usage exceeds 12 days per year, the balance of the fees above shall be due within 30 days.

(c) *Local facilities fee.* The connector shall pay for all local facilities subject to the off-site and oversized mains credit policy.

(1) Where local facilities are not available to the connector's property, the connector shall pay the full cost of the local facilities installed to serve the connector's property. Developers of new subdivisions shall install local sewer facilities in accordance with chapter 19 and sewer agreements approved by the board of supervisors. Along any public right-of-way or easement where the property owner desires service for his own personal use (i.e., a single-family residential unit in which the owner intends to reside), the county will extend the local facilities at the owner's expense. The cost of such extension shall be $50.00 per linear foot of sewer main extension, except that the cost for such extension to serve an existing single-family dwelling served by an individual septic system shall be $25.00 per linear foot, plus a cost of $3,150.00 for installing the connection from the main to the property line.

(2) Where local facilities are available to the connector's property and where the costs of such local facilities have not been previously assessed against the property being connected, a local facilities fee shall be required. The local facilities fee shall be $3,150.00.

(d) *Off-site extensions.* A connector shall pay for all off-site extensions required to provide service to the connector's property, subject to the off-site and oversized mains credit policy.

(e) *Off-site line credit policy.* The director shall give a credit against the basic sewer connection fee for any off-site sewer line extension in excess of 300 feet required to provide sewer service to the property. No credit shall be given for off-site extensions of less than 300 feet, and the amount of the credit shall be based upon the length of the extension greater than 300 feet. Credits for construction of the sewer line extension will be

computed based on unit prices taken from recent bids received by the county or arms' length bids received by the applicant, whichever are less.

(f) *Oversized line credit.* The director shall give a credit against the basic sewer connection fee for any sewer line larger than necessary to adequately serve the property. The amount of the credit shall be the difference in the estimated cost between the oversized sewer line provided and the sewer line necessary to adequately serve the property.

(g) *Off-site and oversized line credit.* When the sewer line provided is both offsite and oversized as specified in subsections (e) and (f) of this section, the amount of the credit shall be the sum of: (1) for the on-site extension and the first 300 feet of the off-site extension, the difference in cost between the sewer line size provided and the sewer line necessary to adequately serve the property; and (2) 100 percent of the cost of the off-site extension in excess of 300 feet.

(h) *Credit transfer.* If an applicant becomes entitled to credits for a sewer line extension approved by the director after May 11, 2004, and such credits exceed the sewer connection fees required for the project, the applicant may submit written authorization for a transfer of credits to other properties that are under contract with the county for service. Each transferred credit shall be applied to the property specified by the applicant and may not be applied to another property.

(i) *Bonus credit.* If the county requests off-site extension of a sewer line for a distance greater than that required to provide sewer service to the property, and if the applicant provides the additional extension for the benefit of the county, the director shall give a bonus credit for the extension that exceeds the required distance. The amount of the bonus credit shall be 1.5 times the credit computed under subsections (e) through (g) of this section for the portion that exceeds the required distance and shall be added to the credit given under subsections (e) through (g) of this section for the required distance.

(j) *Credits for other facilities.* The director shall give a 100 percent credit for the cost of sewer facilities other than sewer lines or their appurtenances provided by the applicant.

(Code 1980, §§ 21-47, 21-71; Code 1995, § 23-312; Ord. No. 913, § 2, 1-10-1996; Ord. No. 918, § 3, 4-24-1996; Ord. No. 944, § 3, 4-23-1997; Ord. No. 974, § 2, 4-22-1998; Ord. No. 984, § 2, 4-27-1999; Ord. No. 1044, § 2, 5-27-2003; Ord. No. 1066, § 2, 5-11-2004; Ord. No. 1075, § 2, 4-26-2005; Ord. No. 1085, § 2, 4-25-2006; Ord. No. 1105, § 2, 4-24-2007; Ord. No. 1120, § 4, 4-22-2008)

Sec. 23-361. Water service and volume charges.

(a) *Amount of charges.* The charges for water service shall consist of a service charge and a volume charge, as follows:

(1) *Service charge.* All users billed bimonthly shall pay the following charge. Users billed monthly shall pay one-half of this charge.

a. Connected users:

Meter Size (inches)	*Bimonthly Charge*
⅝ or ¾	15.65
1	36.95
1½	68.00
2	104.40
3	172.15
4	276.55
6	534.55

8	1,069.85
10	1,069.85

b. Single-family residential users with fire sprinkler system, five-eighths-inch, three-fourths-inch or one-inch meter: $15.65.

c. Not connected, single-family and multifamily residential users, per single-family residential unit: $15.65.

d. When there is a backup service connection, the owner shall pay the amount of the service charge in subsection (a) for both the regular service connection and the backup service connection.

(2) *Volume charge.* In addition to the service charges, the following volume charges shall apply to all water delivered:

Consumption Block 100 Cubic Feet			
	Monthly	*Bimonthly*	*Volume Charge per 100 Cubic Feet*
First	5,000	10,000	$3.59
Next	35,000	70,000	2.45
Over	40,000	80,000	1.76

For single-family residential customers using six CCF or less bimonthly, the volume charge shall be $2.24 per CCF.

(b) *General provisions.*

(1) The service charge shall not apply to meters devoted exclusively to fire service.

(2) Any bills rendered for less than a full billing period shall have the service charge prorated according to days of use, plus the actual volume charge.

(3) Charges shall begin as required by contract or when the meter is set and shall continue until water service is abandoned.

(4) Rates for service provided to contract users shall be established by the contract.

(5) The volume charge on multimeter installations shall be applied to the sum of the volume.

(Code 1980, § 21-30; Code 1995, § 23-313; Ord. No. 918, § 4, 4-24-1996; Ord. No. 928, § 1, 7-24-1996; Ord. No. 944, § 4, 4-23-1997; Ord. No. 974, § 3, 4-22-1998; Ord. No. 984, § 3, 4-27-1999; Ord. No. 1044, § 3, 5-27-2003; Ord. No. 1065, § 1, 4-27-2004; Ord. No. 1075, § 3, 4-26-2005; Ord. No. 1085, § 3, 4-25-2006; Ord. No. 1105, § 3, 4-24-2007; Ord. No. 1120, § 5, 4-22-2008; Ord. No. 1130, § 6, 12-9-2008; Ord. No. 1142, § 1, 5-11-2010)

Sec. 23-362. Sewer service charges and rates.

(a) *Amount of charges.* The charges for sewer service shall consist of a service charge and a volume charge, as follows:

(1) *Service charge.* All users billed bimonthly for water service shall pay the following charge based on the size of the water meter which serves or the size of the water meter which would serve the premises if one were installed. Users billed monthly shall pay one-half of this charge.

a. Connected users:

Meter Size (inches)	Bimonthly Charge
⅝ or ¾	$31.55

1	52.20
1½	76.50
2	110.45
3	186.90
4	295.50
6	588.35
8	1,007.20
10	1,007.20

b. Single-family residential users with fire sprinkler system, five-eighths-inch, three-fourths-inch or one-inch meter: $31.55.

c. Not connected, single-family and multifamily residential users, per single-family residential unit: $31.55.

d. Connected and not metered single-family and multifamily residential users, per single-family residential unit: $82.90.

(2) *Volume charge.*

a. In addition to the service charges, the following volume charges shall apply to all water delivered:

Consumption Block Hundred Cubic Feet			
	Monthly	*Bimonthly*	*Volume Charge per Hundred Cubic Feet*
First	5,000	10,000	$3.81
Next	35,000	70,000	2.72
Over	40,000	80,000	2.45

b. For single-family residential customers using six CCF or less bimonthly, the volume charge shall be $2.33 per CCF.

c. For residential units receiving water service from the county, other than multifamily, bimonthly sewer volume charges shall be based on the lesser of actual usage or usage determined from the first meter reading cycle of the calendar year. For residential units receiving water service from the City of Richmond, other than multifamily, bimonthly sewer volume charges shall be based on usage determined from the first meter reading cycle of the calendar year. For the purpose of this subsection, if the first reading is estimated as provided in section 23-205 or if the user joins the system after the first reading cycle, or an allowance is made for an underground leak during the first billing cycle, billing shall not exceed charges for 10 CCF.

(3) *Industrial and commercial strong waste charge.* In addition to the charges set out in subsections (a)(1) and (2) of this section, there will be charged to individual users a strong waste charge as applicable:

a. Suspended solids, when the concentrations of suspended solids exceed 275 milligrams per liter: $25.50 per CWT for suspended solids in excess of 275 mg/L.

b. BOD, when concentrations of BOD exceed 250 milligrams per liter: $35.40 per CWT for BOD in excess of 250 mg/L.

(b) *General provisions.*

(1) Any bills rendered for less than a full billing period shall have the service charge prorated according to days' use, plus the actual volume charge; except that the minimum prorated bill shall be $4.00 for all services (water, sewer and refuse collection) combined. Credit balances on final bills of less than $4.00 shall not be refunded unless requested by the user.

(2) Charges shall begin as required by contract or when the meter is set and shall continue until sewer service is abandoned. When there is no contract for service and no water or sewer meter, the service charge

shall begin upon completion of the sewer lateral from the main sewer line to the property line or payment of the connection fee if the sewer lateral does not need to be extended.

(3) Rates for service provided to contract users shall be established by the contract with the users.

(4) The volume charge on multimeter installations shall be applied to the sum of the volume.

(5) Whenever any user obtains all or part of the water supply from sources other than the water distribution system of the county, the quantities of wastewater may be determined either from the total metered water consumption from both county and private supplies, or from the metered quantities of wastewater discharged into the wastewater system. All meters on private water supplies and all wastewater meters shall be provided and maintained to produce an accurate record of the true quantities of water and wastewater discharged into the wastewater system. All costs of meter installation, calibration and maintenance shall be borne by the user. The type of meter shall be approved by the director, and the meter shall be accessible at all times for inspection.

(Code 1980, § 21-49; Code 1995, § 23-314; Ord. No. 918, § 5, 4-24-1996; Ord. No. 928, § 2, 7-24-1996; Ord. No. 944, § 5, 4-23-1997; Ord. No. 974, § 4, 4-22-1998; Ord. No. 984, § 4, 4-27-1999; Ord. No. 1044, § 4, 5-27-2003; Ord. No. 1065, § 2, 4-27-2004; Ord. No. 1075, § 4, 4-26-2005; Ord. No. 1085, § 4, 4-25-2006; Ord. No. 1105, § 4, 4-24-2007; Ord. No. 1120, § 6, 4-22-2008; Ord. No. 1130, § 7, 12-9-2008; Ord. No. 1131, § 12, 12-9-2008; Ord. No. 1142, § 2, 5-11-2010)

Sec. 23-363. Adjustment of sewer charge.

Where the sewer charge is based on the amount of sewage entering the system and if an allowance is made for an underground water leak, then an allowance may be made against the sewer charge for the same quantity of sewage as the quantity of water allowed.

(Code 1980, § 21-50; Code 1995, § 23-315)

Cross reference—Adjustment of water charges, § 23-233.

Secs. 23-364—23-384. Reserved.

DIVISION 4. ASSESSMENTS FOR EXTENSIONS OF SERVICE LINES

***State law reference—**Authority to impose assessments for local improvements, Code of Virginia, § 15.2-2404 et seq.

Sec. 23-385. General procedure.

The board of supervisors may order the construction of water lines or sanitary sewers, collectively referred to as "improvements" in this division. The cost of construction shall be paid pursuant to agreements between the county and the abutting landowners or by tax assessments for all or part of the cost. The board of supervisors may order tax assessments by a two-thirds vote of all members elected to the board or on a petition from not less than 60 percent of the affected landowners. Petitions shall be submitted to the director for processing.

(Code 1980, § 21-95; Code 1995, § 23-331)

State law reference—Similar provisions, Code of Virginia, § 15.2-2405.

Sec. 23-386. Payment of costs by county.

If less than all of the cost of construction of improvements is to be paid by assessment, the board of

supervisors shall apportion the cost between the county and abutting landowners. The board of supervisors may use state or federal funds received for such construction to pay for costs not apportioned to the abutting landowners.

(Code 1980, § 21-96; Code 1995, § 23-332)

State law reference—Similar provisions, Code of Virginia, § 15.2-2406.

Sec. 23-387. Docketing of resolution or ordinance authorizing improvement.

(a) When the board of supervisors authorizes any improvement for which assessments may be made against the abutting landowners, it may cause the recording of an abstract of the resolution or ordinance authorizing the improvement in the deed book of the circuit court clerk's office of the county before the amount to be finally assessed or apportioned to each landowner or fixed by agreement is determined. The abstract shall show the ownership and location of the property to be affected by the proposed improvement and the estimated amount to be fixed by agreement or assessed or apportioned to each owner. The abstract shall be indexed in the name of each owner of the affected property.

(b) After completion of the improvement, the estimated amount shall be amended to show the amount finally fixed by agreement or assessed or apportioned against the owner, which shall in no case exceed the estimated amount. The amount finally assessed or apportioned to the owner may be greater than the initially assessed amount if the excess is for additional work requested by the owner and performed under a separate agreement between the county and the owner.

(c) From the time of the docketing of such abstract, any purchaser of, or creditor acquiring a lien on, any of the property described in the abstract shall be deemed to have had notice of the proposed assessment.

(Code 1980, § 21-102; Code 1995, § 23-333; Ord. No. 924, § 1, 7-10-1996)

State law reference—Similar provisions, Code of Virginia, § 15.2-2412.

Sec. 23-388. Notice to property owners.

(a) When the assessment or apportionment under this division is not fixed by agreement, the director shall notify each of the abutting landowners of the amount assessed or apportioned and of the opportunity to appear in person or by counsel before the board of supervisors to present reasons and objections against the assessment or apportionment. The meeting of the board of supervisors to receive reasons and objections shall not be held less than ten days after the date of the notice.

(b) Notice may be given by personal service on all persons entitled to notice. Notice to an infant or insane person may be served on his guardian or committee. Notice to a nonresident may be mailed to him at his place of residence or served on any agent of his having the property in charge or on the tenant of the freehold. In addition, when the owner is a nonresident or the owner's residence is not known, notice may be given by publication in a newspaper of general circulation once a week for four successive weeks.

(c) In the alternative, notice to all parties may be published in a newspaper of general circulation once a week for two successive weeks, the second publication to be made at least seven days before the meeting to receive reasons and objections is held.

(Code 1980, §§ 21-98, 21-99; Code 1995, § 23-334)

State law reference—Similar provisions, Code of Virginia, §§ 15.2-2408, 15.2-2409.

Sec. 23-389. Appeals.

If the board of supervisors overrules a landowner's reasons and objections regarding an assessment

under this division, the landowner shall have 30 days to file an appeal of right to the circuit court of the county. If any appeal is filed, the clerk of the board of supervisors shall send the original notice relating to the assessment and the decision of the board to the clerk of the circuit court for docketing.

(Code 1980, § 21-100; Code 1995, § 23-335)

State law reference—Similar provisions, Code of Virginia, § 15.2-2410.

Sec. 23-390. Report of assessments to director of finance; collection of assessments; postponement of payment for elderly or disabled persons.

The director shall promptly notify the director of finance of the amount owed by each landowner because of an agreement or assessment, and the director of finance shall handle such amounts as provided for other taxes. Elderly or permanently and totally disabled persons may postpone the payment of such amount until the sale of the property or the death of the last eligible owner if they meet the criteria for exemption in section 20-78(d) and (e). The director of finance shall enter amounts postponed under this section as provided for other taxes, and the eligible owner shall have the option of payment or postponement.

(Code 1980, § 21-97; Code 1995, § 23-336)

State law reference—Collection and payment of assessments, Code of Virginia, § 15.2-2407.

Sec. 23-391. Lien for amount of assessment or agreement.

The amount fixed by agreement or finally assessed or apportioned to each landowner shall be a lien enforceable in equity from the time the improvements have been completed, subject to the landowner's right to present reasons and objections and to appeal the decision of the board of supervisors. The lien shall be enforceable against any person having notice of the proposed assessment under section 23-387. If no abstract of the resolution or ordinance authorizing the improvement is docketed as provided in section 23-387, the lien shall be void as to all purchasers for valuable consideration without notice and lien creditors until it is admitted to record in the county.

(Code 1980, § 21-101; Code 1995, § 23-337)

State law reference—Lien, Code of Virginia, § 15.2-104.

Sec. 23-392. Installment payments.

Persons may pay assessment or agreement amounts in equal semiannual installments over a period not exceeding ten years. The director shall charge interest on unpaid balances at an annual interest rate not to exceed the rate of one-year United States treasury bills at the time the assessment resolution or ordinance was adopted. Such installments shall become due at the same time as real estate taxes, and the amount of each installment, including principal and interest, shall be shown on a bill mailed not later than 14 days before the installment due date. The director shall add the revenues collected for such assessments to the water and sewer fund.

(Code 1980, § 21-103; Code 1995, § 23-338)

State law reference—Installment payments of assessments, Code of Virginia, § 15.2-2413.

Chapter 24 - ZONING

***Cross reference—**Planning commission, § 2-19 et seq.; building and building regulations, ch. 6; erosion and sediment control, § 10-27 et seq.; noise regulations, § 10-67 et seq.; weeds and grass, § 10-135 et seq.; parking or storage of vehicles used to transport inflammable liquids prohibited in residential areas, § 11-16; subdivisions, ch. 19.

***State law reference—**Zoning ordinances generally, Code of Virginia, § 15.2-2280; intra-district uniformity of regulations, Code of Virginia, § 15.2-2282; purpose of zoning ordinances, Code of Virginia, § 15.2-2283.

ARTICLE I. PURPOSE, APPLICATION AND INTERPRETATION

Sec. 24-1. Purpose.

This chapter is for the general purpose of promoting the health, safety or general welfare of the public and of further accomplishing the objectives of Code of Virginia, § 15.2-2200, as amended. To these ends, this chapter is designed to:

(1) Provide for adequate light, air, convenience of access and safety from fire, flood and other dangers;
(2) Reduce or prevent congestion in the public streets;
(3) Facilitate the creation of a convenient, attractive and harmonious community;
(4) Facilitate the provision of adequate police and fire protection, disaster evacuation, civil defense, transportation, water, sewerage, flood protection, schools, parks, forests, playgrounds, recreational facilities, airports and other public requirements;
(5) Protect against destruction of or encroachment upon historic areas;
(6) 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, panic or other dangers;
(7) Encourage economic development activities that provide desirable employment and enlarge the tax base;
(8) Provide for the preservation of agricultural and forestal lands and other lands of significance for the protection of the natural environment;
(9) Protect approach slopes and other safety areas of licensed airports, including United States government and military air facilities;
(10) Promote affordable housing; and
(11) Protect surface water and groundwater.
(Code 1980, § 22-1; Code 1995, § 24-1)

Sec. 24-2. Interpretation and application.

In the interpretation and application of this chapter, its provisions shall be held to be minimum requirements. It is not intended by this chapter to repeal, abrogate, annul or in any way impair or interfere with any other provisions of law or ordinance, or any regulations or permits adopted or issued pursuant to law relating to the use or construction of buildings or premises, or private restrictions, except as expressly provided herein; provided, however, that where this chapter imposes a greater restriction than is imposed by such other provisions, the provisions of this chapter shall control.

Whenever this chapter requires both a special exception (use permit) and a plan of development, the plan of development shall take precedence, and approval of a plan of development shall be deemed sufficient

to meet the intent of this chapter.

(Code 1980, § 22-2; Code 1995, § 24-2)

ARTICLE II. DEFINITIONS

***Cross reference—** Definitions and rules of construction, § 1-2.

Sec. 24-3. Definitions.

For the purpose of interpreting and construing this chapter, certain words and terms used herein shall have the following meanings, unless the context requires otherwise.

Generally. Words in the present tense include the future, those in the singular number include the plural and vice versa; the word "building" includes the words "use" and "structure"; the word "manufacturing" includes mixing, blending, fabricating and producing; and the word "shall" is mandatory and not directory.

Accessory use or structure. A use or structure subordinate to the principal use or structure on the same lot and serving a purpose customarily incidental thereto.

Adult business. Any adult bookstore, adult video store, adult model studio, adult motel, adult movie theater, adult nightclub, adult store, business providing adult entertainment, or any other establishment that regularly exploits an interest in matter relating to specified sexual activities or specified anatomical areas or regularly features live entertainment intended for the sexual stimulation or titillation of patrons.

Adult entertainment. Dancing, modeling or other live entertainment if the entertainment is characterized by an emphasis on specified sexual activities or specified anatomical areas or is intended for the sexual stimulation or titillation of patrons; or the showing of films, motion pictures, videotapes, slides, photographs, CD-ROMs, DVD-ROMs, or other media that are characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.

Adult merchandise. Magazines, books, other periodicals, videotapes, films, motion pictures, photographs, slides, CD-ROMs, DVD-ROMs, virtual reality devices, or other similar media that are characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas; instruments, devices or paraphernalia either designed as representations of human genital organs or female breasts, or designed or marketed primarily for use to stimulate human genital organs; or lingerie or leather goods marketed or presented in a context to suggest their use for sadomasochistic practices.

Adult model studio. A commercial establishment, including a lingerie store or novelty store, in which a person performs or simulates specified sexual activities, exposes specified anatomical areas, or engages in other performances intended for the sexual stimulation or titillation of patrons.

Adult motel. A motel, hotel, or similar commercial establishment that: (i) provides patrons with closed-circuit television transmissions, films, motion pictures, videocassettes, slides, or other photographic reproductions that are characterized by the depiction or description of specified sexual activities or specified anatomical areas and advertises the availability of this sexually oriented type of material by means of a sign visible from the public right-of-way, or by means of any off-premises advertising, including, but not limited to, newspapers, magazines, pamphlets or leaflets, radio or television; or (ii) offers a sleeping room for rent for a time period less than ten hours; or (iii) allows a tenant or occupant to subrent the sleeping room for a time period of less than ten hours.

Adult movie theater. An enclosed building regularly used for presenting material distinguished or

characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas for observation by patrons, excluding movies that have been rated "G," "PG," "PG-13," or "R" by the Motion Picture Association of America.

Adult nightclub. A restaurant, bar, club, or similar establishment that regularly features adult entertainment.

Adult store. An establishment having adult merchandise as a substantial or significant portion of its stock-in-trade.

Agent. Any board, commission, official, administrator or agency designated by the board of county supervisors and by any provision of this chapter for the review and approval of any application for rezoning, variance, special exception and other land development approval processes.

Agricultural operations and uses. Operations and uses for the tilling of the soil, planting and harvesting of crop or plant growth of any kind in the open; pasture; horticulture; silviculture; dairying; floriculture; or raising of poultry and/or livestock.

Airport. Any airfield, aerodrome, airstrip, landing strip, aviation school, flying field, heliport, seaplane base or other place, on land or water, for the operation of aircraft.

Alley. A public or private way less than 30 feet wide and affording secondary means of access to abutting property.

Antenna. A device fabricated of fiberglass, metal or other material designed for use in transmitting or receiving communication signals and usually attached to a communication tower, building or other support structure.

Arborist. An individual trained in arboriculture, forestry, landscape architecture, horticulture or related fields and experienced in the conservation and preservation of native and ornamental trees. This definition shall also incorporate the term "urban forester."

Assisted living facility. A residential facility in which no more than eight aged, infirm or disabled persons reside with one or more resident counselors or other staff persons and which is licensed by the Virginia Department of Social Services or other licensing authority.

Attention getting device. A device placed upon or attached to any land, structure or building to promote or advertise the sale of goods, wares, merchandise or services. The device includes pennants, banners, banner signs, streamers, balloons and inflatable devices of any configuration when displayed out-of-doors. The device shall not exceed 30 feet in height (measured from the highest point of the device, including underlying buildings and structures) to the average lot grade beneath the device and 20 feet in diameter (measured at the widest point of the device).

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

Automobile service station. Any place of business with pumps and underground storage tanks having as its purpose the servicing, at retail, of motor vehicles with fuels and lubricants, and including minor repairs and inspections incidental thereto, but not including a general repair shop, paint or body shop, machine shop, vulcanizing shop or any operation requiring the removal or installation of radiator, engine, cylinder

head, crankcase, transmission, differential, fenders, doors, bumpers, grills, glass or other body parts, or any body repairing or painting.

Banner sign. A sign constructed of pliable material such as paper, cloth, plastic, vinyl or other similar material not exceeding 32 square feet in area.

Base flood. A flood having a one percent chance of being equaled or exceeded in any given year.

Base flood elevation. The water surface elevation of the base flood as shown on either the most recent Federal Emergency Management Agency Flood Insurance Rate Map or Flood Insurance Study or on the county's most recent comprehensive drainage study map, whichever is higher. The county engineer may amend the county's comprehensive drainage study map at any time upon review of additional engineering studies of floodplain areas. For areas without mapped base flood elevations, the developer shall use the 100-year flood elevations and floodway information from federal and state sources, if available, or, when such information is not available, flood elevations derived from sufficiently detailed hydrologic and hydraulic computations by a professional engineer who certifies the correct use of currently accepted technical concepts.

Bed and breakfast home. A private, owner-occupied dwelling with guestrooms where transient guests may stay for periods up to two weeks. Meals may be served to guests. The bed and breakfast function shall not detract from the primary residential use or appearance of the building.

Best management practice or *BMP.* Measures and practices that are the most effective, practicable means of preventing or reducing pollution inputs from nonpoint sources to water bodies. Such measures, which are sometimes structural, are described in authoritative publications such as *Controlling Urban Runoff: A Practical Manual for Planning and Designing Urban BMPs.*

Billiard parlor. A business establishment or club open to the public in which three or more tables are maintained for the play of billiards, pool or bagatelle as the principal use of the building.

Block. That property fronting on one side of a street and lying between two intersecting streets or otherwise limited by a railroad right-of-way, a live stream, an unsubdivided tract or other physical barrier of such nature as to interrupt the continuity of development.

Board. The board of zoning appeals of the county.

Boardinghouse. A building other than a hotel, motel, bed and breakfast home, or short-term rental, where lodging is provided for compensation for three or more, but not exceeding nine, residents.

Boat trailer. A boat trailer is a vehicular structure built on a chassis and designed for transporting boats, with an overall length, including hitch, of not more than 40 feet.

Brewery. A business licensed by the commonwealth to brew beer without limitation as to number of barrels per year, which may include bottling and wholesale distribution.

Buffer. A natural or landscaped area or screening device intended to provide a horizontal distance and open space, preserve vegetation and to lessen the impact and adverse relationship between dissimilar, unrelated or incompatible land uses and/or provide an area of natural or planted vegetation to protect Chesapeake Bay Preservation Areas and county and state waters from degradation due to land disturbances or uses.

Building. Any structure having a roof supported by columns or walls, used or intended to be used for the shelter, housing or enclosure of persons, animals or chattels, including tents, cabins, house trailers and carports. Where divided by party walls from the ground to the ceiling, each portion of a structure shall be deemed to be a separate building.

Building, height of. The vertical distance from the average established curb grade or from the average finished grade at the front building line, if higher, to the highest point of the roof of a flat roof, or the deck line of a mansard roof, or the mean height level between eaves and ridge for a gable, hip or gambrel roof.

Caliper. The diameter of a tree trunk measured six inches above ground level for nursery stock and 4½ feet above ground level for naturally occurring existing trees.

Caregiver. An adult who provides care for a mentally or physically impaired person who requires assistance with two or more activities of daily living, as defined in Section 63.2-2200 of the Code of Virginia, as certified in writing by a physician licensed in Virginia. A caregiver shall be either related by blood, marriage, or adoption to, or the legally appointed guardian of, the mentally or physically impaired person for whom he is caring.

Cemetery. A place for burial of the human dead, where lots are sold.

Cemetery for pets. A place for burial of the animal dead, where burial rights are sold.

Chesapeake Bay Preservation Area or CBPA. Any land designated by the county pursuant to part III of the Chesapeake Bay Preservation Area Designation and Management Regulations, VR 173-02-01, and Code of Virginia, § 10.1-2107, as amended. A Chesapeake Bay Preservation Area shall consist of a resource protection area (RPA) and a resource management area (RMA).

Child care center. Any facility other than a public school, private school or single-family dwelling where care is provided for children between the hours of 6:00 a.m. and 12:00 midnight.

Class A sludge. Sludge which meets all requirements of, and is approved by, the Virginia Department of Health and the state water control board as class A sludge.

Clearing. Any activity which removes vegetation including, but not limited to, trees, root mat or topsoil.

Commercial use means any use in a business, office, office service, or institutional district as classified and defined in this chapter.

Communication tower. A tower of any type which supports or is intended to support communication (broadcast and/or receiving) equipment and accessory equipment utilized by commercial, governmental or other public and quasi-public users, not to include home use of radio and television antennas and support structures, satellite dishes or antennas and support structures, satellite dishes or antennas and support structures of amateur radio operators licensed by the Federal Communications Commission.

Conditional use. A use that may be permitted in a district under certain conditions, to be determined in each case by the board of appeals as provided for in section 24-116(c).

Conditional zoning or zone. A zoning district or portion thereof which has been established pursuant to provisions of article XXVI and which is subject to reasonable conditions proffered in writing by the owner of the subject property and agreed to by the board of supervisors in a zoning action to which such conditions are applicable in addition to those regulations provided for that particular zoning district, or portion thereof, by the overall zoning chapter.

County landscape manual. The administrative manual setting forth guidelines, administrative procedures and technical assistance designed to assist implementation of the landscaping, tree cover, buffer requirements and transitional screening and design standards of the zoning chapter.

Court. An open, unoccupied space other than a yard on the same lot with a building.

Court, outer. A court enclosed on three sides by the walls of a building, but open on the fourth side.

Cul-de-sac. A local street, one end of which is closed with a permanent circular turnaround.

Cul-de-sac, terminus. The first point from the tangent of the standard right-of-way width along the radius of a public cul-de-sac street.

Dam means a manmade structure across a watercourse used to restrain water.

Dam break inundation zone means the area downstream of a dam that would be inundated or otherwise directly affected by the failure of the dam. The dam break inundation zone shall be as shown on the dam break inundation zone map filed with the Virginia Department of Conservation and Recreation.

Dancehall, public. A public dancehall shall be construed to mean any place open to the general public where dancing is permitted, to which an admission fee is charged or for which compensation is in any manner received. The sale of any refreshments, food or any form of merchandise or the exhibiting of such for sale shall be deemed compensation.

> *Restaurants* shall be excluded from this definition; provided, however, that area devoted to dancing, if provided, shall not exceed 250 square feet or ten percent of total floor area (exclusive of food preparation and service areas), whichever is greater.
>
> *Private clubs* shall be excluded from this definition, provided attendance at dances is limited to bona fide members of such clubs and bona fide guests of such members. If admission privileges to a private club are sold or otherwise permitted to the general public at any time, then such club shall be classified as a public dancehall and shall conform to all applicable regulations.

This definition is applicable only to the zoning chapter and not to the requirements of other county ordinances relating to dancehalls.

Development. Any manmade change to land such as the construction of buildings and structures, mining, dredging, filling, grading, paving, excavation or drilling.

Development, multifamily. Development consisting of various combinations of three or more dwellings and associated uses when situated on a lot or premises and when said lot or premises is in one or common ownership.

Director of planning. The zoning administrator responsible for the administration, interpretation and enforcement of this chapter except where specifically noted in section 24-106.3.

Distillery. A business licensed by the commonwealth to manufacture alcoholic beverages other than wine and beer, which may include bottling and wholesale distribution.

District. A portion of the county within which certain uniform regulations and requirements or various

combinations thereof apply under the provisions of this chapter. The term "R district" shall mean any of the districts the designation of which begins with the letter R; the term "O district" shall mean any of those beginning with the letter O; the term "B district" shall mean any of those beginning with the letter B; the term "M district" shall mean any of those beginning with the letter M; and the term "A district" shall mean the A-I district.

Drip line. A vertical line extending from the outermost edge of the tree canopy or shrub branch spread to the ground.

Dwelling. Any building or portion thereof occupied or designed to be occupied exclusively for residential purposes, but not including a tent, cabin or travel trailer or a room in a hotel or motel.

Dwelling, multifamily. A building or structure, or portion thereof, designed for or occupied by three or more families, except those operated primarily for transients.

Dwelling, one-family. A detached dwelling designed for or occupied exclusively by one family when situated on a lot or premises and serving as the principal permitted use for the lot or premises.

Dwelling, semidetached. Two single-family dwellings with separate entrances and situated on adjacent lots, each dwelling separated from the other by a party wall or exterior wall having a zero setback from the common lot line. No openings shall be permitted in the party wall or those portions of the exterior wall having a zero setback from the common lot line. The front wall immediately adjacent to the common lot line of one dwelling shall not be set back a greater distance from the front line than the rear wall immediately adjacent to the common lot line of the adjacent dwelling.

Dwelling, two-family. A building or structure containing two dwellings for one family each when situated on a lot or premises and serving as the principal permitted use for such lot or premises.

Enhanced transitional buffer. A buffer that must be provided within an overlay district in addition to the transitional buffer required by the underlying zoning district.

Facility, recyclable materials processing. A facility for the preparation for reuse of any recyclable material including the sorting, processing, assembling, packaging, baling and storage of materials made from previously prepared basic materials such as paper, plastic, metals and aluminum, cloth, rubber, oils and grease, glass, wood and similar materials.

Facility, recycling collection. A facility utilized by the general public for the collection of materials for recycling or reuse, including bin(s), box(es), building(s), self-propelled motor vehicle(s), trailer(s) and other enclosures or receptacles. This definition shall not include facilities for the collection of nonrecyclable materials, such as business and household refuse, garbage, organic materials, medical wastes, trash, junk, toxic substances or similar materials.

Family. A person living alone or any number of persons living together as a single housekeeping unit including domestic servants, caregivers, foster children and adults, and supervisory personnel in a group care facility. The term "family" shall not include the members of a social club; the residents of a convalescent or nursing home, retirement home, assisted living, or memory care facility; the residents of a boardinghouse; the guests of a hotel, motel, or bed and breakfast home; or short-term renters.

Family day home, large. A private dwelling where care is provided as an accessory use for six to 12 children, exclusive of the provider's own children and any children who reside in the home.

Family day home, small. A private dwelling where care is provided as an accessory use for one through five children, exclusive of the provider's own children and any children who reside in the home.

Farm winery. A business licensed by the commonwealth as a farm winery under title 4.1 of the Code of Virginia.

Floodplain. Any land area susceptible to being inundated by water from any source other than a dam break.

Floor area, finished. That area which is so completed as to be in conformity with the conditions of the main living area, but not necessarily utilizing the same building materials.

Floor area, livable. Floor area designed for yearround family living, enclosed or protected from the weather, but not intended for storage or similar uses, and not including garages, carports, cellars, basements, attics, open porches, atriums, patios and breezeways. Basement space may be included as livable floor area when designed as a family room, game room or similar use with an exposed outside wall containing windows or doors.

Forestry. The development and/or maintenance of a forest or woodland area under a forest management plan. Included are establishments engaged in the operation of timber tracts, tree farms, forest nurseries, the gathering of forest products or other silvicultural activities.

Garage, private. An accessory building, occupied or intended for occupancy by the noncommercial vehicles of the families resident on the lot, including a carport. If all the spaces in a garage of three-vehicle capacity, or more than half the spaces in a larger garage, are occupied by vehicles of nonresident persons, or if any garage is occupied by any commercial vehicle exceeding 10,000 pounds gross weight, or by more than one commercial vehicle of a family resident on the lot, or by any other commercial vehicles, it shall be deemed to be a public garage.

Garage, public. Any building, other than a private garage, used for the storage, repair or refinishing of motor vehicles or where any such vehicles are equipped for operation or kept for remuneration, hire or sale.

Geodetic Control Network means the system of survey monuments installed by the county to create a common coordinate reference for control points used in making measurements.

Graveyard. A place for burial of the human dead, consisting of one or more graves which have been set aside and maintained by a place of worship or family.

Gross weight. The aggregate weight of a vehicle and the load it is designed to carry, as recorded by the state division of motor vehicles.

Group home. A residential facility in which no more than eight individuals with mental illness, intellectual disability, or developmental disabilities reside with one or more resident or nonresident staff persons and which is licensed by the Virginia Department of Behavioral Health and Developmental Services or other licensing authority.

Group housing project. A group of dwellings and associated uses all in one ownership located on a site in such a way that the normal requirements of lot size and frontage, or building locations, or yards, courts or other provisions, cannot be applied.

Guesthouse. An accessory building without cooking facilities, intended for intermittent occupancy by

one or more guests, and for which a certificate of occupancy has been issued.

Guestroom. A sleeping room which is designed or intended for occupancy by, or which is occupied by, one or more guests for compensation, but in which no provision is made for cooking. The term does not include a dormitory for sleeping purposes.

Hedge. A dense planting of shrubs or small trees arranged in a row.

Highly erodible soils. Soils (excluding vegetation) with an erodibility index (EI) from sheet and rill erosion equal to or greater than eight. The erodibility index for any soil is defined as the product of the formula RKLS/T, where K is the soil susceptibility to water erosion in the surface layer; R is the rainfall and runoff; LS is the combined effects of slope length and steepness; and T is the soil loss tolerance.

Highly permeable soils. Soils with a given potential to transmit water through the soil profile. Highly permeable soils are identified as any soil having a permeability equal to or greater than six inches of water movement per hour in any part of the soil profile to a depth of 72 inches (permeability groups "rapid" and "very rapid") as found in the "National Soil Survey Handbook" of November, 1996, in the "Field Office Technical Guide" of the U.S. Department of Agriculture Natural Resources Conservation Service.

Hospital complex. Three or more attached or detached buildings, at least one of which is a hospital licensed as provided for in the Code of Virginia as a general or acute care hospital and designed, arranged and occupied for the purpose of furnishing hospital, health care and related services to human beings, together with other accessory structures.

Hotel, motel, motor lodge, motor hotel. A building or group of attached or detached buildings containing in combination three or more lodging or dwelling units intended primarily for rental or lease to transients by the day or week, as distinguished from multiple-family dwellings in which rentals or leases are for longer periods and occupancy is generally by residents rather than for transients.

Impervious cover. A surface composed of any material that significantly impedes or prevents natural infiltration of water into the soil. Impervious surfaces include, but are not limited to, roofs, buildings, streets, parking areas and any concrete, asphalt or compacted gravel surface.

Impounding structure means a dam or a manmade structure outside a watercourse used or to be used to retain or store waters or other materials as defined by Code of Virginia, § 10.1-604. The term includes: (i) all dams that are 25 feet or greater in height and that create an impoundment capacity of 15 acre-feet or greater and (ii) all dams that are six feet or greater in height and that create an impoundment capacity of 50 acre-feet or greater. The term "impounding structure" shall not include: (a) dams licensed by the state corporation commission that are subject to a safety inspection program; (b) dams owned or licensed by the United States government; (c) dams operated primarily for agricultural purposes which are less than 25 feet in height or which create a maximum impoundment capacity smaller than 100 acre-feet; (d) water or silt retaining dams approved pursuant to Code of Virginia, § 45.1-222 or § 45.1-225.1; or (e) obstructions in a canal used to raise or lower water.

Inflammable liquids. See Fire Underwriters' Fire Prevention Code, article 9, dated 1956.

Kennel or *animal boarding place.* Any building and/or premises used, designed or arranged for the boarding, breeding or care of four or more dogs, cats, pets, fowl or domestic animals of at least four months of age.

Land development approval process. An administrative procedure for approvals required by the County

Code, including approvals of construction plans, plans of development, conditional and special use permits, provisional use permits, landscape plans, erosion and sediment control plans, building permits, conditional and/or final subdivision plats and construction plans. This definition shall not be construed to include bona fide agricultural operations, structures and/or buildings and publicly financed projects such as, but not limited to, road construction and improvements, sanitary sewers and drainage projects and solid waste and wastewater projects deemed necessary for public health, safety, welfare and preservation or protection of life and property.

Land disturbing activity. Any clearing, grading, excavating, transporting or filling of land.

Landscaping. The improvement of a lot with grass, ground covers, shrubs, trees, other vegetation and/or ornamental objects. Landscaping may include mounds or earth forms, pedestrian walks, flower beds, ornamental objects such as trellises, fountains or statues, water features, ponds and other natural or manmade features.

Life care facility. A residential facility for the continuing care of the elderly, providing for transitional housing progressing from independent living in various dwelling units, with or without kitchen facilities, and culminating in nursing home-type care, where all related uses are located on the same lot. Such facility shall include other services integral to the personal and therapeutic care of the residents thereof and shall be licensed and regulated as a home for adults under Code of Virginia, title 63.1, as amended, or any successor legislation. The facility shall be administered in such a manner as to restrict occupancy of residential dwelling units only to persons 62 years of age or older. When two persons desire to live together as a family in a life care unit, only one of such person must satisfy the 62 years of age or older requirement.

Limited brewery. A business licensed by the commonwealth to manufacture no more than 15,000 barrels of beer per calendar year, provided (i) the brewery is located on a farm in the commonwealth on land zoned agricultural and owned or leased by such brewery or its owner and (ii) agricultural products, including barley, other grains, hops, or fruit, used by such brewery in the manufacture of its beer are grown on the farm.

Limited distillery. A business licensed by the commonwealth to manufacture no more than 36,000 gallons of alcoholic beverages other than wine or beer per calendar year, provided (i) the distillery is located on a farm in the commonwealth on land zoned agricultural and owned or leased by such distillery or its owner and (ii) agricultural products used by such distillery in the manufacture of its alcoholic beverages are grown on the farm.

Live entertainment. Entertainment provided in person including, but not limited to, musical performances, music played by disc jockeys, public speaking, dramatic performances, dancing, modeling, or comedy performances.

Lot. Any parcel of land occupied or intended to be occupied by a principal building and its accessory buildings and uses, together with such open spaces as are required by this chapter, which contains at least the minimum area and width required by this chapter for a lot in the district in which such lot is situated.

Lot, corner. A lot bordering on two streets which intersect at an angle not greater than 135 degrees. A "reversed corner lot" is one that is turned, with reference to an adjoining lot, to front on the intersecting street.

Lot, cul-de-sac. A lot which fronts at least 35 feet but less than 50 feet along the terminus of a public cul-de-sac street with linear side lot lines extending from the right-of-way of the cul-de-sac to the actual front yard depth (setback) at which the lot width is to be measured.

Lot depth. The mean horizontal distance between the front and rear lot line.

Lot, double-frontage. A lot, other than a corner lot, which has a frontage on two more or less parallel streets.

Lot, flag. A lot having access to a public cul-de-sac street through a strip of land a minimum of 20 feet wide being a part of the lot, which lot does not meet the minimum street frontage or lot width provisions of this chapter.

Lot line, front. The line separating the lot from a street on which it fronts. On a corner lot, the front shall be deemed to be along the shorter dimension of the lot; and where the dimensions are equal, the front shall be on that street on which a predominance of the other lots in the block front.

Lot line, rear. The lot line opposite and most distant from the front lot line.

Lot line, side. Any lot line other than a front or rear lot line.

Lot, stem. A lot which does not meet minimum street frontage or lot width requirements but which has access to a public cul-de-sac street through a part of the lot (its access strip) at least 20 feet wide.

Lot width. The width of the lot measured at right angles to the centerline of the lot at the minimum front yard depth (setback). For flag lots, stem lots and cul-de-sac lots, the width of the lot measured at the actual front building line.

Manufactured home. A structure subject to federal regulations, which is transportable in one or more sections; is eight body feet or more in width and 40 body feet or more in length in the traveling mode, or is 320 or more square feet when erected on site; is built on a permanent chassis; is designed to be used as a single-family dwelling, with or without a permanent foundation, when connected to the required utilities; and includes the plumbing, heating, air conditioning and electrical systems contained in the structure.

Manufactured home park. A lot or parcel on which are located, or which is arranged or equipped for the accommodation of, two or more manufactured homes occupied for living purposes.

Medical office. An establishment where patients are admitted for outpatient examination, diagnosis, treatment or consultation by physicians or dentists.

Microbrewery. A business licensed by the commonwealth to brew beer that brews no more than 3,000 barrels of beer per calendar year for sale at a restaurant or retail business on the same premises where the beer is brewed.

Motel. See *Hotel.*

Nonpoint source pollution. Pollution from diffuse sources such as runoff from agriculture, silvicultural and land development and uses.

Noxious weeds. Weeds that are difficult to control effectively, such as Johnson grass, kudzu and multiflora rose.

Parking deck. A building which is enclosed or partially enclosed and is used for the parking of passenger motor vehicles. No area designed for parking shall be used or converted to any other use or purpose.

Parking lot, public. An area containing one or more parking spaces for self-propelled passenger vehicles,

designed for and available to the public as an accommodation for patrons, customers or employees, either with or without charge.

Parking spaces, substitute. Substitute parking spaces are those spaces which are necessary to meet the requirements of this chapter and which can be accommodated on site with the use(s) they serve, but which are located on an existing off-site parking lot which is underutilized.

Plan of development. A site plan required under section 24-106 of this chapter. This includes plans of development (POD), administrative site plans and schematic site plans.

Planting area. The area within which vegetation is installed and which provides adequate space sufficient to maintain and ensure the healthy survival of trees and other vegetation.

Provisional use. A use or supplementary regulation which may be permitted under certain ordinances with suitable regulations and safeguards to be determined in each case pursuant to the terms of this chapter by the board of supervisors of the county through the authorization and issuance of a provisional use permit.

Redevelopment. The process of redeveloping land that is or has been previously developed.

Refuse container. A container with a capacity of two cubic yards or greater that has a hooking mechanism which permits it to be raised and dumped into a sanitation truck or recycling truck.

Resident. Any person who lives in a dwelling unit or portion thereof on a long-term or permanent basis, as distinguished from a guest or short-term renter.

Resource management area or *RMA.* That component of the Chesapeake Bay Preservation Area that is not classified as the resource protection area. It shall include land types that, if improperly used or developed, have a potential for causing significant water quality degradation or for diminishing the functional value of the RPA.

Resource protection area or RPA. That component of the Chesapeake Bay Preservation Area comprised of sensitive lands adjacent to water bodies with perennial flow that have an intrinsic water quality value due to the ecological and biological processes they perform or are sensitive to impacts which may result in significant degradation to the quality of state waters.

Restaurant. Any building where food, edibles and/or beverages are prepared and served for consumption only within the building.

Restaurant, drive-in. Any building intended, designed or used for the sale of food, edibles and/or beverages for any consumption outside of the building on the premises.

Restaurant, take-out. Any building intended, designed or used for the sale of food, edibles and/or beverages for any consumption off the premises.

Screen. A vertical barrier designed to reduce visual impact, noise and wind through the use of masonry walls, mounds, plants, fences and/or a combination thereof.

Self-service storage facility. A maximum of two structures designed and used for leasing individual storage spaces to which the lessees have access for storing or removing their personal property.

Short-term rental. The provision of a room or space that is suitable or intended for occupancy for dwelling, sleeping, or lodging purposes, for a period of fewer than 30 consecutive days, in exchange for a charge for the occupany.

Short-term rental, hosted stay. A short-term rental during which the homeowner is present in the dwelling.

Short-term rental, unhosted stay. A short-term rental during which the homeowner is not present in the dwelling.

Short-term renter. Any person permitted to occupy a short-term rental for a period of fewer than 30 consecutive days, in exchange for a charge for the occupancy, and any companions or guests of such person.

Shrub. A relatively low growing woody plant typified as normally having a growth habit consisting of several permanent stems instead of a single trunk.

Sight distance triangle. A triangular area that is included between the lines of an intersecting public street or private driveway and a straight line connecting them at a point 20 feet distant from the existing or proposed right-of-way line or private driveway intersection. The driveway for a single-family or two-family residence shall not be subject to the above.

Sign. Any device (writing, letters, numerals, illustration, emblem, symbol, trademark, device, figure or character) visible to and designed to communicate information to persons in a public area. The term "sign" does not include the display of merchandise for sale on the site of the display.

Sign, attached. Any accessory sign attached to or painted on the outside wall of a building.

Sign, detached. A sign not attached to or painted on a building, but which is permanently affixed to the ground or to a fence or wall that is not part of a building.

Sign, monument. A detached sign that is either: 1) a solid structure made of brick, stone, concrete or similar durable type of material; or 2) constructed on or connected directly to a solid supporting foundation made of brick, stone, concrete or similar durable type of material, with no separation between the sign and the base. The width of the base shall be at least 90 percent of the width of the sign.

Sign, outdoor advertising. A detached or attached sign and supporting sign structure, including a billboard, which advertises or directs the attention of the general public to a profession or business conducted, or to a commodity, service, activity or entertainment sold or offered, which is located off the premises on which the sign is located.

Sign, temporary. A sign not intended for permanent display and not permanently fixed to the ground or a structure, usually constructed of cloth, canvas, vinyl, paper, fabric, or other lightweight material.

Sign, window. A sign visible outside the window and attached to or within 18 inches in front of or behind the surface of a window or door.

Silvicultural activities. Forest management activities, including but not limited to the harvesting of timber, the construction of roads and trails for forest management purposes, and the preparation of property for reforestation that are conducted in accordance with the silvicultural best management practices developed and enforced by the state forester pursuant to Code of Virginia, § 10.1-1105, and are located on

property defined as real estate devoted to forest use under Code of Virginia, § 58.1-3230.

Small animal hospital. A veterinarian facility for the medical and surgical treatment of small animals. Use as a kennel shall be limited to shorttime boarding and shall only be incidental to such hospital use. Small animals shall be deemed to be ordinary household pets, excluding horses, donkeys or other such animals not capable of being cared for entirely within the confines of a residence.

Special flood hazard area. The special flood hazard areas are designated as zones A and AE on the most recent Flood Insurance Study or the Federal Emergency Management Agency Flood Insurance Rate Map, effective December 18, 2007, both of which are hereby incorporated by reference, or as floodplain on the county's most recent comprehensive drainage study map. In case of any conflict, the higher base flood elevation shall control. Any changes to the special flood hazard areas as delineated on the most recent Flood Insurance Study or the Federal Emergency Management Agency Flood Insurance Rate Map must be approved in advance by the Federal Insurance Administration.

Specified anatomical areas. Less than completely and opaquely covered human genitals, pubic region, buttock, or female breast below a point immediately above the top of the areola; or 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; sexual intercourse or sodomy; or fondling or other erotic touching of human genitals, pubic region, buttock or female breast, including masturbation.

Steep slopes. Any land area which rises or falls at a rate of 20 feet or more per 100 feet as measured in the horizontal plane.

Story. That portion of a building included between the surface of any floor and the surface of the floor next above it; or if there be no floor above it, then the space between such floor and the ceiling next above it. A basement shall be counted as a story for the purpose of height measurement, and as a half story for the purpose of yard measurement, if its ceiling is over five feet above the level from which the height of the building is measured, or if it is used for business purposes other than storage, or if it is used as a separate dwelling unit by other than a janitor or other employee and his family.

Story, half. A partial story under a gable, hip or gambrel roof, the wall plates of which on at least two opposite exterior sides are not more than two feet above the floor of such story; provided, however, that any such story used as a separate dwelling unit, by other than a janitor or other employee and his family, shall be counted as a full story.

Stream, nontributary. Nontributary streams are those intermittent streams depicted as a broken blue line on the most recent U.S. Geological Survey 7½-minute topographic quadrangle map (scale 1:24,000) unless site-specific information demonstrates the map resource to be incorrect.

Stream, tributary. Tributary streams are those perennial streams depicted as a solid blue line on the most recent U.S. Geological Survey 7½-minute topographic quadrangle map (scale 1:24,000) unless site-specific evidence demonstrates the map resource to be incorrect.

Street. A dedicated public thoroughfare which affords the principal means of access to abutting property, including road, highway, drive, lane, avenue, place boulevard or any other thoroughfare except an alley.

Streetscape buffer. A buffer that is located within an overlay district and adjacent to an ultimate right-of-

way as determined by the department of public works or the Virginia Department of Transportation.

Structural alterations. Any change in the supporting members of a building, such as bearing walls, columns, beams or girders.

Structure. Anything constructed by an assembly of materials, the use of which requires a fixed location on the ground or attachment to something having a fixed location on the ground.

Substantial alteration. Expansion or modification of a building or development which would result in disturbance of any land within a resource protection area or land disturbances of 2,500 square feet or more within a resource management area.

Temporary family health care structure. A transportable residential structure, providing an environment facilitating a caregiver's provision of care for a mentally or physically impaired person, that (i) is primarily assembled at a location other than its site of installation, (ii) is limited to one occupant who shall be the mentally or physically impaired person or, in the case of a married couple, two occupants, one of whom is a mentally or physically impaired person, and the other requires assistance with one or more activities of daily living as defined in Code of Virginia §63.2-2200, as certified in writing by a physician licensed in the Commonwealth, (iii) has no more than 300 gross square feet of floor area, and (iv) complies with applicable provisions of the Virginia Industrialized Building Safety Law and the Uniform Statewide Building Code.

Tidal shore. Land contiguous to a tidal body of water between the mean low water level and the mean high water level.

Townhouse. A single-family dwelling located or sited on individual subdivided lots designed to be sold as a unit. In the event that two or more units are attached, each unit shall be separated from one another by party walls without doors, windows or other provisions for human passage or visibility through such walls, from basement to roof.

Trailer park. A lot on which are located, or which is arranged or equipped for the accommodation of, two or more house trailers occupied for living purposes.

Transitional buffer. An area within a lot which contains a natural or landscaped area, or screen or both along the boundary of property line of specified zoning districts or between unrelated or incompatible uses. Such areas shall be as required by the matrix chart in section 24-106.2 and their widths shall be measured horizontally at right angles to the lot line.

Travel trailer. A vehicular, portable structure built on a chassis and designed to be used as a temporary dwelling for travel, recreational and vacation uses, with an overall length, including hitch, of not more than 40 feet.

Tree. A woody, tall growing perennial plant generally with one main stem or trunk, but including multiple-stemmed plants, which characteristically develops many branches, generally at greater height above the ground than shrubs.

Tree, cover or canopy. The area directly beneath the crown and within the dripline of a tree. Such area shall be computed and used as the basis of meeting the requirements of section 24-106.2.

Tree, deciduous. A shade or flowering/ornamental tree which sheds its foliage during a particular season.

Tree, evergreen (or coniferous). A tree which retains its green foliage throughout the year.

Tree, heritage. Any tree which has been designated by the board of supervisors as having notable historic or cultural significance.

Tree, mature. Any deciduous or coniferous tree with a minimum diameter (caliper) of 14 inches when measured 4½ feet above ground level.

Tree, memorial. Any tree which has been designated by the board of supervisors to be a special commemorating memorial.

Tree protection plan. A plan for the protection and/or replacement of trees.

Tree protection zone. Any area of a lot outside of the lot's buildable area within which existing trees and other natural vegetation are subject to regulation pursuant to section 24-106.2 of this chapter. Such zones must be clearly delineated on an approved plan in order to be considered for tree cover credit.

Tree, significant. Any deciduous or coniferous tree with a minimum diameter (caliper) of 22 inches when measured 4½ feet above ground level.

Tree, specimen. Any tree which has been designated by the board of supervisors to be notable by virtue of its outstanding size and/or quality for its particular species.

Use. The purpose for which land or a building thereon is designed or arranged for which it is occupied or maintained.

Utility trailer. A vehicular structure built on a chassis and designed to be used by the individual for personal hauling, with an overall length, including hitch, of not more than 40 feet.

Variance. A reasonable deviation from the provisions of this chapter regulating the shape, size, or area of a lot or parcel of land or the size, height, area, bulk, or location of a building or structure when the strict application of this chapter would unreasonably restrict the utilization of the property, and such need for a variance would not be shared generally by other properties, and provided such variance is not contrary to the purpose of this chapter. It shall not include a change in use, which change shall be accomplished by a rezoning or by a conditional zoning.

Vehicle storage area. Any lot or place which is exposed to the weather and upon which no more than five motor vehicles of any kind, which are inoperative, are placed, located or found.

Veterinarian hospitals and clinics. Any facility rendering surgical and medical treatment to animals. Use as a kennel shall be limited to shorttime boarding and shall only be incidental to such hospital use.

Virginia State Plan Coordinate System means the Virginia Coordinate System of 1983 as described in Code of Virginia, § 55-287 et seq., as amended.

Water-dependent facilities. Any use that cannot exist outside of the Resource Protection Area and must be located on the shoreline or within water because of the intrinsic nature of its operation. Such uses include, but are not limited to:

(1) Ports;

(2) The intake and outfall structures of power plants, water treatment plants, sewage treatment plants and storm sewers;

(3) Marinas and other boat docking structures;
(4) Beaches and other water-oriented recreation areas; and
(5) Fisheries or other marine resource facilities.

Wetlands, nontidal. Those wetlands other than tidal wetlands that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, as defined by current federal regulatory programs under section 404 of the Clean Water Act.

Wetlands, tidal. Vegetated and nonvegetated wetlands as defined in Code of Virginia, § 28.2-1300.

Winery. A business licensed by the commonwealth as a winery under title 4.1 of the Code of Virginia.

Woodland. A tract of land dominated by trees.

Woodline. Line separating areas of woodland from nonwoodland areas. For purposes of this chapter, the woodline shall be defined as the line surrounding the woodland, including the outermost edge of the dripline of the trees contained therein plus five feet.

Yard. An open space on the same lot with a building, a group of buildings, or a use, which space is unoccupied and unobstructed from the ground upward, except as herein provided.

Yard, front. A yard lying between the front lot line and the nearest part of the building or use not hereinafter excepted, and extending across the full width of the lot. The "minimum front yard depth" shall mean the shortest distance, measured horizontally, between any part of the building or use not specifically excepted and the front lot line.

Yard, rear. A yard lying between the rear lot line and the nearest part of the building not hereinafter excepted and extending across the full width of the lot. The "minimum rear yard depth" shall mean the shortest distance, measured horizontally, between any part of the building not specifically excepted and the rear lot line.

Yard, side. A yard lying between a side lot line and the nearest part of the building or use not hereinafter excepted, and extending from the front yard to the rear yard. "Street side yard" shall mean a yard on the street side of a corner lot. "Interior side yard" shall mean any other side yard. "Minimum side yard width" shall mean the shortest distance, measured horizontally, between any part of the building or use not specifically excepted and the nearest side lot line.

Zero lot lines. A term used to describe a planned arrangement of buildings which touch lot lines, thereby providing zero yard on that side.

(Code 1980, § 22-3; Code 1995, § 24-2; Ord. No. 907, 8-9-1995; Ord. No. 920, § 1, 5-8-1996; Ord. No. 937, § 1, 11-13-1996; Ord. No. 957, §§ 1, 2, 8-13-1997; Ord. No. 988, § 1, 8-10-1999; Ord. No. 993, § 1, 10-12-1999; Ord. No. 998, § 1, 2-22-2000; Ord. No. 1023, § 1, 2-12-2002; Ord. No. 1038, § 1, 10-8-2002; Ord. No. 1058, § 1, 11-12-2003; Ord. No. 1116, § 5, 11-27-2007; Ord. No. 1117, § 1, 11-27-2007; Ord. No. 1138, § 12, 11-10-2009)

ARTICLE III. DISTRICTS

Sec. 24-4. Division into districts.

For the purpose of this chapter, the territory of the county is hereby divided into districts as follows:

R-0	One-family residence district
R-0A	One-family residence district
R-1	One-family residence district
R-1A	One-family residence district
R-2	One-family residence district
R-2A	One-family residence district
R-3	One-family residence district
R-3A	One-family residence district
R-4	One-family residence district
R-4A	One-family residence district
R-5	General residence district
R-5A	General residence district
RMP	Residential manufactured home park
RPN	Planned neighborhood district
R-6	General residence district
RTH	Residential townhouse district
O-1	Office district
O-2	Office district
O-3	Office district
O/S	Office services district
O/S-2	Office service 2 district
A-1	Agricultural district
B-1	Business district
B-2	Business district
B-3	Business district
M-1	Light industrial district
M-2	General industrial district
M-3	Heavy industrial district
PMD	Planned industrial district
C-1	Conservation district
I-1	Institutional district
ASO	Airport safety overlay district
WBSO	West Broad Street overlay district
IRO	Innsbrook Redevelopment overlay district
WRO	Westwood Redevelopment overlay district

(Code 1980, § 22-4; Code 1995, § 24-4; Ord. No. 937, § 2, 11-13-1996; Ord. No. 980, § 2, 9-23-1998)

Sec. 24-5. District boundaries and maps.

(a) The location and boundaries of the districts created in this chapter are hereby established as shown on the maps derived from digital source files maintained by the county entitled "Zoning Districts Map of Henrico County, Virginia," effective January 1, 2002. The maps, digital source files, and all notations, dimensions and designations shown thereon are incorporated by reference as part of this chapter.

(b) The district boundaries shown on the zoning maps are intended to follow lot lines, property lines or the centerlines of streets or alleys as they exist at the time of passage of this chapter; except that where a district

boundary obviously does not follow any such line, and is not defined by dimensions or other means, it shall be determined by scaling.

(c) Questions concerning the exact location of district boundary lines shall be determined by the board of appeals as provided in section 24-116(d), and in accordance with rules and regulations which it may adopt. Where a district boundary line shown on the map divides a lot which was in single ownership and of record at the time of adoption of this chapter, or any amendment thereto, the board may authorize a variance in the line to include all of the lot in the same district, provided such a variance does not extend more than 50 feet.

(d) In case any territory is not included definitely within any of the districts on the county zoning maps, such territory shall be deemed to be in C-1 district except as provided in subsection (e) or by zoning amendments approved by the board of supervisors.

(e) The zoning for all parcels and lots that become part of the county on January 1, 2005, pursuant to an agreement to relocate the common boundary line between the County of Goochland and the County of Henrico executed on June 23, 2004, shall be A-1 Agricultural.

(Code 1980, § 22-5; Code 1995, § 24-5; Ord. No. 911, 11-21-1995; Ord. No. 1020, § 1, 11-27-2001; Ord. No. 1074, § 1, 11-23-2004)

Cross reference—Ordinances relating to rezoning or zoning map saved from repeal, § 1-10(a)(10).

ARTICLE IV. GENERAL PROVISIONS

Sec. 24-6. Conformance required.

Except as hereinafter provided for existing uses, no land, building, structure or premises shall hereafter be used, and no building or part thereof, or other structure, shall be erected, located, reconstructed, enlarged, converted or altered, except in conformity with the regulations herein specified for the district in which it is located.

(Code 1980, § 22-6; Code 1995, § 24-6)

Sec. 24-7. Continuation of existing uses and permits.

(a) Any lawful use, building or structure existing at the time of adoption of this chapter or any amendment thereto may be continued, even though such use, building or structure may not conform with the provisions of this chapter for the district in which it is located. Such use, building or structure shall be deemed a "nonconforming use." A change in occupancy or ownership shall not affect such right to continue said use, building or structure.

(b) Nothing herein contained shall be construed to affect any building permit lawfully granted before this chapter becomes effective nor any authorization lawfully granted by the board before this chapter becomes effective.

(Code 1980, § 22-7; Code 1995, § 24-7)

Sec. 24-8. Nonconforming uses; regulations.

No nonconforming building or use shall be moved, enlarged, extended, reconstructed, substituted or structurally altered except when required by law or order, unless the use thereof is changed to a use permitted in the district in which located, except as in section 24-66(a) or as follows:

(a) Such use may be extended throughout any part of the building which was manifestly arranged or designed for such use at the time of adoption of this chapter, provided no structural alterations except those required by law are made therein.

(b) Any building that is conforming as to use, but is nonconforming as to floor area, lot, yard, road frontage, distance or height requirements, may be enlarged or structurally altered, but not reconstructed or substituted, provided the enlargement or structural alteration complies with these requirements and the building remains conforming as to use.

(c) If no structural alterations are made, a nonconforming use of a building may be changed to another nonconforming use of the same or of a more restricted classification; but it shall not thereafter be changed back to a use of a less restricted classification.

(d) A residential or commercial building may be repaired, rebuilt or replaced after being damaged or destroyed by a natural disaster or other act of God to eliminate or reduce nonconforming features to the extent possible, without the need to obtain a variance as provided in Code of Virginia, § 15.2-2310, as amended. If such building is damaged greater than 50 percent and cannot be repaired, rebuilt or replaced except to restore it to its original nonconforming condition, the owner shall have the right to do so. The owner shall comply with the floor area, lot, yard, road frontage, distance or height requirements of this chapter as nearly as possible. The owner shall apply for a building permit, and any work done to repair, rebuild or replace such building shall be in compliance with the Uniform Statewide Building Code and the floodplain regulations adopted in section 24-106.1 as a condition of participation in the National Flood Insurance Program. Unless such building is repaired, rebuilt or replaced within four years of the date of the natural disaster or other act of God, such building shall only be repaired, rebuilt or replaced in accordance with this chapter.

(e) Except as provided in subsection (d), no building, structure or premises where a nonconforming use has ceased for two years or more shall again be put to a nonconforming use.

(f) Notwithstanding the requirements of subsections (a) through (e) above and the provisions of section 24-95(u), a nonconforming use or structure within a resource protection area may be continued but not necessarily enlarged, extended or structurally altered unless a waiver is granted pursuant to section 24-106.3 of this chapter.

(g) All nonconforming buildings and uses in any R district which are of a type first permitted in the B-2 district or are restricted from said district may be continued for a period of ten years after the adoption of this chapter, unless the owner produces satisfactory evidence that the building at that time is less than 40 years old, in which case the use may be continued until the building does become 40 years old, after which (in either case) the use shall be changed to a conforming use or the building shall be removed.

(h) For purposes of this section, the term "act of God" shall include any natural disaster or phenomena including a hurricane, tornado, storm, flood, high water, wind-driven water, tidal wave, earthquake or fire caused by lightning or wildfire. For purposes of this section, owners of property damaged by an accidental fire have the same rights to rebuild such property as if it were damaged by an act of God. Nothing herein shall be construed to enable the property owner to commit an arson under § 18.2-77 or § 18.2-80 of the Code of Virginia and obtain vested rights under this section.

(Code 1980, § 22-8; Code 1995, § 24-8; Ord. No. 1092, § 1, 1-23-2007; Ord. No. 1138, § 13, 11-10-2009)

Sec. 24-9. Public street frontage required.

Except as provided below, no lot shall be used in whole or in part for dwelling purposes unless such lot abuts a public street right-of-way for at least 50 feet. No lot or parcel of land abutting the terminus of a public street right-of-way shall be deemed, by virtue of such abutment, to have frontage on a public street right-of-way, unless such lot fronts on an approved permanent cul-de-sac. No lot or parcel of land abutting the right-of-way of an interstate highway shall be deemed, by virtue of such abutment, to have frontage on a public street right-of-way.

(a) Summerhouses, cabins, or camps as permitted by sections 24-51(c) or 24-88(f) need not abut a public street.

(b) Every flag lot subject to section 24-95(r) shall abut a public cul-de-sac street for a minimum distance of 20 feet as provided in section 24-95(r)(5).
(c) Every cul-de-sac lot shall abut a public cul-de-sac street for a minimum distance of 35 feet and shall be subject to the requirements of section 24-95(v).
(d) Every stem lot shall abut a public cul-de-sac street for a minimum distance of 20 feet and shall be subject to the requirements of section 24-95(w).
(e) Lots created by family subdivision as provided in sections 19-97 through 19-101 need not abut a public street.

(Code 1980, § 22-9; Code 1995, § 24-9; Ord. No. 988, § 2, 8-10-1999)

Sec. 24-10. Distance requirements.

(a) Uses, buildings or premises for which compliance with the distance requirements in this subsection is stipulated in the following regulations shall be distant at least 400 feet from any lot in any residence district and 200 feet from any other lot occupied by a dwelling other than a farm dwelling or by any school, place of worship, or any institution for human care not located on the same lot with the said uses or buildings.
(b) Any private stable or enclosure for the keeping of not more than three horses and/or ponies for personal enjoyment and not as a business shall be distant at least 400 feet from any dwelling in any residence district and 200 feet from any other dwelling other than a farm dwelling or from any school, place of worship, or any institution for human care not located on the same lot with said uses or buildings. Any buildings or enclosures shall further meet the minimum side and rear yard requirements for other permitted uses in the district in which located; and provided further, that there shall be no more than one horse and/or pony permitted on the premises for each acre of enclosed land.
(Code 1980, § 22-10; Code 1995, § 24-10)

ARTICLE V. R-0, R-0A, R-1, R-1A, R-2, R-2A, R-3, R-3A, R-4 AND R-4A ONE-FAMILY RESIDENCE DISTRICTS; USES

Sec. 24-11. Principal uses permitted.

The following uses shall be principal uses permitted in districts zoned R-0, R-0A, R-1, R-1A, R-2, R-2A, R-3, R-3A, R-4 and R-4A. No property may be rezoned to R-3A, R-4 and R-4A after April 25, 2000. Properties zoned R-3A, R-4, and R-4A on April 25, 2000, shall not be deemed to be nonconforming and shall be developed and used in accordance with the provisions of this chapter applicable to such districts.

(a) One-family dwellings to include assisted living facilities and group homes when located and operated in one-family dwellings.
(b) Places of worship, schools (including child care, charitable, cultural, and other community service activities on school property), colleges and universities (including educational, scientific and other related research facilities). County-owned or county-leased buildings and properties of a conservational, cultural, administrative or public service type and publicly owned or publicly leased buildings and property of a recreational type, with approval of a layout plan of development, in accordance with section 24-106, by the board of supervisors.
(c) Farming, dairy farming, livestock, rabbit and poultry raising, and all uses commonly classed as agricultural, with no restrictions as to the operation of such buildings, machinery or vehicles as are customarily incidental to such uses; except, that no livestock, rabbits, poultry or other animals shall be permitted to run at large, that all buildings shall be subject to the yard requirements specified herein and that any buildings or yards for the enclosure or feeding of animals or poultry shall observe the distance requirements of section 24-10.

(d) Public and private forests, wildlife preserves and similar conservation areas.

(e) Child care centers operated in a place of worship between the hours of 6:00 a.m. and 12:00 midnight.

(f) County-owned water or sewage pumping stations, water storage tanks and well houses, with a minimum yard on all sides of 20 feet, except all yards shall be increased by one foot for every two feet that the building or structure exceeds the permitted building height. All such buildings or structures shall be provided with an easement of access at least 16 feet wide. County-owned sewage treatment plants must have a lot greater than two acres.

(g) Temporary display of representative or model homes within a subdivision for the purpose of advertising the sale of houses within the subdivision. Insofar as this subsection is concerned, a subdivision constitutes a division of a parcel of land into three or more lots and the erection of houses thereon for the purpose of sale.

(h) The use of not more than one-quarter of one floor of a private dwelling, personally occupied by the candidate, which dwelling is at least 20 feet from the nearest adjacent private dwelling, as his campaign office, if duly certified in an election to fill an office in state or county government during the 90 days next preceding such election, and provided that the district within which such election takes place shall not be larger than the county. Campaign offices permitted under this subsection shall not be operated between the hours of 10:00 p.m. and 7:00 a.m., nor shall more than six campaign workers be present and working regularly at any one time.

(Code 1980, § 22-11; Code 1995, § 24-11; Ord. No. 973, § 1, 4-22-1998; Ord. No. 999, § 1, 4-25-2000)

Sec. 24-12. Conditional uses permitted by special exception.

(a) Railroad lines, electric transmission lines and pipelines on a private right-of-way or easement (other than service lines or electric transmission lines in easements or public roads provided for the purposes by subdivision, or on the premises of individual consumers); provided, that the board first obtains a report from the planning commission as to whether or not the facility would be consistent with a comprehensive plan of development for the county, or would interfere with any of the proposals in such plan.

(b) Private noncommercial recreation areas and centers such as country clubs, swimming pools, golf courses, boat clubs and riding clubs, but not including any shooting ranges or traps; provided, each establishment shall have an area of two acres or more.

(c) Public utility structures and facilities such as water or sewage pumping stations, well houses, water storage tanks, telephone exchange buildings, static transformers, repeater or switching stations, communication towers and antennas up to 50 feet in height, and transportation passenger stations, but not including any facilities for construction, repair, service or storage of utility equipment.

(d) Homing pigeon lofts, when located in the rear yard and subject to the same setback requirement as accessory uses. Lofts shall not exceed 160 square feet in area, ten feet in height or be less than two feet from the ground level.

(e) Noncommercial kennels for the keeping of animals by the occupant of the property.

(f) Television receiving antennas and support structures for home use and amateur radio broadcasting and receiving antennas and support structures exceeding 50 feet in height.

(g) Small or large family day homes with any employee(s) from outside the home or large family day homes operated outside the hours of 6:00 a.m. to 6:00 p.m.

(h) Subject to sec. 24-13.01(b):

(1) Short-term rental, hosted stays, meeting any of the following conditions:

a. located in a guesthouse;

b. located on a lot with less than 80 feet of frontage on a public street;

c. occupied by more than six short-term renters at any time; or

d. exceeding a total of 60 days in any calendar year.

(2) Short-term rental, unhosted stays.

(Code 1980, § 22-12; Code 1995, § 24-12; Ord. No. 1016, § 1, 8-14-2001)

Sec. 24-12.1. Provisional uses permitted.

The following may be permitted as provisional uses if approved by the board of supervisors in accordance with sections 24-120 and 24-122.1:

(a) A stage tower or scenery loft taller than the maximum height permitted in section 24-94.

(b) A bed and breakfast home. Bed and breakfast homes shall comply with the following criteria and any other conditions imposed in accordance with section 24-122.1 of this Code:

(1) Each application for abed and breakfast home shall include an operations and site plan showing the location and design of structures and features of the site, number of employees and other details, and how the bed and breakfast home will comply with the requirements of this section.

(2) The bed and breakfast home shall have no more than three guestrooms, unless the board finds that the additional rooms will not detrimentally impact the surrounding neighborhood.

(3) The owner shall reside in and operate the bed and breakfast home.

(4) The exterior of the building shall not be altered from its single-family character.

(5) The home shall have at least 2,500 square feet of livable floor area for the first three guestrooms and 300 square feet of additional livable floor area for each guestroom thereafter.

(6) Parking areas shall be located and designed to complement the residential character of the lot and to minimize potential impacts on adjacent properties. Notwithstanding the regulations set out in section 24-98, the board may permit parking areas to remain unpaved.

(7) There must be at least one bathroom available for the exclusive use of paying guests.

(c) *Gated subdivision.* When the roads in a subdivision have not been accepted into the county road system for maintenance; serve only, or are primarily for, the general welfare of the residents of the subdivision; and do not serve as a connector to other public roads, the owners of two-thirds of the subdivision lots, including the subdivider if he has an interest in the subdivision, may file a petition with the board of supervisors requesting that they be allowed to restrict ingress and egress to the subdivision. The board of supervisors may permit the restriction subject to the following conditions:

(1) The restriction may be abolished at any time in the sole discretion of the board of supervisors;

(2) The restriction shall not be asserted in opposition to the public ownership of streets dedicated to the public;

(3) The streets shall not be blocked to ingress and egress of government or public service company vehicles;

(4) Necessary maintenance of the streets will be paid for by the owners of the individual lots;

(5) Such other conditions which are imposed by the board of supervisors, including written guidelines and standards established by the director of planning and the director of public works.

(d) For any lot or parcel created after January 1, 1960, the maximum building height shall be 40 feet. For any lot or parcel created prior to January 1, 1960, the maximum building height shall be 35 feet by right and 40 feet if approved by provisional use permit.

(Code 1980, § 22-12.1; Code 1995, § 24-12.1; Ord. No. 957, § 3, 8-13-1997; Ord. No. 1000, § 1, 4-25-2000; Ord. No. 1061, § 1, 11-25-2003; Ord. No. 1063, § 1, 3-9-2004; Ord. No. 1111, § 1, 8-14-2007)

Sec. 24-13. Accessory uses permitted.

Accessory uses customarily incidental to a permitted principal or conditional use on the same lot therewith, including among others:

(a) Private parking areas, garages, and stables accessory to a dwelling. Parking may be provided for noncommercial vehicles, trucks not exceeding 10,000 pounds gross weight, and one commercial vehicle not

exceeding 10,000 pounds gross weight. Parking of any truck or commercial vehicle exceeding 10,000 pounds gross weight, or any commercial trailer or wrecker, is permitted only while loading, unloading, or working at or near the location where it is parked. Parking may be provided for one unoccupied manufactured home in an enclosed garage provided the manufactured home is owned by the occupant of the property. Stables shall comply with the distance requirements of section 24-10(b).

(b) Living quarters of persons employed on the premises, without restriction as to minimum floor area.

(c) Guesthouses for nonpaying guests, without restriction as to minimum floor area.

(d) Customary incidental home occupations, such as handicraft, dressmaking, millinery, laundering, preserving or home cooking, including occasional personal service of beauty culture offered in a limited way by appointment and not to the general public, and the home office of a member of a recognized or licensed profession, such as attorney-at-law, physician, dentist, musician or artist; provided that such occupations shall be conducted solely by resident occupants in their place of abode and provided that not more than the equivalent area of one quarter of one floor shall be used for such purpose; provided further, that such occupation shall not require external or internal alterations, or the use of machinery or equipment not customary for purely domestic household purposes and provided no stock-in-trade shall be kept or product sold, except such as are made on the premises; provided further, that there shall be no group instruction, assembly or activity or no display that will indicate from the exterior that the building is being utilized in part for any purpose other than that of a dwelling. Nothing herein contained shall be construed to prohibit the installation and use of two hair drying units. However, a home occupation shall not be interpreted to include beauty parlors, barber shops, convalescent or nursing homes, or massage or similar establishments offering services to the general public.

(e) The keeping of not more than two roomers or boarders in an otherwise private dwelling.

(f) Signs as regulated in section 24-104.1.

(g) Temporary roadside stands for the display and sale of farm products, on the premises where such are produced; provided such stands are of open-front type, are used in season only and are removed promptly at the end of each season. Such stands shall be at least 15 feet from the road right-of-way, and a suitable place shall be provided for vehicles to stop safely off the pavement.

(h) Small family day homes without any employee(s) from outside the home. Large family day homes operated between the hours of 6:00 a.m. to 6:00 p.m. without any employee(s) from outside the home.

(i) Memorial gardens, for the sprinkling of cremated human remains on the ground or the burial of cremated human remains in biodegradable containers, when located on the property of a place of worship meeting the requirements of section 24-94.

(j) Television and radio antennas and support structures, satellite dishes and amateur radio broadcasting and receiving antennas and support structures including guy anchors when used, subject to the requirements of section 24-95(i) for accessory buildings and uses, except that the height of any radio, television or amateur radio support structures and antennas shall not exceed 50 feet unless a greater height is authorized as a special exception by the board of zoning appeals.

(k) A recycling collection facility operated by a not-for-profit or tax-exempt organization for a period not to exceed 30 days within any six-month period pursuant to a permit to be obtained from the director of planning or the director's designee. The facility shall meet or exceed the following criteria:

(1) No recycling facility may be situated on the same lot with a one-family dwelling when such dwelling is a principal permitted use.

(2) Area and site size: A recycling collection facility shall not exceed a maximum area of 972 square feet.

(3) Setbacks: Setbacks shall be as set forth in sections 24-94 and 24-101.

(4) Parking: Parking shall be provided as required in section 24-96.

(5) Exterior storage: Exterior storage shall not be permitted. Provisions shall be made for daily maintenance to ensure this requirement is met.

(6) Vehicular and pedestrian circulation: A recycling collection facility shall be located in a manner that does not impede or adversely affect vehicular or pedestrian circulation.
(l) One temporary family health care structure on property owned or occupied by a caregiver as his residence in accordance with section 24-100.1.
(m) Short-term rental, hosted stays, subject to sec. 24-13.01(b), meeting all of the following requirements:
(5) located within the principal dwelling;
(6) located on a lot with 80 feet or more of frontage on a public street;
(7) occupied by no more than six short-term renters at any time; and
(8) limited to a total of no more than 60 days in any calendar year.

State law reference: Code of Virginia §15.2-2292.1.
(Code 1980, § 22-13; Code 1995, § 24-13)

Sec. 24-13.01. Development standards and conditions for permitted uses.

(a) *Refuse containers***.** Refuse containers shall be completely screened from view by means of an opaque fence or wall. Such containers shall be serviced only between the hours of 6:00 a.m. and 12:00 midnight.

(b) Short-term rental. The following requirements apply to short-term rentals:

(1) *Principal residence and ownership required.* Only a dwelling that is occupied by the property owner for at least 185 days per year may be offered for short-term rental. Prior to offering any property as a short-term rental, the property owner must certify, on a form provided by the director of planning, that the property owner occupies the property for at least 185 days per year. For purposes of this section, ownership includes, among other forms, a dwelling (i) held by a person alone or in conjunction with his spouse as tenant or tenants for life or joint lives, (ii) held in a revocable inter vivos trust over which a person or a person and his spouse hold the power of revocation, or (iii) held in an irrevocable trust under which a person alone or in conjunction with his spouse possesses a life estate or an estate for joint lives or enjoys a continuing right of use or support. However, ownership does not include a dwelling held under a leasehold or term of years.
(2) *Resolution of issues and complaints.* During short-term rental, hosted stays, the property owner must respond to and resolve issues and complaints that arise in connection with the stay at any time. For short-term rental, unhosted stays, prior to offering the property as a short-term rental, the property owner must provide, on a form provided by the director of planning, the name and contact information of an adult who will be available at all times when the property is occupied as a short-term rental. The designated adult must respond in person at the property within 30 minutes whenever necessary to resolve issues and complaints arising in connection with the short-term rental.
(3) *Limit on number of occupants.* The occupancy of any property during a short-term rental may not exceed a number equal to twice the number of bedrooms in the dwelling.
(4) *Limitation on additional uses.* No property owner may offer as a short-term rental any property that is also used for a family day home, group home, assisted living facility, massage therapy, taxi or other carrier service, or noncommercial kennel. No property owner may offer, allow, or provide a short-term rental for any other commercial use not customarily incidental to a one-family dwelling, including, without limitation, commercial use for parties, banquets, weddings, receptions, meetings, filming, or advertising activities.
(5) *Prohibition against double-booking.* No property owner may rent any property pursuant to two or more booking transactions for the same dates, such that no two separately-booked groups of short-term renters may occupy the same property at the same time. For the purpose of this prohibition, a "booking

transaction" is any transaction in which there is a charge to one or more short-term renters by a property owner in exchange for the occupancy of the property.
(6) *Prohibition against renting to minors.* No property owner may provide a short-term rental unless at least one of the short-term renters is 18 years of age or older.
(7) *Hours of check-in and check-out.* The property owner may not offer check-in or check-out services to short-term renters between the hours of 11:00 p.m. and 7:00 a.m.
(8) *Provision of smoke detectors, etc.* The property owner of any property offered for short-term rental must provide and maintain in good working order every smoke detector, carbon monoxide detector, and fire extinguisher required to be in the short-term rental by law. No property owner may obstruct any emergency egress required by law.
(9) *Posting of information required.* The property owner must conspicuously post the following information in any property offered for short-term rental:

a. The property address.

b. The name and contact information of the property owner and, if applicable, the adult designated pursuant to subparagraph (2) of this subsection.

c. Detailed instructions for emergency shut-off of gas, electricity, and water, including the locations of gas and water valves and circuit breakers.

d. Recycling and trash collection schedules.

e. The Henrico County noise ordinance.

(10) *Limitation on pets.* No property owner may allow more than three pets to be kept on the property of a short-term rental at any time.
(11) *Record of rentals*. The property owner must keep an accurate and complete record of each short-term rental for two years from the ending date of the rental and provide those records to the director of planning for inspection upon his request. The record of each rental must show, at a minimum, the beginning and ending dates of each rental and the number of persons occupying the dwelling.

ARTICLE VA. R-5A GENERAL RESIDENCE DISTRICT; USES

Sec. 24-13.1. Principal uses permitted.

(a) Any use permitted and as regulated in the R-4A one-family residence district except for one-family dwellings.
(b) Assisted living facilities and group homes, when located in any dwelling or housing type as permitted by this section and as regulated by this chapter.
(c) Two-family dwellings.
(d) Detached and semidetached dwellings for sale with zero lot lines in an approved subdivision of five or more lots in accordance with section 24-106 and the following provisions:
(1) *Lot area.* Minimum lot area for each structure shall be 5,625 square feet, with a minimum frontage of 25 feet and a minimum lot width of 50 feet at the minimum front yard setback line. Lots may front on a dedicated street or public access easements containing roadways, walkways or both.
(2) *Yards.* The minimum front yard for each structure shall not be less than 15 feet from project drives and walkways or 25 feet from secondary residential streets or 35 feet from any other streets. The minimum rear

yard for each structure shall not be less than 35 feet. The minimum side yard shall not be less than 12 feet for a semidetached dwelling and not less than 20 feet for a detached dwelling on a zero lot line. In no case shall the distance between two principal structures be less than 20 feet. The side yard for a zero lot line corner lot shall be on the street side. For all residential developments which did not have a recorded subdivision, conditional subdivision approval, proffers relating to setbacks or buffers approved as part of a rezoning case, an approved and valid plan of development, or an approved special exception as of March 26, 2002, where the front, side, or rear yard is adjacent to a major arterial, minor arterial, or controlled access roadway identified on the major thoroughfare plan and having a projected right-of-way of 60 feet or greater, the setback shall be increased by 35 feet; if the front, side, or rear yard is adjacent to a minor collector or major collector identified on the major thoroughfare plan and having a projected right-of-way of 60 feet or greater, the setback shall be increased by 25 feet. In cases where the side yard is adjacent to any public road there shall be a minimum 25 foot setback from the right-of-way of the public road. The increased setback may be divided between the residential lot and any common area immediately adjacent to the projected right-of-way. The increased setback may be reduced only if approved by the planning commission as an exception under section 19-4(a).

(3) *Minimum unit size.* Each dwelling unit shall contain at least 900 square feet of finished floor area.

(4) *Overall project density.* Overall density shall not exceed six dwelling units per acre exclusive of public rights-of-way.

(5) *Parking.* A minimum of two parking spaces per dwelling unit shall be provided on individual lots and/or in common parking areas.

(Code 1980, § 22-13.1; Code 1995, § 24-13.1; Ord. No. 1026, § 1, 3-26-2002)

Sec. 24-13.2. Accessory uses permitted.

(a) Accessory uses as permitted and as regulated in the R-4A district, except short-term rentals, and section 24-95.

(b) Other accessory uses not otherwise prohibited, customarily accessory and incidental to any permitted use.

(c) Signs as regulated in section 24-104.1.

(d) A recycling collection facility operated by a not-for-profit or tax-exempt organization for a period not to exceed 30 days within any six-month period pursuant to a permit to be obtained from the director of planning or the director's designee. The facility shall meet or exceed the following criteria:

(1) No recycling facility may be situated on the same lot with a one-family dwelling when such dwelling is a principal permitted use.

(2) Area and site size: A recycling collection facility shall not exceed a maximum area of 972 square feet.

(3) Setbacks: Setbacks shall be as set forth in sections 24-94 and 24-101.

(4) Parking: Parking shall be provided as required in section 24-96.

(5) Exterior storage: Exterior storage shall not be permitted. Provisions shall be made for daily maintenance to ensure this requirement is met.

(6) Vehicular and pedestrian circulation: A recycling collection facility shall be located in a manner that does not impede or adversely affect vehicular or pedestrian circulation.

(Code 1980, § 22-13.2; Code 1995, § 24-13.2)

Sec. 24-13.3. Conditional uses permitted by special exception.

Any conditional uses as permitted and as regulated in the R-4A district, except short-term rentals.

(Code 1980, § 22-13.3; Code 1995, § 24-13.3)

Sec. 24-13.4. Provisional uses permitted.

(a) Gated subdivision. When the roads in a subdivision have not been accepted into the county road system for maintenance; serve only, or are primarily for, the general welfare of the residents of the subdivision; and do not serve as a connector to other public roads, the owners of two-thirds of the subdivision lots, including the subdivider if he has an interest in the subdivision, may file a petition with the board of supervisors requesting that they be allowed to restrict ingress and egress to the subdivision. The board of supervisors may permit the restriction subject to the following conditions:

(1) The restriction may be abolished at any time in the sole discretion of the board of supervisors;

(2) The restriction shall not be asserted in opposition to the public ownership of streets dedicated to the public;

(3) The streets shall not be blocked to ingress and egress of government or public service company vehicles;

(4) Necessary maintenance of the streets will be paid for by the owners of the individual lots;

(5) Such other conditions which are imposed by the board of supervisors, including written guidelines and standards established by the director of planning and the director of public works.

(b) Building heights up to 40 feet.

(c) One-family dwellings in accordance with section 24-106 and subject to the following conditions:

(1) *Minimum area*. The project must contain at least 20 acres.

(2) *Lot area*. Minimum lot area for each structure shall be 5,625 square feet, with a minimum frontage of 25 feet and a minimum lot width of 50 feet at the minimum front yard setback line. A minimum of 50 percent of the lots subject to the provisional use permit shall have a minimum lot width of 60 feet. Lots may front on a dedicated street or public access easements containing roadways, walkways or both.

(3) *Yards*. The minimum front yard for each structure shall not be less than 15 feet from project drives and walkways or 25 feet from secondary residential streets or 35 feet from any other streets. The minimum rear yard for each structure shall not be less than 35 feet. The minimum side yard shall not be less than 8 feet, and the minimum sum of the side yards shall not be less than 20 feet. For all residential developments which did not have a recorded subdivision, conditional subdivision approval, proffers relating to setbacks or buffers approved as part of a rezoning case, an approved and valid plan of development, or an approved special exception as of March 26, 2002, where the front, side, or rear yard is adjacent to a major arterial, minor arterial, or controlled access roadway identified on the major thoroughfare plan and having a projected right-of-way of 60 feet or greater, the setback shall be increased by 35 feet; if the front, side, or rear yard is adjacent to a minor collector or major collector identified on the major thoroughfare plan and having a projected right-of-way of 60 feet or greater, the setback shall be increased by 25 feet. In cases where the side yard is adjacent to any public road there shall be a minimum 25 foot setback from the right-of-way of the public road. The increased setback may be divided between the residential lot and any common area immediately adjacent to the projected right-of-way. The increased setback may be reduced only if approved by the planning commission as an exception under section 19-4(a).

(4) *Minimum unit size*. Each dwelling unit shall contain at least 900 square feet of finished floor area.

(5) *Overall project density*. Overall density shall not exceed six dwelling units per acre exclusive of public rights-of-way.

(6) *Parking*. A minimum of two parking spaces per dwelling unit shall be provided on individual lots and/or in common parking areas.

(Code 1995, § 24-13.4; Ord. No. 1063, § 3, 3-9-2004; Ord. No. 1111, § 2, 8-14-2007)

Sec. 24-13.5. Development standards and conditions for permitted uses.

Refuse containers. Refuse containers shall be completely screened from view by means of an opaque fence or wall. Such containers shall be serviced only between the hours of 6:00 a.m. and 12:00 midnight.

ARTICLE VI. RMP RESIDENTIAL MANUFACTURED HOME PARK; USES

Sec. 24-14. Purpose and intent.

To permit, in accordance with comprehensive plans, the development of a single-family residential manufactured home park located in an appropriate residential environment and containing not less than eight contiguous acres under one ownership or control in those areas of the county that are provided with public sanitary sewers, sewage disposal facilities and public water supply. The park shall be located on and have direct access to a major collector or road of a higher functional classification. The number of lots that shall be completed before the first occupancy shall be 50.

(Code 1980, § 22-14; Code 1995, § 24-14)

Sec. 24-15. Principal uses permitted.

(a) Manufactured homes which meet the requirements set forth in the Virginia Manufactured Housing Construction and Safety Standards Law and are for single-family residential use when the length of occupancy exceeds 30 days.

(b) Swimming pools, recreational and athletic facilities, community buildings and other similar and related improvements for the common use of park occupants and their guests.

(c) A coin-operated laundry and/or drying operation may be permitted for the sole use of park occupants.

(d) Places of worship.

(Code 1980, § 22-15; Code 1995, § 24-15)

Sec. 24-16. Accessory uses permitted.

(a) Accessory uses not otherwise prohibited and customarily accessory and incidental to any permitted use.

(b) A recycling collection facility operated by a not-for-profit or tax-exempt organization for a period not to exceed 30 days within any six-month period pursuant to a permit to be obtained from the director of planning or the director's designee. The facility shall meet or exceed the following criteria:

(1) No recycling facility may be situated on the same lot with a one-family dwelling when such dwelling is a principal permitted use.

(2) Area and site size: A recycling collection facility shall not exceed a maximum area of 972 square feet.

(3) Setbacks: Setbacks shall be as set forth in sections 24-94 and 24-101.

(4) Parking: Parking shall be provided as required in section 24-96.

(5) Exterior storage: Exterior storage shall not be permitted. Provisions shall be made for daily maintenance to ensure this requirement is met.

(6) Vehicular and pedestrian circulation: A recycling collection facility shall be located in a manner that does not impede or adversely affect vehicular or pedestrian circulation.

(Code 1980, § 22-16; Code 1995, § 24-16)

Sec. 24-17. Area and density.

The overall density of any manufactured home park shall not exceed eight units per gross acre and the net density of any particular acre within such park shall not exceed 12 units per acre. For density purposes, all areas subject to flooding and other adverse topographic features making them unsuitable for residential use shall be excluded from computations. The minimum lot area for individual manufactured homes shall be 3,600 square feet and no manufactured home shall occupy more than 25 percent of the area of the lot on

which it is situated. The minimum width for each lot shall be 2½ times the width of the manufactured home, or 25 feet, whichever is greater. Minimum lot widths shall be measured at right angles to the long axis of the lot at the setback line or rear of the parking stand, whichever is less.

(Code 1980, § 22-17; Code 1995, § 24-17)

Sec. 24-18. Yard and setback requirements.

All manufactured homes shall be located at least 15 feet from any private road or street measured from the closest exterior wall.

(Code 1980, § 22-18; Code 1995, § 24-18)

Sec. 24-19. Minimum distance between manufactured homes and other buildings.

No manufactured home shall be placed within 20 feet of another manufactured home or service building, except that with respect to manufactured homes parked end to end, the distance between such manufactured homes may be reduced to 15 feet.

(Code 1980, § 22-19; Code 1995, § 24-19)

Sec. 24-20. Patios.

Each manufactured home lot shall provide an appropriate outdoor living space to supplement the limited interior space of a manufactured home.

(1) *Size.* The minimum size of each manufactured home patio shall be 250 square feet.
(2) *Location.* Every patio shall be convenient to the entrance of the manufactured home, appropriately related to open areas of the lot and other facilities, adapted to terrain and natural features and related to anticipated manufactured home models.
(Code 1980, § 22-20; Code 1995, § 24-20)

Sec. 24-21. Recreational areas.

(a) There shall be provided areas and facilities for recreational purposes appropriate to the needs of the occupants.
(b) Each manufactured home park must provide not less than one multiple purpose developed recreational area of 10,000 square feet.
(c) Any park containing more than 100 units shall provide an additional minimum of 100 square feet of such recreation area per manufactured home lot in excess of 100 lots. When additional recreational area is required, it shall be provided in sites contiguous to the minimum area required above.
(Code 1980, § 22-21; Code 1995, § 24-21)

Sec. 24-22. Private streets.

(a) The minimum lane or private street on which an individual manufactured home lot fronts shall be 26 feet in width. In cases when private structures dead end, there shall be constructed a cul-de-sac with a minimum turning radius of 35 feet.
(b) Collector streets with no parking require 26 feet minimum.
(c) Common or cul-de-sac street 26 feet width, 35 feet turning radius.
(Code 1980, § 22-22; Code 1995, § 24-22)

Sec. 24-23. Vehicle parking.

Off-street parking shall be provided for the use of occupants at the minimum ratio of two car spaces for each manufactured home. Each off-street parking area shall have unobstructed access to a public street or common street and no parking space shall be more than 150 feet from the manufactured home lot which it serves. On-street parking is prohibited.

(Code 1980, § 22-23; Code 1995, § 24-23)

Sec. 24-24. Transitional buffering and landscaping.

A transitional buffer of 50 feet shall be provided along residential manufactured home park boundary lines and the residential manufactured home park shall be landscaped in accordance with section 24-106.2.

(Code 1980, § 22-24; Code 1995, § 24-24)

Sec. 24-25. Utility plan.

All utilities shall be underground except control instrumentation and substations which must be screened by planting or ornamental walls. No overhead wires are permitted within the park.

(Code 1980, § 22-25; Code 1995, § 24-25)

Sec. 24-26. Ground markers for lots.

Lot corners shall be clearly defined by permanent ground markers corresponding to the approved plot plan.

(Code 1980, § 22-26; Code 1995, § 24-26)

Sec. 24-27. Plan of development.

In acting upon a site plan for a manufactured home park, the planning commission shall give approval, based upon the above requirements and the following:

(1) Preservation of topographic features, recreational facilities, with the objective of achieving maximum compatibility between the proposed manufactured home park and the surrounding areas.
(2) The manufactured home park shall conform to the requirements for a plan of development as set forth in section 24-106.

Sec. 24-27.1. Refuse containers.

Refuse containers. Refuse containers shall be completely screened from view by means of an opaque fence or wall. Such containers shall be serviced only between the hours of 6:00 a.m. and 12:00 midnight.

(Code 1980, § 22-27; Code 1995, § 24-27)

ARTICLE VII. R-5 GENERAL RESIDENCE DISTRICT; USES

Sec. 24-28. Principal uses permitted.

(a) Any principal use permitted and as regulated in the R-4A district except one-family dwellings.

(b) Multifamily development in accordance with section 24-30.2. Compliance with multifamily guidelines maintained by the director of planning is strongly encouraged.

(c) Boardinghouses.

(d) Child care centers in accordance with section 24-106.

(e) Townhouses for sale as permitted and regulated in article X, except as stipulated below:

(1) *Area and density.* Area and density for townhouses for sale shall not exceed 12 units per acre.

(2) *Frontage.* A minimum lot frontage, measured at the setback line, of 18 feet shall be provided.

(3) *Architectural treatment.* There shall be at least three but no more than 12 townhouse units continuously connected. A minimum of ten feet of common area shall separate any two groups or rows of lots.

(4) *Development standards.* The provisions of section 24-30.2 shall apply to all townhouses for sale. Compliance with multifamily guidelines maintained by the director of planning is strongly encouraged.

(f) Assisted living facilities and group homes, when located in any dwelling or housing type as permitted by this section and as regulated by this chapter.

(Code 1980, § 22-28; Code 1995, § 24-27; Ord. No. 1008, § 1, 11-28-2000)

Sec. 24-29. Conditional uses permitted by special exception.

(a) Any conditional uses permitted and as regulated in the R-5A district.

(b) Group housing projects containing various combinations of dwellings and associated uses, in a single ownership, and having a site plan in which the normal lot, yard and other regulations prescribed herein cannot be applied, subject to the provisions of section 24-100.

(c) Nursing home, convalescent home or home for the aged; provided, that any such use shall have a minimum lot area of five acres.

(Code 1980, § 22-29; Code 1995, § 24-27)

Sec. 24-29.1. Provisional uses permitted.

(a) Any principal use permitted in the B-1 district may be located in the first or second story of a structure exceeding two stories in height, subject to the following requirements:

(1) *Floor area.* B-1 uses may not occupy more than 35 percent of the floor area of the structure.

(2) *Parking required.* The required parking for B-1 uses may be reduced by up to 50 percent if the parking is shared between residential and B-1 uses.

(3) *Signage.* Each tenant may have one attached sign if the tenant's space has direct access from the exterior of the building. No sign shall exceed 15 square feet of sign area per tenant.

(4) The requirements of section 24-122.1 of this Code.

(b) Buildings or structures up to 200 feet in height may be permitted by provisional use permit.

(Code 1995, § 24-29.1; Ord. No. 1028, § 1, 6-11-2002; Ord. No. 1111, § 3, 8-14-2007)

Sec. 24-30. Accessory uses permitted.

(a) Accessory uses as permitted and as regulated in the R-5A district.

(b) Other accessory uses, not otherwise prohibited, customarily accessory and incidental to any permitted uses.

(c) Signs as regulated in section 24-104.1.

(d) Retail and/or service uses in a nursing home, convalescent home or home for the elderly building; provided, that there shall be no entrances direct from the street or parking lot to those businesses, no signs or other evidence indicating the existence of such businesses visible from the outside of the building; and

provided, that such uses are customarily incidental and secondary to the primary use.

(e) A recycling collection facility operated by a not-for-profit or tax-exempt organization for a period not to exceed 30 days within any six-month period pursuant to a permit to be obtained from the director of planning or the director's designee. The facility shall meet or exceed the following criteria:

(1) Area and site size: A recycling collection facility shall not exceed a maximum area of 972 square feet.

(2) No recycling facility may be situated on the same lot with a one-family dwelling when such dwelling is a principal permitted use.

(3) Setbacks: Setbacks shall be as set forth in sections 24-94 and 24-101.

(4) Parking: Parking shall be provided as required in section 24-96.

(5) Exterior storage: Exterior storage shall not be permitted. Provisions shall be made for daily maintenance to ensure this requirement is met.

(6) Vehicular and pedestrian circulation: A recycling collection facility shall be located in a manner that does not impede or adversely affect vehicular or pedestrian circulation.

(Code 1980, § 22-30; Code 1995, § 24-29)

Sec. 24-30.1. Exceptions to article VII.

For any property zoned R-5 general residence district prior to November 10, 1993, having a valid subdivision plat approved by the agent in accordance with chapter 19 of the County Code as of November 10, 1993, the following principal uses if approved on the subdivision plat are permitted:

(a) One-family dwellings as follows:

Maximum Height		Minimum Lot Area		Minimum		Minimum Side Yard		Minimum	
Stories	Feet	Total (sq. ft.)	Per Family (sq. ft.)	Lot Width (ft.)	Front Yard Depth (ft.)	Least Yard (24-94(c)) (ft.)	Sum of Yards (ft.)	Rear Yard Depth (ft.)	Finished Floor Area (sq. ft.)
	35	7,500	7,500	60	35	8	20	35	950 (24-94(u)(o))

(b) Two-family dwellings as follows:

Maximum Height		Minimum Lot Area		Minimum		Minimum Side Yard		Minimum	
Stories	Feet	Total (sq. ft.)	Per Family (sq. ft.)	Lot Width (ft.)	Front Yard Depth (ft.)	Least Yard (24-94(c)) (ft.)	Sum of Yards (ft.)	Rear Yard Depth (ft.)	Finished Floor Area (sq. ft.)
1 or	25	11,25	5,625	80	35	12	24	35	700(2

1½		0							4-94(m))
2 or 2½	35	11,250	5,625	80	35	14	28	35	700(24-94(m))

(c) Detached and semidetached dwellings for sale with zero lot lines in an approved subdivision of five or more lots in accordance with section 24-106 and the following:

(1) *Lot area.* Minimum lot area for each structure shall be 5,625 square feet, with a minimum frontage of 25 feet and a minimum lot width of 50 feet at the minimum front yard setback line. Lots may front on a dedicated street or public access easements containing roadways, walkways or both.

(2) *Yards.* The minimum front yard for each structure shall not be less than 15 feet from project drives and walkways, or 25 feet from secondary residential streets or 35 feet from any other streets. The minimum rear yard for each structure shall not be less than 35 feet. The minimum side yard shall not be less than 12 feet for a semidetached dwelling and not less than 20 feet for a detached dwelling on a zero lot line. In no case shall the distance between two principal structures be less than 20 feet. The side yard for a zero lot line corner lot shall be on the street side.

(3) *Height.* Dwellings shall have a maximum building height of 35 feet. Building height up to 40 feet may be approved by provisional use permit.

(4) *Minimum unit size.* Each dwelling unit shall contain at least 900 square feet of finished floor area.

(5) *Overall project density.* Overall density shall not exceed six dwelling units per acre exclusive of public rights-of-way.

(6) *Parking.* A minimum of two parking spaces per dwelling unit shall be provided on individual lots and/or in common parking areas.

(d) Townhouses for sale as permitted and regulated in article X, with architectural treatment permitted as follows:

(1) No more than 12 townhouse units shall be continuously connected. A minimum of ten feet of common area shall separate any two groups or rows of lots.

(Code 1980, § 22-30.1; Code 1995, § 24-30.1; Ord. No. 1111, § 4, 8-14-2007)

Sec. 24-30.2. Development standards.

(a) *Roads.* Private roads and driveways and parking areas for multifamily developments shall be designed and constructed in accordance with the pavement design standards and specifications of the department of public works. The final pavement design shall be based on California Bearing Ratio (CBR) Tests of the subgrade material. However, in no case shall the pavement design be less than six-inch aggregate base material and two-inch SM-2A asphalt. The routing of heavy vehicles (i.e., trucks) shall be identified on the plan submitted for review. The pavement design on the proposed truck route shall be designed to accommodate the number and type of trucks anticipated to be using the facility. All materials to be used in the construction methods and tolerances shall be in accordance with the Virginia Department of Transportation standards and specifications unless the plan specifies stricter requirements. A certified professional engineer, licensed in the State of Virginia, shall be employed by the developer to monitor and supervise the materials used; the adequacy of the subgrade; the installation of drainage structures, curb and gutter and all concrete items; and all road, driveway and parking area construction activities, including material compaction, grading tolerances and compliance with the plans and specifications. Prior to issuance of the last certificate of occupancy, the certified professional engineer, licensed in the State of Virginia, shall

provide the county with certification that each phase of construction met density requirements; that all material depths were verified for compliance; and that the road and parking areas have been constructed in strict accordance with the plans and specifications. For owner-occupied developments, the developer shall post a defect bond for the construction of roads, driveways, and parking areas. The defect bond shall remain in effect for a period of three years from the date of the issuance of the final occupancy permit.

(b) *Refuse containers.* Containers for refuse and recyclable materials shall be completely screened from view and located in an enclosed area conveniently accessible to all residents. Enclosures shall be constructed of finished masonry materials with the exception of gates and doors. Gates and doors shall be opaque, substantial, and oriented to minimize views of the enclosures from public rights-of-way. Concrete pavement shall be used where the refuse container pad and apron are located. Such containers shall be serviced only between the hours of 6:00 a.m. and 12:00 midnight.

(c) *HVAC screening.* All ground level and rooftop HVAC and mechanical equipment shall be screened from view. Screening shall consist of landscaping or materials used in the principal building's exterior. If HVAC wall units are used they must be architecturally compatible with the building.

(d) *Recreational vehicle parking.* In addition to the required parking, an additional five percent of the minimum required parking spaces shall be provided for recreational vehicles and shall be screened unless these requirements are waived or reduced by the director of planning or the planning commission because full compliance is unnecessary due to restrictive covenants, the type of development, expected mix of residents, or other factors. This parking area shall be located in a separate, designated area and shall not be located in front of units.

(e) *Applicability.* All multifamily development on property which did not have an approved plan of development, proffers approved as part of a rezoning case, an approved special exception, or previous multifamily development on the property as of November 28, 2000, shall comply with the requirements of this section.

(Code 1995, § 24-30.2; Ord. No. 1008, § 2, 11-28-2000)

ARTICLE VIII. URBAN MIXED USE DISTRICT; USES

***Editor's note—**

Ord. No. 1037, adopted Aug. 13, 2002, amended and reordained Art. VIII in its entirety to read as herein set out. Former Art. VIII was titled "RPN Planned Neighborhood District; Uses" and derived from §§ 22-31—22-34 of the 1980 Code.

Sec. 24-31. Purpose of district.

The purpose of the Urban Mixed Use District (the "UMU district") is to allow development of mixed-use, pedestrian-oriented, activity centers containing a variety of uses, including business, retail, residential, cultural, educational, and other public and private uses. The UMU district is intended to encourage redevelopment and reinvestment in commercial and industrial areas, and provide for design flexibility and alternative development patterns on undeveloped property. The UMU district shall incorporate publicly accessible community open space areas and encourage high quality development and redevelopment that stimulates investment, generates jobs, increases available housing options, and expands the county's tax base. The UMU district also permits a compatible mix of uses in a single structure or a group of structures on a parcel or group of parcels and is intended to discourage piecemeal development. The UMU district will facilitate investment by increasing the number of permitted principal and accessory uses in a single district and will encourage high quality redevelopment by permitting greater regulatory flexibility and innovative and creative design.

The UMU district is not intended for general application throughout the county. The UMU district should be limited to areas with adequate infrastructure and served by necessary transportation facilities (i.e., available public transit, close proximity to an interstate interchange, rail center, etc.).

(Code 1995, § 24-31; Ord. No. 1037, § 2, 8-13-2002)

Sec. 24-31.1. Procedures to establish a UMU district.

(a) *Preapplication conference.* The applicant shall schedule a preapplication conference with the director of planning or his designee at least 60 days prior to the scheduled filing deadline for rezoning applications.
(b) *Submission of required documents.* The applicant shall submit the documents required in section 24-31.2 to the director of planning.
(c) *Report of the director of planning.* The director of planning or his designee may send copies of the application documents to other local or state agencies for comments. The application shall be placed on the first available planning commission agenda after the director of planning prepares a report regarding the application.
(d) *Consideration by the planning commission and board of supervisors.* The public hearings and consideration by the planning commission and board of supervisors shall be as set forth in sections 24-120, 24-121, and 24-122.1. Upon approval of the applications by the board of supervisors, the UMU district is established. The master plan shall guide the general location of all features shown therein, including land use, densities, roads, public uses, and other features. Plans of development and subdivision plats required in section 24-106 and chapter 19 of the Code shall be in general conformance with the approved master plan and schematic plans as determined by the director of planning and shall supersede the master plan and schematic plans. The director of planning shall not approve any building permit application until the applicant has guaranteed the completion of public improvements for the portion of the development under consideration, including but not limited to, public roads, public water, and public sewer facilities, by providing a letter of credit, certified check, cash escrow, cash payment, or surety bond, approved as to form by the county attorney, in accordance with sections 19-75 and 24-106.
(e) *Variations.* Requests for variations in final plans and uses shall be reviewed by the planning commission and forwarded to the board of supervisors for approval.

Sec. 24-31.2. Submission requirements.

The applicant shall submit any information required by the director of planning necessary to evaluate a rezoning application or plan of development within the UMU district. The director of planning shall determine the number of copies of the master plan and development impact statement to be submitted.

(a) *Master plan.* The application shall include a master plan prepared by a licensed surveyor, engineer, architect, landscape architect, or certified planner. The term master plan shall be defined as the combination of documents detailing the proposed development, including the schematic master plan, architectural pattern book and design guidelines. The master plan shall include:

(1) An inset map at a scale of not less than one inch to one mile, showing the property in relation to surrounding roads, subdivisions, or major landmarks.
(2) A north arrow.
(3) The location of existing property lines, watercourses or lakes, wooded areas, and existing roads within or adjoining the property.
(4) Approximate boundaries of each phase or land bay, land uses, densities, approximate location of proposed streets and rights-of-way with an indication of whether public or private; approximate location of recreation

areas, common areas, and open spaces; and areas proposed for dedication to public use. A typical street section for each proposed street type shall be provided.

(5) For each phase or land bay of different uses, a table shall show the following:

a. The proposed uses;
b. Acreage of common area and open space;
c. Maximum number of dwelling units and density for residential areas, and square feet of floor space for office/commercial or office/service areas;
d. Site/building coverage ratios;
e. Parking, required and provided;
f. Other information required by the director of planning.

(6) Schematic plans which shall indicate the phasing of development and master water, sewer and drainage plans.

(7) The minimum lot width and setbacks for all structures in the development.

(8) A description of the guarantees and assurances that will be provided for the maintenance of common areas, open space, recreation areas, sidewalks, parking, private streets, and other privately-owned but common facilities serving the project.

(9) Comprehensive sign program as described by section 24-34(p).

The master plan and associated documents shall become the governing documents for development of the UMU district upon approval by the board of supervisors.

(b) Development impact statement. Unless the proposed project is located in the Innsbrook Redevelopment overlay district as described in section 24-92.4, the application shall include a development impact statement. For projects within the Innsbrook Redevelopment overlay district, a development impact statement may be required if the director of planning determines the development warrants additional study because of the proposed residential, types of commercial uses, building height, or similar factors. Such determination shall be made at the time of the required preapplication conference. The development impact statement shall describe the probable effects of the proposed project upon the community and a detailed and thorough analysis of the impact of the project on the county. At a minimum, it shall address the following:

(1) Adequacy of existing public facilities and services to serve the project. The analysis shall address sewer, water, schools, fire stations, and other public facilities and services.

(2) Additional on-site and off-site public facilities or services which would be required as a result of the project.

(3) A traffic impact study prepared by an individual or firm qualified to conduct traffic engineering studies in a manner and form acceptable to the county traffic engineer.

(4) Fiscal impact of the proposed project, such as estimated tax revenues to be generated versus the cost of public improvements to be financed by the county or otherwise. Such study shall be prepared by an individual or firm qualified to conduct fiscal impact analysis in a manner and form acceptable to the director of finance, director of public works, director of planning, or their designees.

(5) Impact of construction and permanent changes in land use upon surrounding property, such as aesthetics, vegetation, stormwater drainage, and noise, air or water pollution.

(6) Employment opportunities to be generated by the project.

(7) Impact of the project on cultural and historic sites.

(c) *Conversion Schedule*. The UMU zoning application may include a conversion schedule that identifies alternative uses which the applicant may substitute for the uses identified in the master plan without the need to obtain the approval of each substitution. The conversion schedule shall be a part of the master plan. If the board of supervisors approves the conversion schedule in conjunction with the application, the applicant or its successor may convert from an approved land use to an alternative land use within the development areas and between development areas, provided that:

(1) The conversion between uses is consistent with the conversion schedule approved with the master plan.
(2) The UMU district's maximum permitted density is not exceeded.
(3) The county traffic engineer determines the alternative use is not anticipated to significantly increase or adversely alter off-site traffic impacts.
(4) The director of planning determines the general character and mix of uses for the project will not be adversely affected.

(d) Rezoning application and fee.

Sec. 24-32. Principal uses permitted.

A building or land shall be used only for the purposes stated in this section. Unless otherwise provided by this section, no principal use other than a place of worship, office building, hotel, or motel shall exceed 10,000 square feet in floor area.

(a) Animal hospital or veterinary clinics for small animals, dogs, cats, birds and the like. All treatment rooms, cages, pens or kennels shall be within a completely enclosed, soundproof building, and such hospital or clinic shall be operated so as not to produce any objectionable noise, odors or vermin outside its walls. Site plans shall be reviewed and approved by the planning commission as provided by section 24-106.

(b) Antique shops for the sale of bona fide antiques, except that no auctions are permitted.

(c) Automotive filling and service stations and automotive washing facilities provided such uses shall be located within and have access only through a parking garage or parking deck and are entirely screened from any sidewalks and adjacent streets.

(d) Barbershops and beauty parlors.

(e) Banks, savings and loans, small loan offices and similar financial institutions.

(f) Bicycle sales and repair shops.

(g) Catering establishments and meal delivery services.

(h) Child care centers, babysitting services and adult day care centers.

(i) Places of worship, schools (including child care, charitable, cultural, and other community service activities on school property), colleges and universities (including educational, scientific and other related research facilities). County-owned or county-leased buildings and properties of a conservation, cultural, administrative or public service type and publicly owned or publicly leased buildings of a recreational type, with approval of a plan of development, in accordance with section 24-106, by the board of supervisors.

(j) Offices, clinics and laboratories for medical, dental, and optical uses, provided that no single office, clinic or laboratory shall contain more than 30,000 square feet of floor area unless otherwise permitted by a provisional use permit.

(k) County-owned facilities, public water or sewage pumping stations, water storage tanks, and well houses.

(l) Florist and flower shop.

(m) Furniture, television and appliance sales, service and repair, including service and repair of any type of home appliance.

(n) Garage, vehicle parking or storage. Off-site parking facilities for any use within the UMU district may be permitted provided that parking garage structures of more than 10,000 square feet shall provide (1) ground floor retail uses along at least one façade or (2) useable floor space for residential or nonresidential uses along any façade that faces a one-family use or public or private street, not including alleyways.

(o) Grocery or convenience food store, provided that no individual store shall contain more than 30,000 square feet of floor area.

(p) Hotel, motel, and motor lodge.

(q) Laundromat and self-service dry cleaning establishments; retail laundry or cleaning and pressing establishments employing not more than three persons in the actual cleaning process. Establishments shall use nonflammable cleaning solvents, fully enclosed cleaning and solvent reclamation processes, fully enclosed pressing equipment with no outside steam exhaust, and other devices or arrangements necessary to fully protect adjacent properties from noise, odors, and vapors.

(r) Marina. May include, but is not limited to, marine recreation areas involving principally the use of natural water resources, boat harbors and docks, boat sales, repair and rental, boat and fishing clubs, bathing beaches and fishing areas.

(s) Museum and art gallery.

(t) Office and office building, business, professional and administrative.

(u) Packaging store and mailing service.

(v) Parking lot, noncommercial.

(w) Pet shop, dog beauty parlor and obedience school. All work rooms, cages, pens, or kennels shall be maintained within a completely enclosed, soundproof building and such shop, parlor or school shall be operated so as not to produce any objectionable noise, odors, or vermin outside its walls.

(x) Printing, publishing, engraving, blueprinting, photocopying, photographic processing, and similar uses.

(y) Fraternities, lodges, or similar meeting places of nonprofit organizations.

(z) Public utility structure and facility such as water or sewage pumping station, well house, water storage tank, telephone exchange building, static transformer, repeater or switching station, communication tower and antennas up to 50 feet, and transportation passenger station, but not including facilities for construction, repair, service, or storage of utility equipment.

(aa) Railroad, streetcar or similar line which may include, but is not limited to, electric transmission lines and pipelines on a private right-of-way or easement (other than service lines or electric transmission lines in easements or public roads created by subdivision, or on the premises of individuals).

(bb) Recreation facilities, indoor, including fitness centers, theaters, bowling alleys, skating rinks (ice skating and roller skating), swimming pools, tennis courts, model racing tracks, electronic video game rooms, bingo halls and similar activities.

(cc) Recreation facilities, noncommercial, outdoor, including swimming pools, tot lots, and tennis, racquetball, handball, basketball, or similar courts.

(dd) Residential uses, with a maximum density not to exceed 30 dwelling units per acre in the aggregate unless a higher density is allowed by provisional use permit, as follows:

(1) Multifamily residential, provided that no more than 30 percent or the total dwelling units may be developed as for-lease units unless a higher percentage is allowed by provisional use permit.

(2) Townhouse for sale.

(3) One-family dwellings. In no case shall the number of one-family dwellings exceed 25 percent of the total dwelling units unless approved by provisional use permit.

(4) Live/Work units as defined and stipulated below:

a. *Definition.* Units shall combine a nonresidential activity that is permitted in the UMU district with a living space for the owner's primary household. The living space shall not be rented or leased to persons not conducting the nonresidential activity.

b. *Physical integration.* Living space shall be physically integrated into the unit and shall not be rented, leased, sold or occupied separate from the nonresidential use.

c. *Parking.* Parking shall be provided for the residential use in addition to the parking required for the square footage of the nonresidential use as required in section 24-34.

d. *Access.* The nonresidential portion of the live/work unit shall have direct access to a public or private street.

(5) Nursing home, convalescent home, continuing care retirement community, or home for the aged.

(6) Assisted living facilities and group homes located and operated in any dwelling or housing type as permitted by this section and as regulated by this chapter.

(ee) Restaurant, delicatessen, microbrewery, and ice cream parlor, but not restaurants having drive-through windows.

(ff) Stores or shops for the conduct of retail sales including sale of art and art supplies, auto parts and accessories (but not service or installation), beverages, books, carpets, clothing, coins, computers and software, draperies, drugs, fabrics, furniture and appliances, garden supplies, gifts, glass sales and service excluding auto or truck repairs, handcrafts, hardware or locksmiths, hobby supplies, jewelry, office supplies and stationery, paint, picture framing, wallpaper, shoes and shoe repair, sporting goods, televisions, video recorders, stereos, radios, microwaves, small appliance sales, service, and repair, video stores, and stores and shops similar to the preceding.

(gg) Studios and shops for artists, photographers, writers, teachers, jewelers, tailors and dressmakers, taxidermists, weavers and other craftsmen, sculptors and musicians, provided no such studio or shop shall contain more than 5,000 square feet.

(hh) Television receiving antennas and support structures for home use and amateur radio broadcasting and receiving antennas and support structures not exceeding 50 feet in height.

(ii) Temporary outdoor stand or sales area for the retail sale of Christmas trees, wreaths, holly and similar decorative horticultural items as provided by section 24-57.

(jj) Temporary display of a model dwelling unit for the purpose of advertising the sale of such dwelling units.

(kk) Trade or business school for industrial training, trade or business, but not involving internal-combustion engines, heavy-duty trucks, construction machinery, heavy-duty materials handling equipment or similar vehicles and equipment.

(ll) Other retail and service uses which are of the same general character as those listed above as permitted uses. Such additional uses may be permitted by the director of planning in accordance with section 24-109.

(Code 1995, § 24-32; Ord. No. 1037, § 3, 8-13-2002; Ord. No. 1111, § 5, 8-14-2007)

Sec. 24-32.1. Provisional uses permitted.

The purpose of the following provisional uses within the UMU district is to encourage a mix of uses developed at a greater density than other areas of the UMU district. The following uses may be permitted as provisional uses if approved by the board of supervisors in accordance with sections 24-120 and 24-122.1:

(a) An area designated for the preparation or service of food or beverages or the sale or display of merchandise conducted in an open area or structure by one or more individual vendors operating from stalls, stands, carts, vehicles or other spaces which are rented or otherwise made available to such vendors. Such activities may include a flea market, sale of merchandise as part of a permitted festival or other similar special event, or the outdoor display or sale by a single food or beverage vendor, operated as an incidental part of retail activity regularly conducted from within a permanent building on the premises.

(b) Parking lot, commercial, but not including any automobile, truck, motorcycle, boat, or recreational vehicle sales, rental or storage lot.

(c) Automotive filling station consisting of an attendant sales office and convenience food or grocery store or any permitted use with fuel pumps. There shall be no outdoor speakers, no exterior display of merchandise, and no facilities for automotive service or maintenance. Bulk storage of fuel shall be underground. Lighting fixtures shall not exceed a height of 20 feet. No temporary storage of wrecked or inoperable vehicles or storage or rental of vehicles, trailers, campers, or similar equipment shall be permitted.

(d) Carwash.

(e) Antique auction, indoor.

(f) Auditorium and assembly hall, coliseum, and stadium.

(g) Billiard parlor with hours of service to the general public from 1:00 p.m. on Sunday and 6:00 a.m. on other days until midnight, unless extended hours of operation are specifically authorized by the board of supervisors as a condition of the use permit.

(h) Boat and boat trailer sales, rental, and service associated with a marina.

(i) Greater floor area for any use with floor area limitations in section 24-32.

(j) Drapery making and furniture upholstering shops.

(k) Drive-through service window for uses permitted in section 24-32.

(l) Heliport (landing facilities only, no fueling or service facilities).

(m) Office-warehouse, when all materials are stored within an enclosed building for use by the business occupying the building.

(n) Parking garage with no associated ground floor retail uses along at least one façade or useable floor space for residential or nonresidential uses along any façade that faces a public or private street or one-family residential use.

(o) Radio and television stations and studios, broadcasting or recording studios.

(p) Recreation facilities, commercial, outdoor, including miniature golf courses, golf driving ranges, skating rinks, swimming pools and water slides, skateboard parks and similar uses and activities.

(q) Sign printing and painting shop, excluding fabrication.

(r) Television receiving antennas and support structures for home use and amateur radio broadcasting and receiving antennas and support structures exceeding 50 feet in height.

(s) Buildings and structures exceeding 60 feet in height.

(t) Density of residential development exceeding 30 dwelling units per acre.

(u) One-family dwellings exceeding 25 percent of the total dwelling units on the property.

(v) Open space within a development of less than 20 percent.

(w) Commercial or office square footage of less than 25 percent of the total building square footage of the UMU district.

(x) General hospitals.

(y) Extended hours of operation for any business containing one or two billiard, pool, or bagatelle tables.

(z) Number of for-lease multifamily dwelling units exceeding 30 percent of the total units of the UMU district.

(aa) Parking plan as described in section 24-34(m)(7).

(bb) Other uses which are of the same general character as those listed above.

(Code 1995, § 24-32.1; Ord. No. 1037, § 4, 8-13-2002)

Sec. 24-33. Accessory uses permitted.

(a) Any accessory use as permitted and as regulated in the B-2 district, except as provided or regulated otherwise herein.

(b) Other accessory uses, not otherwise prohibited, customarily accessory and incidental to any use permitted by right or provisional use permit.

(c) Signs as regulated in section 24-34.

(d) Storage of office supplies and merchandise for retail sale, provided such items are normally carried in stock in connection with a permitted office or business use subject to UMU district regulations.

(e) Vending machines for food, beverages, and similar merchandise. Not more than two such machines may

be permitted on the premises outside an enclosed building.

(f) Newspaper boxes, public telephone stations, and similar uses.

(g) Not more than two billiard, pool or bagatelle tables operated incidental to the principal business use shall be permitted in a single business establishment. Any business open to the public when billiards, pool or bagatelle tables are provided shall close between the hours of 12:00 a.m. midnight and 6:00 a.m. unless extended hours of service are permitted pursuant to section 24-32.1(y).

(h) Outdoor dining associated with an approved restaurant which provides the following:

(1) Full volume control for any outdoor speaker systems.

(2) Adequate trash receptacles to control litter associated with the use.

(i) Temporary outdoor display areas associated with an approved retail use. In no case shall the outdoor display area be located within any required buffer, planting area, or area required to meet minimum sidewalk width.

(j) Accessory dwellings located on the same lot as a one-family dwelling or townhouse for sale. For the purpose of this section, an accessory dwelling shall be smaller in size than the primary dwelling unit on a lot, shall have a separate entrance, and shall function independently as a separate dwelling unit. The number of permitted accessory dwellings shall be established during the approval of the UMU district and shall be included in the density calculations for the development.

(Code 1995, § 24-33; Ord. No. 1037, § 5, 8-13-2002)

Sec. 24-34. Development standards.

The development standards set out below shall be in lieu of the standards required elsewhere in this chapter:

(a) *Minimum area.* A project must contain at least 20 acres unless the project is located within the Innsbrook Redevelopment overlay district as described in section 24-92.4 and contains at least four acres. In calculating the minimum acreage of the project, land zoned C-1 conservation district may be counted towards this requirement, but existing publicly dedicated streets and proposed public rights-of-way shall not. Once a UMU district is established, areas of less than 20 acres or less than four acres in the Innsbrook Redevelopment overlay district may be added to the UMU district through rezoning provided:

(1) The area to be added is directly adjacent to the district, or located across a public street with a right-of-way no wider than 90 feet.

(2) The design features proposed are consistent with the existing UMU project as determined at the time of rezoning.

(3) Required impact analyses are provided or existing impact analyses are updated to reflect additions to the approved UMU project.

(4) Pedestrian and vehicular access connects the area to be added to the approved UMU project. Where such connections are to private roads or property, access agreements shall be provided prior to rezoning to demonstrate such connections can be made.

(b) *Mixture of uses.* A minimum of 25 percent of the building square footage in the UMU district shall be developed for commercial or office uses unless otherwise permitted by provisional use permit. The required percentage of commercial or office uses shall be achieved at the 50 percent and 90 percent completion of construction thresholds of the total building square footage within the UMU district. The developer shall provide this calculation with the plans of development submitted for each phase of the project.

(c) *Covenants required.* Each tract of land within a project shall be under the supervision or control of a unified, central authority for the life of the project. To this end, restrictive covenants shall be recorded for each tract to be developed. Proposed restrictive covenants shall be submitted to the planning office for review and approval as to form satisfactory to the county attorney prior to any formal approval for

development within the UMU district, and they shall be recorded prior to building permit approval. The covenants shall, at a minimum, provide for the creation of a property owners' association; maintenance of individual sites, common area, open space, landscaping and buffering and private streets; and minimum development and operational standards for each tract. The covenants shall also provide that any assessments, charges and costs of maintenance of common areas shall constitute a pro rata lien upon the individual lots or units subject to the covenants, inferior in lien and dignity only to taxes and bona fide duly recorded first deeds of trust on each lot or unit.

(d) *Height.* No building or structure shall exceed a height of 60 feet unless allowed by provisional use permit.

(e) *Street access.* The primary access to the UMU district shall be directly from a major access road, major collector, minor arterial, or major arterial roadway as designated on the county's major thoroughfare plan.

(f) *Landscaping and buffering.*

(1) *Purpose.* The purpose of the UMU district landscaping and buffering standards is to provide visual enhancement of the UMU district; protect and promote the appearance, character and economic value of property; reduce visibility of parking areas and other unattractive areas from adjacent properties and public lands; moderate climatic effects; minimize noise and glare; enhance public safety; reduce stormwater runoff; and provide visual transition between neighboring properties.

(2) *Applicability.* This section shall apply to all UMU district development plans. The developer shall submit a landscape plan with each final site plan approved for each phase of development.

(3) *General landscaping requirements.*

a. *Type and variety.* Plant materials shall be selected from the approved plant list in the current landscape manual. All modifications shall be approved by the director of planning in accordance with the substitutions or modifications section of the landscape manual.

b. *Financial guarantee.* Prior to the issuance of a certificate of occupancy, the applicant shall provide a financial guarantee for the landscaping. The amount of the financial guarantee shall be determined by the director of planning. The financial guarantee shall be held for a period of 24 months following the date of certificate of occupancy issuance. A certificate of occupancy shall not be issued until the required landscaping is planted in accordance with the approved landscape plan. If planting cannot occur due to seasonal or other constraints, the director of planning may accept a financial guarantee to insure future installation of plantings. The financial guarantee may be submitted in the form of an irrevocable letter of credit, certified check, surety bond, or cash escrow. The amount shall include the full cost of plant materials and installation costs such as, but not limited to, soil treatment, labor, and guying costs. If the director of planning accepts a financial guarantee to insure future plantings, all required landscaping shall be installed by the following planting season in order to obtain a refund of the guarantee.

c. *Sight distance.* The landscape plan shall identify a sight distance triangle at all intersections. The sight distance triangle shall include the area between the lines of an intersecting street or private drive and a straight line connecting them at a point 20 feet distant from the existing or proposed right-of-way line or private drive intersection. No trees, shrubs, or other materials shall be placed where they will impede visibility above 2½ feet or below a height of eight feet above the established curb grade within a sight distance triangle or where prohibited by the Virginia Department of Transportation or the department of public works.

(4) *Preservation of existing trees.* Preservation of existing trees and shrubs shall be maximized to provide for continuity and improved buffering ability. Except for tree canopy requirements, trees retained for compliance with this section shall not be less than six feet in height, shall be noted on the landscape plan, and shall comply with the following:

a. Prior to landscape plan approval, the property owner shall sign a statement stating protective measures to be taken and agreeing to replace trees or shrubs that die or are removed during or after construction;

b. The landscape plan shall identify the protection area and method of protection for retained trees. The

minimum radius of the protection area shall be determined by multiplying the tree diameter in inches at four feet in height by one foot or by delineation of the drip line of the tree, whichever is greater;

c. The protection area shall be identified during construction with high visibility fencing. There shall be no encroachment including, but not limited to, earth disturbing activities such as grading or stockpiling of soil or materials within the protection area;

d. Any vegetation removed before, during or after construction shall be replaced with new vegetation which meets the minimum requirements of this section.

(5) *New trees.* Required tree plantings shall conform to the following minimum standards with caliper measurements taken six inches above grade. At time of planting:

a. Canopy trees for streetscape use shall measure a minimum of 3½-inch caliper; for general landscape use, a minimum of 2½-inch caliper is required.

b. Ornamental trees for streetscape use shall measure a minimum of 2½-inch caliper; for general landscape use, a minimum of 1½-inch caliper is required.

c. Screening trees shall measure a minimum of eight feet in height.

(6) *New shrubs.*

a. Shrubs for streetscape and general landscape use shall measure a minimum of 24 inches in height or 18 inches in spread at time of planting.

b. Shrubs for screening use shall measure a minimum of 30 inches in height at time of planting.

(7) *Tree canopy.* Tree canopy requirements shall be calculated in accordance with the current landscape manual. A minimum 15 percent tree canopy shall be provided for all sites.

(8) *Screening.*

a. Walls, fences, and plantings shall be utilized to physically reinforce an edge or street wall condition and to improve the visual environment of the UMU district.

b. Screening devices shall be required whenever:

1. Parking areas occur along public or private rights-of-way;

2. Loading, service and trash collection areas, and utility and mechanical equipment areas are visible from public rights-of-way or other properties at ground level;

3. Stormwater management facilities are placed within the development and are not used as a design feature or recreational amenity;

4. Incompatible or less intense uses abut the UMU district.

(9) *Minimum screening requirements.*

a. The minimum planting area width for screen landscaping shall be ten feet. The screen landscaping strip shall not be located in areas identified for public improvement projects or in public easements.

b. The screen landscaping strip shall consist of existing vegetation, proposed landscaping, berms, an opaque wall, or a combination thereof.

c. Berms within the screen landscaping strip shall have a maximum slope of 2:1.

d. If a proposed use within the UMU district abuts an incompatible or less intense district or use, the landscape buffer between the districts or uses shall be a minimum of 35 feet. The director of planning may approve an alternative buffer that minimizes the adverse effects on the less intense district or use.

(10) *Streetscape planting.*

a. *Applicability.* Streetscape plantings shall be required on or along all rights-of-way in the UMU district. Any existing roadways abutting or included within the development shall be subject to the streetscape planting standards of this section.

b. *Minimum requirements.*

1. A continuous eight-foot wide streetscape planting strip shall be located adjacent to any existing or

proposed roadway.

2. Trees, shrubs, groundcovers, ornamental grasses, flowers and turf grasses shall be planted within the planting strip.

3. Canopy trees shall be planted a maximum of 35 feet on-center. The director of planning may allow greater spacing to avoid utility conflicts or to recognize major design features.

4. Ornamental trees shall be planted a maximum of 12 feet on-center. The director of planning may allow greater spacing to avoid utility conflicts or to recognize major design features. The use of ornamental trees as street trees shall be limited to areas with overhead constraints.

5. Shrubs and ornamental grasses within the streetscape planting strip shall be maintained at a maximum height of 36 inches or 30 inches within a sight distance triangle.

(11) *Parking lot landscaping requirements.*

a. Parking lot landscaping shall contain:

1. An average of four trees for each 100 feet of road frontage, with the exception of driveways. Such trees shall be evenly spaced along the right-of-way frontage, located within ten feet of the edge of roadway pavement, and placed between the edge of roadway pavement and sidewalk if sidewalks are constructed parallel to the roadway. This requirement may be satisfied if such trees are located within the right-of-way. Such trees shall be regularly trimmed so that the bottom six to eight feet of the tree trunk remains clear of branches and vegetation.

2. A continuous line of evergreen shrubbery planted along the entire perimeter of the parking lot abutting a street not more than ten feet behind the trees along the right-of-way frontage. The shrubbery must be at least two feet high when planted and shall be regularly trimmed for appearance and height not to exceed 3½ feet.

b. Parking lots shall be landscaped in general accordance with the master plan.

(g) *Common area, open space and preservation requirements.*

(1) At least 20 percent of the entire project shall consist of conservation, outdoor recreation and open space areas for the common use and enjoyment of residents, visitors and employees within the UMU district and shall be clearly delineated in the project's master plan. A reduced percentage may be approved by provisional use permit. These areas shall be distributed throughout the project and may include bodies of water, historic sites, works of art, outdoor recreation and public meeting areas, landscaping, and buffer areas. Internal bikeways and pedestrian walkways shall connect open space areas. Common areas and open space shall be located to enhance the living environment and pedestrian-oriented uses. Common open space shall not be aggregated in large areas. Common areas may be conveyed and shall be maintained and controlled in accordance with the covenants required by this article.

(2) Environmental protection, wetland, floodplain, other environmentally sensitive areas, and stormwater management and "best management practices" (BMP) areas are not counted in meeting minimum open space area requirements unless they are used as a design feature or recreational amenity.

(3) Common areas and areas designated for open space and recreation shall be designed and arranged in order to provide maximum use and accessibility to all owners or residents of the project or by the public if dedicated for public use.

(4) When recreational facilities are not included in the project, the common area shall contain land other than floodplains, steep slopes, wetlands and resource protection areas that is of sufficient size and suitable for recreational uses such as swimming pools, playgrounds, ballfields, tennis courts and similar uses.

(5) Common areas shall be protected and maintained during the development process as required by the applicable provisions of this chapter and chapter 10 of this Code. During the development process, common areas shall not be used for storing, filling or dumping of any materials and shall not be denuded, defaced or otherwise disturbed without the prior approval of the appropriate county department and the director of planning. If disturbed, such areas shall be restored by the developer or owner to the condition existing prior to the disturbance, including the removal of dead or damaged trees, stumps, and remnants in accordance

with an appropriate plan containing performance guarantees approved by the director of planning.

(6) Common areas shall be maintained by the developer or owner of the project until they are conveyed to a property owners association whose members shall be owners of property in the project. The common areas shall be held by the owners association for use and enjoyment of its members. If the developer or owner conveys the common area to an owners association, deed restrictions and covenants, in form and substance satisfactory to the county attorney, shall provide that any assessments, charges or costs of maintenance of the common areas constitute a pro rata lien upon the individual properties inferior in lien and dignity only to taxes and bona fide duly recorded first deeds of trust on each property or lot.

(7) Areas dedicated to the county for public use, other than streets dedicated by the subdivision plat, shall be conveyed to the county only in a manner and form approved by the county attorney.

(h) *Improvements.* Improvements including, but not limited to, private streets, streetlights, sidewalks, and encroachments shall be maintained by the developer or owner of the project until they are conveyed to a property owners association whose members shall be owners of property in the project. If the developer or owner conveys the improvements to an owners association, deed restrictions and covenants, in form and substance satisfactory to the county attorney, shall provide that any assessments, charges, and costs of maintenance constitute a pro rata lien upon the individual properties inferior in lien and dignity only to taxes and bona fide duly recorded first deeds of trust on each property or lot.

(i) *Public water and sewer.* All projects shall be served by public water and sewer.

(j) *Utility lines underground.* All new utility lines such as electric, telephone, CATV or other similar lines shall be installed underground. This requirement shall apply to lines serving individual sites as well as to utility lines necessary within the project. All junction and access boxes shall be screened with appropriate landscaping.

(k) *Outside storage and refuse containers.* There shall be no outside storage of any equipment, materials or supplies. Refuse containers shall be completely screened from view by means of an opaque fence or wall that is architecturally compatible with the buildings on the site. Such containers shall be serviced only between the hours of 6:00 a.m. and 12:00 midnight.

(l) *Lighting.*

(1) *Purpose.* The purpose of UMU district lighting standards is to encourage good lighting practices designed to conserve energy and money, minimize glare, protect the use and enjoyment of surrounding property, and increase nighttime safety, utility, security and productivity.

(2) *Applicability.* The provisions of this section shall apply to any project in the UMU district.

(3) *Lighting standards.*

a. All outdoor lighting fixtures shall be limited to the types of fixtures contained in the project's master plan.

b. Light source locations shall be chosen to minimize the hazards of glare. The height of freestanding lighting fixtures shall not exceed 20 feet, except that no more than four lighting fixtures may extend to 35 feet at the intersection of public or private streets unless otherwise approved by the director of planning.

c. Illumination. Illumination shall be measured at grade at the property line and shall not exceed 1.0 footcandle ten feet outside the property line unless the director of planning finds there will be no adverse effect on adjacent property or public safety.

(4) *Streetlights.* Streetlights shall be installed by the applicant and shall comply with the following:

a. Street lighting shall maintain an average illumination between 0.5 and 1.5 footcandles unless an alternative level of illumination is approved by the director of planning or county traffic engineer for safety purposes.

b. Streetlight poles shall be designed and placed in accordance with VDOT or county standards. Placement of the streetlight poles shall be coordinated to be on or near the side property lines of residential dwelling units.

(5) *Parking lot lighting requirements.* Adequate lighting shall be provided for surface parking facilities used at

night. The minimum required lighting intensity to be provided in all parking areas is 1.0 footcandle; provided, however, that the lighting intensity for parking lots adjoining a right-of-way or residential area shall not exceed 1.0 footcandle ten feet outside the property line unless the director of planning finds there will be no adverse effect on adjacent property or public safety.

(6) *Submittal requirements.* A lighting plan shall be submitted with each plan of development that details the location and specifications of all lighting provided. An ISO footcandle diagram shall also be provided to indicate the level and extent of proposed lighting.

(m) *Parking.* Notwithstanding any other requirements with respect to off-street parking set forth in section 24-96, the following provisions shall be applicable in the UMU district:

(1) *Minimum spaces*. The minimum number of parking spaces required for uses in the UMU district shall be as follows:

a. For nonresidential uses, the minimum parking is:

Restaurant: One space per 150 square feet of gross floor area.

Retail: One space per 250 square feet of gross floor area.

Office: One space per 300 square feet of gross floor area.

Hotel/motel: One space per bedroom.

Other nonresidential uses shall provide parking as required by section 24-96(b).

b. For residential uses, one parking space per one bedroom studio, loft or efficiency dwelling unit shall be provided, and 1½ parking spaces per two or more bedroom dwelling unit.

(2) *Off-site parking.* Off-site parking accessible by sidewalk, trail, or other improved pedestrian way which is located within 1,000 feet of a publicly accessible entrance of the building may be used in the calculation of the required parking for a nonresidential use.

(3) *Parking garage.* Parking within a garage or within an enclosed or covered space may be counted toward meeting off-street parking requirements.

(4) *On-street parking – private streets.* On-street parking on private streets shall count towards any nonresidential off-street parking requirements, provided that such parking is not counted for any other use and is located within 1,000 feet of its intended use.

(5) *On-street parking – public streets.* On-street parking on public streets shall count towards 25% of any nonresidential off-street parking requirements, provided that such parking is not counted for any other use and is located within 1,000 feet of its intended use.

(6) *Shared parking agreements.* The applicant shall provide documentation, such as shared parking agreements, of the allocation of off- and on-street parking for all proposed uses with each application for a building permit or change of use or at the request of the director of planning.

(7) *Parking plan.* In lieu of the parking requirements in subdivision 1, the applicant may submit a provisional use permit for a parking plan. Such plan shall provide calculations used for the base parking requirements, which shall be certified by a licensed engineer. Any plan of development for projects with an approved parking plan shall include:

a. Parking sheds showing the maximum distance from any proposed parking area to the uses for which the parking area may be used. On-street parking may only be counted as provided for in subdivisions 4 and 5.

b. A listing of the proposed uses within each parking shed. The anticipated square footage shall be provided for each proposed use.

c. Reserved areas for additional parking on-site to accommodate additional parking required by a change of use or other factor requiring additional parking. Such reserved areas shall be clearly identified on the parking plan and may include areas proposed for future conversions of surface parking to parking structures.

(n) *Sidewalks.* Sidewalks, a minimum five feet in width in nonresidential areas, shall be installed along both

sides of each street, public or private, exclusive of private alleyways, unless otherwise approved by the director of planning at the time of plan of development review due to design considerations such as limited right-of-way, utility conflicts, or steep topography. The minimum sidewalk width may not include any outdoor dining, display or vending area.

(o) *Minimum yard depth (setbacks) and lot width and area.* The master plan shall set forth the minimum lot area, lot width, and yard (front, rear, or side) requirements.

(p) *Comprehensive sign program.* Notwithstanding any other requirements in section 24-104.1, the following provisions shall be applicable in the UMU district:

(1) The master plan shall include a comprehensive sign program to coordinate all nonpublic signage within the UMU district.

(2) The numbers, sizes, and types of signs allowed shall be in accordance with the following:

a. No detached sign shall exceed 15 feet in height and, if lighted, the sign shall be internally lit so there are no freestanding spotlights or any type of individual lighting structure. Illuminated sign messages shall be illuminated from within the sign structure.

b. Freestanding sign. One sign per tenant space not to exceed 0.5 square foot of sign area per linear foot of building frontage or 32 square feet in area, whichever is less. The sign may be erected within an outdoor plaza adjacent to the building.

c. Attached signs shall not exceed 1.5 square feet of sign area per linear foot of building length. For a building divided into multiple tenant spaces, the length of the building shall be the sum of the lengths of the longest exterior wall of each tenant space.

d. A building six stories or more in height shall be eligible for two additional attached signs. The aggregate area of the two additional attached signs shall not exceed 150 square feet. Both signs must be mounted on or above the fourth story of the building but not above the roofline of the building.

e. Additional signs for entrances to upper-floor residential dwelling units. One sign not more than eight square feet in area shall be permitted on the ground floor at each principal entrance providing direct access to the dwelling units.

f. Project signs. Two signs, not exceeding 100 square feet in the aggregate. Project signs shall be placed within the UMU district on property owned and controlled in common by the individual owners of lots or units within the project or within the right-of-way at a principal entrance or intersection serving primarily the project if approved by the county engineer.

g. Temporary signs. A temporary, nonilluminated sign limited in area to 32 square feet may be displayed no more than 90 consecutive days and no more than 120 days per year.

h. Reserved.

i. Wall signs. Signs may be painted on or attached flat against a wall or other vertical surface of a main building, provided that such signs shall not extend beyond the extremities of the surface of the building to which they are attached. Signs attached to the lower plane of a mansard or gambrel roof of a main building shall be permitted as wall signs for the purposes of this provision, provided that such signs shall be attached flat to the roof surface or shall be parallel to the building wall above which they are located, and shall in no case extend beyond the extremities of the roof surface to which they are attached.

j. Projecting signs. Signs attached to and projecting from the face of a wall of a main building shall be permitted, provided that:

1. One projecting sign shall be permitted for each building frontage;

2. No projecting sign shall project greater than five feet from the face of the building or extend above the height of the wall to which it is attached;

3. Projecting signs shall not exceed nine square feet in area;

4. Projecting signs shall provide a minimum under clearance of eight feet;

5. Projecting signs conforming to the provisions of this section may extend over the right-of-way.

k. Awning and canopy signs. Lettering, symbols and combinations thereof constituting a sign may be painted on or affixed to an awning or canopy attached to a main building when such sign does not extend beyond the extremities of the canopy or awning, and provided that:

1. Not more than one awning or canopy containing a sign shall be attached to each building frontage, and no projecting sign shall be attached to such building frontage;

2. Not more than one sign shall be attached to each face of an awning or canopy, and no such sign shall exceed four square feet in area;

3. Awnings or canopies containing signs conforming to the provisions of this section may extend over the right-of-way of a public street when authorized by the director of public works.

(3) The board of supervisors may approve specific deviations from the above criteria if requested at the time of rezoning.

(q) *Dwellings in special flood hazard area.* Notwithstanding the provisions of subsection 24-95(u)(1), a mixed use structure may be constructed in the special flood hazard area as defined in section 24-3 if it meets the following requirements:

(1) The structure is located on property zoned UMU; and the structure, or any portion thereof, is located within 300 feet of the James River;

(2) The construction complies with the specific requirements of the Uniform Statewide Building Code and its incorporated standards for construction in special flood hazard areas;

(3) There must be vehicular access to the structure above the base flood elevation;

(4) No portion of the structure below the base flood elevation may be enclosed on all sides;

(5) The lowest enclosed floor is a minimum of one foot above the base flood elevation and is not used for residential purposes; and

(6) The structure is at least 45 feet in height and contains more than 40 residential units.

(r) *Roads.* Roads, driveways, and parking areas shall be designed and constructed in accordance with pavement design standards and specifications of the department of public works unless the directors of planning and public works find there will be no adverse impact on public safety. A licensed engineer shall certify construction of the roadways to such standards in a phase of a development prior to the issuance of any occupancy permit in that phase of the development.

(s) *HVAC screening.* HVAC and mechanical equipment shall be screened from view at ground level. Screening shall consist of landscaping or materials used in the principal building's exterior.

(t) *Commercial vehicles.* Parking of any commercial vehicle exceeding 10,000 pounds gross weight, or any commercial trailer or wrecker, is permitted only when loading, unloading, or working at or near the location where it is parked.

(Code 1995, § 24-34; Ord. No. 1037, § 6, 8-13-2002; Ord. No. 1118, § 1, 11-27-2007)

Sec. 24-34.1. Repealed.

Sec. 24-34.2. Repealed.

ARTICLE IX. R-6 GENERAL RESIDENCE DISTRICT; USES

Sec. 24-35. Principal uses permitted.

(a) Any principal use permitted and as regulated in the R-5 district.

(b) Nursing home, convalescent home or homes for the aged; provided, that any such use shall have a minimum lot area of five acres.

(c) Child care centers in accordance with section 24-106.

(d) Multifamily development in accordance with section 24-30.2. Compliance with multifamily guidelines maintained by the director of planning is strongly encouraged.

(Code 1980, § 22-35; Code 1995, § 24-34; Ord. No. 1008, § 3, 11-28-2000)

Cross reference—Permitting parking for B district uses in an R-6 district, § 24-96.

Sec. 24-36. Conditional uses permitted by special exception.

Public utility buildings.

(Code 1980, § 22-36; Code 1995, § 24-36)

Sec. 24-36.1. Provisional uses permitted.

The following uses may be permitted as provisional uses if approved by the board of supervisors in accordance with sections 24-120 and 24-122.1 of this chapter:

(a) Life care facility subject to the following requirements:

(1) *Lot area.* A minimum lot area of five acres shall be provided.

(2) *Public water and sewer.* The site shall be served by public water and sewer.

(3) *Site coverage.* The aggregate area of the site covered by buildings, driveways and parking areas shall not exceed the following:

a. Buildings two stories or less in height, 65 percent.

b. Buildings three or more stories in height, 50 percent.

(4) *Parking required.* Parking is required as regulated by this chapter and in no case shall be less than as follows:

a. Nursing care type units containing no separate bedroom, one parking space for each two beds.

b. Multifamily dwelling units, with or without kitchens, containing one or more separate bedrooms, three-quarters parking space per unit.

c. Dwelling units comprised of one- or two-family detached or attached units, one parking space per unit.

(5) *Minimum yard areas.* Minimum yard areas shall be provided as required for the district except that the minimum lot width and yards for one- or two-family dwellings may be reduced to 75 percent of the minimum width and yards required for the R-4A or R-5A districts respectively.

(6) *Minimum lot area per family.* A minimum lot are of 1,440 square feet shall be provided for each multifamily dwelling unit; provided, that the overall project density shall not exceed 30 units per acre. The minimum lot area for one-family dwellings may be reduced to 5,825 square feet or for two-family dwellings may be reduced to 8,440 square feet.

(7) *Service area.* One hundred square feet of floor area for each individual life care unit shall be devoted to providing services for the residents, such as:

a. Dining room, and area for food preparation and storage;

b. Physical therapy room;

c. Recreation room;

d. Library or sitting areas;

e. Arts, crafts and activities areas;

f. Retail and service facilities, including, but not limited to, administrative offices, barbershop and beauty shop, cleaners, clothing sales, gift and flower shop, drugs, food and sundries, book store, bank and medical office; provided, that any retail activities shall be located within a principal building on the premises and no

signs or announcements shall be displayed on the exterior of the building;

g. Lobby and day room; and

h. Private visitation rooms.

(8) *Site plans required.* Site plans for life care facilities shall be reviewed and approved in accordance with section 24-106 of this chapter.

(9) *Total floor area.* Total floor area for each dwelling unit shall be a minimum of 350 square feet.

(b) Master-planned communities, subject to the following requirements:

(1) *Maximum project area.* Master-planned communities may not exceed 10 acres in area.

(2) *Master plan required*. Each application pursuant to this subsection must include a master plan showing the location and mix of proposed residential and commercial uses, the location and height of all existing and proposed structures, public and private streets, parking spaces, pedestrian circulation, open space, the developer's architectural design requirements, landscaping, buffers, and site lighting.

(3) *Permitted B-2 uses*. Any principal or accessory use permitted in the B-2 district may be located in the first or second story of a building exceeding two stories in height. Any provisional use permitted in the B-2 district may be located in the first or second story of a building exceeding two stories in height without an additional provisional use permit if the use is identified in the master plan. Permitted commercial uses shall occupy no less than 15 percent and no more than 35 percent of the floor area of the overall project unless a different percentage is identified in the approved master plan. Up to 35 percent of the permitted commercial uses may be located in buildings without residential uses unless a different percentage is identified in the approved master plan.

(4) *Signage for permitted commercial uses*. Each permitted commercial use may have one attached sign not to exceed 15 square feet in area.

(5) *Parking study.* The master plan may include a parking study prepared by a licensed engineer showing the number of parking spaces required and proposed for the project. The parking study may consider the use of on-street parking and the use of shared parking under shared parking agreements. The number of parking spaces proposed in the study shall apply in lieu of the parking requirements of this chapter if the provisional use permit is granted.

(6) *Increased density*. The master plan may show multifamily residential units at a higher density than otherwise allowed on the property by this chapter. The density of multifamily residential units shown on the master plan shall apply in lieu of the density requirements of this chapter if the provisional use permit is granted.

(7) *Reduced setbacks*. The master plan may show setbacks that do not meet the minimum setback requirements of this chapter. Reduced setbacks shown on the master plan shall apply in lieu of the minimum setback requirements of this chapter if the provisional use permit is granted.

(c) Buildings or structures up to 200 feet in height may be permitted by provisional use permit.

(Code 1980, § 22-36.1; Code 1995, § 24-36; Ord. No. 1028, § 2, 6-11-2002; Ord. No. 1111, § 6, 8-14-2007)

Sec. 24-37. Accessory uses permitted.

(a) Accessory uses permitted and as regulated in the R-5 district.

(b) Signs as regulated in section 24-104.1.

(c) A recycling collection facility operated by a not-for-profit or tax-exempt organization for a period not to exceed 30 days within any six-month period pursuant to a permit to be obtained from the director of planning or the director's designee. The facility shall meet or exceed the following criteria:

(1) No recycling facility may be situated on the same lot with a one-family dwelling when such dwelling is a principal permitted use.

(2) Area and site size: A recycling collection facility shall not exceed a maximum area of 972 square feet.

(3) Setbacks: Setbacks shall be as set forth in sections 24-94 and 24-101.

(4) Parking: Parking shall be provided as required in section 24-96.

(5) Exterior storage: Exterior storage shall not be permitted. Provisions shall be made for daily maintenance to ensure this requirement is met.

(6) Vehicular and pedestrian circulation: A recycling collection facility shall be located in a manner that does not impede or adversely affect vehicular or pedestrian circulation.

(Code 1980, § 22-37; Code 1995, § 24-36)

Sec. 24-37.1. Exceptions to article IX.

For any property zoned R-6 general residence district prior to November 10, 1993, having a valid subdivision plat approved by the agent in accordance with chapter 19 of the County Code as of November 10, 1993, the following principal uses if approved on the subdivision plat are permitted:

(a) One-family dwellings in accordance with the requirements of section 24-30.1(a).

(b) Two-family dwellings in accordance with the requirements of section 24-30.1(b).

(c) Detached and semidetached dwellings for sale with zero lot lines in an approved subdivision of five or more lots in accordance with the requirements of section 24-30.1(c).

(d) Townhouses for sale as permitted and regulated in article X, with architectural treatment permitted as follows:

(1) No more than 12 townhouse units shall be continuously connected. A minimum of ten feet of common area shall separate any two groups or rows of lots.

(Code 1980, § 22-37.1; Code 1995, § 24-37)

ARTICLE X. RTH RESIDENTIAL TOWNHOUSE DISTRICT; USES

Sec. 24-38. Principal uses permitted.

(a) Any principal use permitted and as regulated in the R-3 district, except one-family dwellings.

(b) Townhouses for sale in accordance with sections 24-41 and 24-106 of this chapter.

(c) Condominiums in accordance with sections 24-42 and 24-106.

(d) Swimming pools, recreational and athletic facilities, community buildings and other similar and related improvements for the common use of occupants of the development and their guests.

(e) Assisted living facilities and group homes, when located in any dwelling or housing type as permitted by this section and as regulated by this chapter.

(Code 1980, § 22-38; Code 1995, § 24-37)

Sec. 24-39. Accessory uses permitted.

(a) Accessory uses as permitted and as regulated in the R-3 district, except short-term rentals, and section 24-95.

(b) Other accessory uses, not otherwise prohibited, customarily accessory and incidental to any permitted use.

(c) Signs as regulated in section 24-104.1.

(d) A recycling collection facility operated by a not-for-profit or tax-exempt organization for a period not to exceed 30 days within any six-month period pursuant to a permit to be obtained from the director of planning or the director's designee. The facility shall meet or exceed the following criteria:

(1) No recycling facility may be situated on the same lot with a one-family dwelling when such dwelling is a

principal permitted use.

(2) Area and site size: A recycling collection facility shall not exceed a maximum area of 972 square feet.

(3) Setbacks: Setbacks shall be as set forth in sections 24-94 and 24-101.

(4) Parking: Parking shall be provided as required in section 24-96.

(5) Exterior storage: Exterior storage shall not be permitted. Provisions shall be made for daily maintenance to ensure this requirement is met.

(6) Vehicular and pedestrian circulation: A recycling collection facility shall be located in a manner that does not impede or adversely affect vehicular or pedestrian circulation.

(Code 1980, § 22-39; Code 1995, § 24-37)

Sec. 24-40. Common areas.

Except in such developments regulated by the Virginia Condominium Act (Code of Virginia, title 55, ch. 4.2, as amended), in the event common areas are provided which are not contained in lots or streets conveyed to individual owners, said common areas shall be maintained by and be the sole responsibility of the developer-owner of the development until such time as the developer-owner conveys such common area to a nonprofit corporate owner whose members shall be all of the individual owners in the development. Said land shall be conveyed to and be held by said nonprofit corporate owner solely for recreational and parking purposes of the individual owners in the development. In the event of such conveyance by the developer-owner to a nonprofit corporate owner, deed restrictions and covenants, in form and substance satisfactory to the county attorney, shall provide, among other things, that any assessments, charges and costs of the maintenance of such common areas shall constitute a pro rata lien upon the individual lots or units, inferior in lien and dignity only to taxes and bona fide duly recorded first deeds of trust on each lot or unit.

(Code 1980, § 22-40; Code 1995, § 24-40)

Sec. 24-41. Development standards—Townhouses for sale.

(a) *Area and density.* Area and density of development of townhouses for sale shall not exceed nine units per acre.

(b) *Frontage.*

(1) A minimum lot frontage, measured at the setback line, of 19 feet shall be provided.

(2) All townhouse units, except end units and those on corner lots, shall occupy the full width of the lot on which it is constructed.

(3) Townhouse lots may front on a dedicated street or public access easement containing roadways, walkways or both.

(c) *Front yards.* The front yard setback for townhouses shall be a minimum of 15 feet from project drives and walkways, 25 feet minimum from secondary residential streets and 35 feet from all other streets. For all residential developments which did not have a recorded subdivision, conditional subdivision approval, proffers relating to setbacks or buffers approved as part of a rezoning case, an approved and valid plan of development, or an approved special exception as of March 26, 2002, where the front yard is adjacent to a major arterial, minor arterial, major collector, minor collector or controlled access roadway identified on the major thoroughfare plan and having a projected right-of-way of 60 feet or greater, the setback shall be increased by 15 feet. The increased setback may be divided between the residential lot and any common area immediately adjacent to the projected right-of-way.

(d) *Side yards.* Townhouses on ends of groups shall have a minimum side yard of ten feet; and for townhouses at corners, the side yard shall be a minimum of 20 feet. For all residential developments which

did not have a recorded subdivision, conditional subdivision approval, proffers relating to setbacks or buffers approved as part of a rezoning case, an approved and valid plan of development, or an approved special exception as of March 26, 2002, where the side yard is adjacent to a major arterial, minor arterial, major collector, minor collector or controlled access roadway identified on the major thoroughfare plan and having a projected right-of-way of 60 feet or greater, the setback shall be increased by 15 feet. The increased setback may be divided between the residential lot and any common area immediately adjacent to the projected right-of-way.

(e) *Rear yards.* Townhouses shall have a minimum rear yard of 30 feet. For all residential developments which did not have a recorded subdivision, conditional subdivision approval, proffers relating to setbacks or buffers approved as part of a rezoning case, an approved and valid plan of development, or an approved special exception as of March 26, 2002, where the rear yard is adjacent to a major arterial, minor arterial, major collector, minor collector or controlled access roadway identified on the major thoroughfare plan and having a projected right-of-way of 60 feet or greater, the setback shall be increased by 15 feet. The increased setback may be divided between the residential lot and any common area immediately adjacent to the projected right-of-way.

(f) *Permitted variations in yard requirements.* Either the required front or rear yard may be eliminated or reduced if comparable space is added to the required side yard.

(g) *Building height.* Townhouses shall have a maximum building height of 40 feet.

(h) *Architectural treatment.*

(1) There shall be at least three but no more than eight townhouse dwelling units continuously connected. A minimum distance of ten feet of common area shall separate any two groups or rows of lots.

(2) Not more than four abutting townhouses shall have the same or essentially the same architectural facades and treatment of facing materials. Such variations may be achieved by variations in colors, material textures or sculptural effect.

(i) *Parking.* A minimum of two and one-quarter parking spaces per townhouse shall be provided within common parking areas, or along common drives or on internal dedicated streets. Carports and garages not to exceed one story can be provided in rear and front yards and in common parking areas. Attached garages cannot be included in the parking calculations. Townhouses on property with an approved plan of development, proffers approved as part of a rezoning case, an approved special exception, or previous multifamily development on the property as of November 28, 2000, shall have a minimum of two parking spaces per unit.

(j) *Accessory buildings.* Accessory buildings may be located in rear yards only and shall not occupy over 25 percent thereof, and shall be located not less than eight feet from a rear lot line.

(k) The provisions of section 24-30.2 shall apply to all townhouses for sale. Compliance with multifamily guidelines maintained by the director of planning is strongly encouraged.

(Code 1980, § 22-41; Code 1995, § 24-41; Ord. No. 1008, § 4, 11-28-2000; Ord. No. 1026, § 2, 3-26-2002; Ord. No. 1111, § 7, 8-14-2007)

Sec. 24-42. Same—Condominiums.

(a) *Area and density.* Area and density of development of condominiums shall not exceed nine units per acre.

(b) *Front yards.* The front yard setback from condominiums shall be a minimum of 15 feet from project drives and walkways, 25 feet minimum from secondary residential streets and 35 feet from all other streets. For all residential developments which did not have a recorded subdivision, conditional subdivision approval, proffers relating to setbacks or buffers approved as part of a rezoning case, an approved and valid plan of development, or an approved special exception as of March 26, 2002, where the front yard is adjacent to a major arterial, minor arterial, major collector, minor collector or controlled access roadway identified on the major thoroughfare plan and having a projected right-of-way of 60 feet or greater, the setback shall be

increased by 15 feet. The increased setback may be divided between the residential lot and any common area immediately adjacent to the projected right-of-way.

(c) *Side yards.* The minimum side yard for the development shall be 25 feet. For all residential developments which did not have a recorded subdivision, conditional subdivision approval, proffers relating to setbacks or buffers approved as part of a rezoning case, an approved and valid plan of development, or an approved special exception as of March 26, 2002, where the side yard is adjacent to a major arterial, minor arterial, major collector, minor collector or controlled access roadway identified on the major thoroughfare plan and having a projected right-of-way of 60 feet or greater, the setback shall be increased by 15 feet. The increased setback may be divided between the residential lot and any common area immediately adjacent to the projected right-of-way.

(d) *Rear yards.* The minimum rear yard for the development shall be 30 feet. For all residential developments which did not have a recorded subdivision, conditional subdivision approval, proffers relating to setbacks or buffers approved as part of a rezoning case, an approved and valid plan of development, or an approved special exception as of March 26, 2002, where the rear yard is adjacent to a major arterial, minor arterial, major collector, minor collector or controlled access roadway identified on the major thoroughfare plan and having a projected right-of-way of 60 feet or greater, the setback shall be increased by 15 feet. The increased setback may be divided between the residential lot and any common area immediately adjacent to the projected right-of-way.

(e) *Building height.* Condominiums shall have a maximum building height of 40 feet.

(f) *Parking.* A minimum of 2¼ parking spaces per condominium unit shall be provided. Attached garages cannot be included in the parking calculations. Condominiums on property with an approved plan of development, proffers approved as part of a rezoning case, an approved special exception, or previous multifamily development on the property as of November 28, 2000, shall have a minimum of two parking spaces per unit.

(g) The provisions of section 24-30.2 shall apply to all condominiums. Compliance with multifamily guidelines maintained by the director of planning is strongly encouraged.

(Code 1980, § 22-42; Code 1995, § 24-42; Ord. No. 1008, § 5, 11-28-2000; Ord. No. 1026, § 3, 3-26-2002; Ord. No. 1111, § 8, 8-14-2007)

Sec. 24-43. Exceptions to article X.

For any property zoned RTH residence townhouse district prior to November 10, 1993, having a valid subdivision plat approved by the agent in accordance with chapter 19 of the County Code as of November 10, 1993, the following principal uses if approved on the subdivision plat are permitted:

(a) One-family dwellings as permitted and regulated in the R-3 district.

(b) Detached and semidetached dwellings for sale with zero lot lines in an approved subdivision of five or more lots in accordance with section 24-106 and section 24-13.1(d).

(c) Townhouses for sale as permitted and regulated in article X, with architectural treatment permitted as follows:

(1) No more than eight townhouse units shall be continuously connected. A minimum of ten feet of common area shall separate any two groups or row of lot(s).

(Code 1980, § 22-43; Code 1995, § 24-43)

Secs. 24-44—24-50. Reserved.

ARTICLE XA. O-1 OFFICE DISTRICT

Sec. 24-50.1. Purpose of district.

The purpose of this district is to provide for certain nonresidential buildings on sites that may not be considered appropriate for residential use but in attractive surroundings with types of uses and exterior indication of these uses so controlled as to be generally compatible with low-density residential development. It is anticipated that the district would be applied to areas of relatively small size but could be applied to larger areas if development standards are complied with. Height of buildings which are to be near low-density residence is limited to further enhance their compatibility in a residential environment.

(Code 1980, § 22-50.1; Code 1995, § 24-50)

Sec. 24-50.2. Principal uses permitted.

(a) Offices and office buildings, business, professional or administrative, but not banks or savings and loan establishments; provided, that no retailing, wholesaling or servicing shall be permitted on the premises nor the storage or display of merchandise to be serviced or offered for sale elsewhere, and there shall be no machinery or equipment other than machinery or equipment customarily found in such offices.

(b) Offices, medical.

(c) Studio for an artist, designer, writer, photographer, sculptor or musician.

(d) Child care centers in accordance with section 24-106.

(e) Places of worship.

(Code 1980, § 22-50.2; Code 1995, § 24-50)

Sec. 24-50.2:1. Provisional uses permitted.

(a) *Accessory dwellings.* Up to four dwelling units, located on a floor or floors above an office use, may be permitted as a provisional use, subject to the following requirements:

(1) The dwelling shall be categorized as nonresidential for the purpose of applying area and bulk regulations.

(2) Each dwelling shall provide one parking space.

(3) The dwelling entrance must be either an exterior door leading directly outside or a door to a common entrance shared with the principal use.

(4) The dwelling shall have at least 500 square feet of livable floor area.

(5) The requirements of section 24-122.1 of this Code.

(Code 1995, § 24-50.2:1; Ord. No. 1029, § 1, 6-11-2002)

Sec. 24-50.3. Accessory uses permitted.

(a) Accessory uses, not otherwise prohibited, customarily accessory and incidental to any permitted use.

(b) Coin-operated and vending machines for food, tobacco, ice, soft drinks and sundries inside a building and for the use of occupants thereof.

(c) Storage of office supplies or merchandise normally carried in stock or used in connection with a permitted office or studio use subject to applicable district regulations and provided such storage area does not exceed ten percent of the total floor area of the building.

(d) Signs as regulated in section 24-104.1.

(e) A recycling collection facility operated by a not-for-profit or tax-exempt organization for a period not to exceed 30 days within any six-month period pursuant to a permit to be obtained from the director of planning or the director's designee. The facility shall meet or exceed the following criteria:

(1) No recycling facility may be situated on the same lot with a one-family dwelling when such dwelling is a principal permitted use.

(2) Area and site size: A recycling collection facility shall not exceed a maximum area of 972 square feet.

(3) Setbacks: Setbacks shall be as set forth in sections 24-94 and 24-101.

(4) Parking: Parking shall be provided as required in section 24-96.

(5) Exterior storage: Exterior storage shall not be permitted. Provisions shall be made for daily maintenance to ensure this requirement is met.

(6) Vehicular and pedestrian circulation: A recycling collection facility shall be located in a manner that does not impede or adversely affect vehicular or pedestrian circulation.

(Code 1980, § 22-50.3; Code 1995, § 24-50.3)

Sec. 24-50.4. Required conditions.

(a) *Access.* Access points shall be located and designed to minimize traffic hazards and congestion in accordance with accepted principles of good planning, traffic engineering and established county policy. The principal means of access for any permitted use or combination of uses shall be from arterial or collector thoroughfares.

(b) *Refuse containers.* Refuse containers shall be located in a paved area and shall be completely screened from view by means of an opaque fence or wall. Such containers shall be serviced only between the hours of 6:00 a.m. and 12:00 midnight.

(c) *Drainage.* Provision shall be made for proper stormwater drainage. Water from parking and loading areas shall not be permitted to drain from such areas onto adjacent property except into a natural watercourse or a drainage easement.

(Code 1980, § 22-50.4; Code 1995, § 24-50.4)

ARTICLE XB. O-2 OFFICE DISTRICT

Sec. 24-50.5. Purpose of district.

The purpose of this district is to provide for office buildings in attractive surroundings with types of uses and signs so controlled as to be generally compatible with medium-density residential surroundings. The district can be applied to large or small areas.

(Code 1980, § 22-50.5; Code 1995, § 24-50.5)

Sec. 24-50.6. Principal uses permitted.

(a) Offices and office buildings, business, professional or administrative; provided, that no retailing, wholesaling or servicing shall be permitted on the premises.

(b) Banks, savings and loan or small loan establishments, drive-in or otherwise.

(c) Offices, medical and laboratories.

(d) Employment service or agency.

(e) Funeral home or undertaking establishment, provided all hearses, or other special vehicles are parked or stored inside a completely enclosed building.

(f) Studio for an artist, designer, writer, photographer, sculptor or musician.

(g) Child care centers in accordance with section 24-106.

(h) Places of worship.

(Code 1980, § 22-50.6; Code 1995, § 24-50.6)

Sec. 24-50.6:1. Provisional uses permitted.

(a) *Accessory dwellings.* Up to four dwelling units, located on a floor or floors above an office use, may be permitted as a provisional use, subject to the following requirements:

(1) The dwelling shall be categorized as nonresidential for the purpose of applying area and bulk regulations.

(2) Each dwelling shall provide one parking space.

(3) The dwelling entrance must be either an exterior door leading directly outside or a door to a common entrance shared with the principal use.

(4) The dwelling shall have at least 500 square feet of livable floor area.

(5) The requirements of section 24-122.1 of this Code.

(Code 1995, § 24-50.6:1; Ord. No. 1029, § 2, 6-11-2002)

Sec. 24-50.7. Conditional uses permitted by special exception.

(a) General hospitals, sanitoriums and charitable institutions for human care; provided, that any such use shall have a minimum lot area of five acres.

(b) Radio and television broadcasting stations.

(c) Retail and service facilities in an office building containing at least 50,000 square feet of floor area devoted to office use, provided such retail and service facilities do not occupy more than ten percent of the floor area of the building. Retail and service facilities may include, but not be limited to, such uses as a barbershop, beauty shop, health club, jewelry store or watch repair, lunchroom or restaurant, ethical pharmacy, newspaper and magazine stand, optometrist, souvenir shop, tobacco shop or valet shop in an office building, provided there shall be no entrances directly from the street or parking lot to these businesses, no signs or other evidence indicating the existence of such businesses visible from the outside of the building, and provided that such uses are secondary to the primary use of the building for professional and general office purposes.

(d) Buildings in excess of 45 feet in height but not exceeding eight stories (110 feet in height).

(e) One cremation unit to serve funerals conducted by the operator of the funeral chapel and to be used for the cremation of dead human bodies. The cremation unit shall be equipped with safeguards to eliminate all smoke, odor and other emissions.

(Code 1980, § 22-50.7; Code 1995, § 24-50.7)

Sec. 24-50.8. Accessory uses permitted.

(a) Accessory uses permitted and as regulated in the O-1 district.

(b) Cafeteria or snack bar for the use of employees who work in the building where such facility is located, provided such facility has no exterior entrances or exits, except required emergency exits or signs.

(c) Signs as regulated in section 24-104.1.

(d) Living accommodations when located in a structure permitted as a principal use for a resident manager, caretaker and/or security guard employed on the premises.

(e) Living quarters subject to the floor area requirements of section 24-50.7(c).

(f) A recycling collection facility operated by a not-for-profit or tax-exempt organization for a period not to exceed 30 days within any six-month period pursuant to a permit to be obtained from the director of planning or the director's designee. The facility shall meet or exceed the following criteria:

(1) No recycling facility may be situated on the same lot with a one-family dwelling when such dwelling is a principal permitted use.

(2) Area and site size: A recycling collection facility shall not exceed a maximum area of 972 square feet.

(3) Setbacks: Setbacks shall be as set forth in sections 24-94 and 24-101.

(4) Parking: Parking shall be provided as required in section 24-96.

(5) Exterior storage: Exterior storage shall not be permitted. Provisions shall be made for daily maintenance to ensure this requirement is met.

(6) Vehicular and pedestrian circulation: A recycling collection facility shall be located in a manner that does not impede or adversely affect vehicular or pedestrian circulation.

(Code 1980, § 22-50.8; Code 1995, § 24-50.8)

Sec. 24-50.9. Required conditions.

(a) *Access.* Access points shall be located and designed to minimize traffic hazards and congestion in accordance with accepted principles of good planning, traffic engineering and established county policy. The principal means of access for any permitted use or combination of uses shall be from arterial or collector thoroughfares.

(b) *Refuse containers.* Refuse containers shall be located in a paved area and shall be completely screened from view by means of an opaque fence or wall. Such containers shall be serviced only between the hours of 6:00 a.m. and 12:00 midnight.

(c) *Drainage.* Provision shall be made for proper stormwater drainage. Water from parking and loading areas shall not be permitted to drain from such areas onto adjacent property except into a natural watercourse or a drainage easement.

(Code 1980, § 22-50.9; Code 1995, § 24-50.9)

ARTICLE XC. O-3 OFFICE DISTRICT

Sec. 24-50.10. Purpose of district.

The purpose of this district is to provide for office buildings in attractive surroundings with types of uses and signs so controlled as to be generally compatible with high-density residential surroundings. The district is intended for application to areas well served by arterial thoroughfares where major employment concentrations are appropriate. Accessory commercial and service uses are permitted in larger buildings.

(Code 1980, § 22-50.10; Code 1995, § 24-50.10)

Sec. 24-50.11. Principal uses permitted.

(a) Any principal use permitted and as regulated in an O-2 office district.

(b) Offices and office buildings, business, professional or administrative.

(c) General hospitals, sanitoriums and charitable institutions for human care, provided any such use shall have a minimum of five acres.

(d) Printing, publishing and engraving establishment, blueprinting, photocopying and similar uses, provided, that no use permitted in this item shall occupy more than 5,000 square feet of floor area.

(e) Radio or television broadcasting studios or offices.

(f) Retail and service facilities in an office building containing at least 50,000 square feet of floor area devoted to office use, provided such retail and service facilities do not occupy more than 20 percent of the floor area of the building. Retail and service facilities may include, but not be limited to, such uses as barbershops, beauty parlors, dining rooms, exercise rooms, newsstands, restaurants, cocktail lounges, cafeterias, valet service, automobile rental office, travel agency and retail stores for wearing apparel, jewelry, sporting goods, books, records, photographic equipment, gifts, art objects and supplies, luggage, flowers, house plants, food, beverages, packaged fruits, tobacco, drugs and sundries.

(g) Trade or business school, but not involving internal-combustion engines, heavy-duty trucks, construction

machinery, heavy-duty materials handling equipment or similar vehicles and equipment.

(h) Hotel or motel satisfying the following conditions within an office development of 50 acres or more:

(1) One such building shall be permitted for each 50 acres within the development; and

(2) Such buildings and accessory uses shall not be located on a lot that immediately adjoins a residential district and, in any event, shall be a minimum of 300 feet from a residentially zoned or used property.

(Code 1980, § 22-50.11; Code 1995, § 24-50.11; Ord. No. 965, § 1, 11-12-1997)

Sec. 24-50.11:1. Provisional uses permitted.

(a) *Accessory dwellings.* Up to four dwelling units, located on a floor or floors above an office use, may be permitted as a provisional use, subject to the following requirements:

(1) The dwelling shall be categorized as nonresidential for the purpose of applying area and bulk regulations.

(2) Each dwelling shall provide one parking space.

(3) The dwelling entrance must be either an exterior door leading directly outside or a door to a common entrance shared with the principal use.

(4) The dwelling shall have at least 500 square feet of livable floor area.

(5) The requirements of section 24-122.1 of this Code.

(b) Buildings or structures up to 200 feet in height.

(Code 1995, § 24-50.11:1; Ord. No. 1029, § 3, 6-11-2002; Ord. No. 1091, § 1, 11-14-2006)

Sec. 24-50.12. Conditional uses permitted by special exception.

(a) Conditional uses permitted and as regulated in the O-2 district.

(b) Freestanding structure containing an auditorium, lecture hall or recreation facilities primarily for employees in the district.

(c) Helistop (landing facilities only, no servicing or fueling facilities).

(d) Private club.

(Code 1980, § 22-50.12; Code 1995, § 24-50.12)

Sec. 24-50.13. Accessory uses permitted.

(a) Accessory uses permitted and as regulated in the O-2 district.

(b) Signs as regulated in section 24-104.1.

(c) Storage of office supplies or merchandise normally carried in stock or used in connection with a permitted office or business use subject to applicable district regulations and provided such storage area does not exceed 15 percent of the total floor area of the building.

(d) A recycling collection facility operated by a not-for-profit or tax-exempt organization for a period not to exceed 30 days within any six-month period pursuant to a permit to be obtained from the director of planning or the director's designee. The facility shall meet or exceed the following criteria:

(1) No recycling facility may be situated on the same lot with a one-family dwelling when such dwelling is a principal permitted use.

(2) Area and site size: A recycling collection facility shall not exceed a maximum area of 972 square feet.

(3) Setbacks: Setbacks shall be as set forth in sections 24-94 and 24-101.

(4) Parking: Parking shall be provided as required in section 24-96.

(5) Exterior storage: Exterior storage shall not be permitted. Provisions shall be made for daily maintenance to ensure this requirement is met.

(6) Vehicular and pedestrian circulation: A recycling collection facility shall be located in a manner that does not impede or adversely affect vehicular or pedestrian circulation.
(Code 1980, § 22-50.13; Code 1995, § 24-50.13)

Sec. 24-50.14. Required conditions.

(a) *Access.* Access points shall be located and designed to minimize traffic hazards and congestion in accordance with accepted principles of good planning, traffic engineering and established county policy.
(b) *Refuse containers.* Refuse containers shall be located in a paved area and shall be completely screened from view by means of an opaque fence or wall. Such containers shall be serviced only between the hours of 6:00 a.m. and 12:00 midnight.
(c) *Drainage.* Provision shall be made for proper stormwater drainage. Water from parking and loading areas shall not be permitted to drain from such areas onto adjacent property except into a natural watercourse or a drainage easement.
(Code 1980, § 22-50.14; Code 1995, § 24-50.14; Ord. No. 965, § 2, 11-12-1997)

ARTICLE XD. O/S OFFICE SERVICE DISTRICT

Sec. 24-50.15. Purpose of district.

The purpose of this district is to provide for the development of attractive and efficient office uses in combination with appropriate retail, service and industrial uses, all of which are intended to be generally compatible with the goals, objectives and policies of the office concentration designation of the land use plan. Any development within this district shall occur within a distinct and planned environment under unified development and operational standards, which standards shall be in addition to and not in lieu of such other standards contained elsewhere in this chapter. Development and operational standards within this district are intended to ensure that site details such as percent of ground cover, building height, signage, landscaping and architectural treatment are regulated to provide for the appropriate use of land, protection against overcrowding of land, the compatibility of the project with adjacent land uses, the health, safety, order, convenience and general welfare of citizens and the aesthetics of the development to encourage good design and arrangement of buildings for the creation of a convenient, attractive and harmonious community.

(Code 1980, § 22-50.15; Code 1995, § 24-50.15; Ord. No. 958, § 1, 8-13-1997)

Sec. 24-50.16. Minimum district area.

To be eligible for development under the provisions of this article, a project must contain at least 20 acres. In calculating the minimum acreage of the area, land zoned C-1 conservation district may be included, but existing dedicated streets and proposed public rights-of-way may not be included.

(Code 1980, § 22-50.16; Code 1995, § 24-50.16; Ord. No. 958, § 1, 8-13-1997)

Sec. 24-50.17. Covenants required.

In order that the purposes of this district shall be realized, each site to be developed within an office/service district shall be under the supervision or control of a unified, central authority for the life of the project. To this end, restrictive covenants shall be established for each project to be developed. The proposed restrictive covenants shall be submitted to the planning office for review and approval as to form and substance satisfactory to the county attorney prior to any formal approval for development within the project and shall be recorded prior to building permit approval. The covenants shall, at a minimum, provide for the creation of a property owners' association; provide for maintenance of individual sites, common areas,

open spaces, landscaping and buffering and private streets; and provide for minimum development and operational standards for each site.

(Code 1980, § 22-50.17; Code 1995, § 24-50.17; Ord. No. 958, § 1, 8-13-1997)

Sec. 24-50.18. Principal uses permitted.

(a) Office.

(b) Banks, savings and loan, small loan establishments and/or similar financial institutions, drive-in or otherwise.

(c) Child care centers.

(d) Hotel or motel in a project of at least 50 acres.

(e) Retail and service uses (as described in the B-2 district and as regulated in section 24-50.18:1 of this Code) including, but not limited to, uses such as barbershops, beauty parlors, dining rooms, exercise rooms, newsstands, restaurants, cocktail lounges, cafeterias, valet service, automobile rental office, travel agency, retail stores for wearing apparel, jewelry, sporting goods, books, records, photographic equipment, gifts, art objects, stationery and office supplies, luggage, flowers, house plants, food, beverages, packaged fruits, tobacco, drugs, sundries, showroom, sales and service areas.

(f) Light industrial uses, as regulated in section 24-50.18:1 of this Code and limited to the following:

(1) Distribution businesses including warehousing;

(2) Laboratories, research, development or testing, but not testing of explosives;

(3) Wholesaling including warehousing;

(4) Warehousing (excluding miniwarehouses and self-service storage facilities);

(5) Testing and repair;

(6) Light manufacturing uses as follows:

a. Manufacture or assembly of medical or dental equipment, drafting, optical and musical instruments, watches, clocks, toys, games, electrical or electronic apparatus, communication equipment, photographic and metering equipment, firearms, electrical appliances, tools, dies, machinery, hardware products or comparable uses.

b. Compounding of cosmetics, toiletries, drugs and pharmaceutical products or comparable uses.

(g) Data processing center.

(h) Radio or television broadcasting studios and/or offices.

(i) Trade or business school, but not involving internal-combustion engines, heavy-duty trucks, construction machinery, heavy-duty equipment, handling equipment or similar vehicles and equipment.

(j) Medical or dental clinics.

(k) Medical or dental laboratories.

(l) Places of worship.

(Code 1980, § 22-50.18; Code 1995, § 24-50.18; Ord. No. 958, § 1, 8-13-1997)

Sec. 24-50.18:1. Restrictions imposed on retail and service facilities and light industrial uses.

(a) All light industrial uses shall be conducted within a completely enclosed building.

(a-1) All light industrial uses shall be conducted so as not to create any danger to the health, safety and welfare or any material adverse impact on the property or surrounding areas by creating any excessive noise, vibration, smoke, dust, lint, odor, heat or glare beyond the boundaries of the site.

(b) Retail and service uses shall be located within a single office or industrial building containing at least 50,000 square feet of floor area or within a group of buildings totaling 50,000 square feet; provided, that such

retail and service facilities shall not occupy more than 20 percent of each building in which they are located.

(c) Except as provided by provisional use permit under section 24-50.19(c), light industrial uses shall not exceed 40 percent of the gross square footage of any building; retail and service uses combined shall not exceed 20 percent of the gross square footage of any building; and in any case, the combined retail, service, and light industrial uses shall not exceed 40 percent of the gross square footage of any building.

(d) In no case shall any use first permitted in the M-2 general industrial district be permitted in this district.

(Code 1980, § 22-50.18:1; Code 1995, § 24-50.18:1; Ord. No. 958, § 1, 8-13-1997)

Sec. 24-50.19. Provisional uses permitted.

The following uses may be permitted as provisional uses if approved by the board of supervisors in accordance with section 24-122.1 of this Code:

(a) Helistop (landing facilities only, no servicing or fueling facilities).

(b) Radio, television, electric power or other transmission tower in excess of 50 feet in height. Said height shall be measured from the base of the tower when freestanding or from the average grade elevation of another structure if placed on said structure.

(c) An office/service project or portion of a project with buildings containing a maximum gross square footage of 60 percent for light industrial uses and retail and service uses; provided, that the retail and service uses combined shall not exceed 20 percent of the building's gross square footage; and provided, that no building shall contain less than 40 percent office use; and provided, that said retail and service uses are developed in accordance with the requirements set out in section 24-50.18(e) and 24-50.18:1(b) above.

(d) Any use located outside an enclosed building when related to the principal use.

(Code 1980, § 22-50.19; Code 1995, § 24-50.19; Ord. No. 958, § 1, 8-13-1997)

Sec. 24-50.20. Conditional uses permitted by special exception.

(a) Buildings in excess of four stories (45 feet in height) but not exceeding eight stories (110 feet in height), except that buildings within 100 feet of an A or R district shall in no case exceed 40 feet in height.

(b) Freestanding structures containing an auditorium, lecture hall or recreation facilities, primarily for the use of employees who work in the project. For the purpose of computing overall project square footages, these structures will be considered office uses.

(Code 1980, § 22-50.20; Code 1995, § 24-50.20; Ord. No. 958, § 1, 8-13-1997)

Sec. 24-50.21. Accessory uses permitted.

(a) Coin-operated vending machines for food, tobacco, ice, soft drinks and sundries and automated teller machines inside a building and for the use of occupants.

(b) Cafeteria or snack bar primarily for the use of employees who work in the building where such facility is located, provided such facility has no exterior entrances or exits, except required emergency exits.

(c) Living accommodations, when located in a structure permitted as a principal use, for a resident manager, caretaker and/or security guard employed on the premises. There shall be no more than one such living accommodation unit per building.

(d) Accessory uses, not otherwise prohibited, customarily accessory and incidental to any permitted use.

(e) Signs as regulated in section 24-104.1.

(f) A recycling collection facility operated by a not-for-profit or tax-exempt organization for a period not to exceed 30 days within any six-month period pursuant to a permit to be obtained from the director of planning or the director's designee. The facility shall meet or exceed the following criteria:

(1) No recycling facility may be situated on the same lot with a one-family dwelling when such dwelling is a principal permitted use.

(2) Area and site size: A recycling collection facility shall not exceed a maximum area of 972 square feet.

(3) Setbacks: Setbacks shall be as set forth in sections 24-94 and 24-101.

(4) Parking: Parking shall be provided as required in section 24-96.

(5) Exterior storage: Exterior storage shall not be permitted. Provisions shall be made for daily maintenance to ensure this requirement is met.

(6) Vehicular and pedestrian circulation: A recycling collection facility shall be located in a manner that does not impede or adversely affect vehicular or pedestrian circulation.

(Code 1980, § 22-50.21; Code 1995, § 24-50.21; Ord. No. 958, § 1, 8-13-1997)

Sec. 24-50.22. Development standards.

The standards set out below shall be in addition to and not in lieu of the standards required elsewhere in this Code:

(a) *Street access.* The primary access to an office/service district shall be directly from either a major access road, major collector, major arterial or minor arterial roadway as designated on the county thoroughfare plan. Secondary access shall be permitted only from roadways designated on the thoroughfare plan.

(b) *Landscaping and buffering.* Landscaping, buffering and screening shall be provided in accordance with the requirements of section 24-106.2 and the following additional standards:

(1) *Project perimeter.* Buffering of the project boundaries, except for vehicular and pedestrian access areas and signs, is essential for the successful integration of the office/service district into appropriate areas within the county. Buffering required around the perimeter of the project shall be a transitional buffer 50 as defined in section 24-106.2 of this Code when adjoining any A or R district property. Project perimeters adjoining any other zoning classification, major or minor arterial roadways or interstate right-of-way shall be buffered by a transitional buffer 25 as defined in section 24-106.2. No buildings or parking shall be permitted within the required transitional buffers. Should it be necessary to pass drainage, utility or other easements through these areas, the transitional buffer area shall be increased by the square foot area of the easement.

(2) *Minimum required open space.* At least 20 percent of every site within the project shall be used for permanent open space. This area shall be used for landscaping, lawns, screening and/or buffer areas and may include bodies of water, works of art and outdoor recreation areas. The area devoted to the minimum project perimeter, minimum required landscaping along streets and parking lot landscaping may be counted toward this requirement.

(3) *Minimum required landscaping along street.* Notwithstanding the requirements of section 24-106.2, any lot which fronts on a public street shall have a landscaped area of at least 20 feet in width, measured from the proposed right-of-way line, along the entire street side(s) of the lot. No structure, parking or driveways shall be permitted within this area except for vehicular and pedestrian ingress and egress and permitted signs.

(4) *Parking lot landscaping.* Any parking lot containing more than 25 spaces must be landscaped with plantings and trees. The landscaped areas shall be equal to at least 162 square feet for every 20 parking spaces of portion thereof. The required landscaping shall be placed within the boundaries of the parking lot or be immediately adjacent thereto. This requirement is in addition to any landscaping requirements in the project perimeter, required open space or along the streets.

(c) *Public water and sewer.* Any development within this district shall be served by public water and sewer.

(d) *Utility lines underground.* All utility lines such as electric, telephone, CATV or other similar lines shall be installed underground. This requirement shall apply to lines serving individual sites as well as to utility lines necessary within the project. All junction and access boxes shall be screened with appropriate landscaping.

(e) *Outside storage and refuse containers.* There shall be no outside storage of any equipment, vehicles,

materials or supplies. Refuse containers shall be completely screened from view by means of an opaque fence or wall that is architecturally compatible with the building(s) on the site. Such containers shall be serviced only between the hours of 6:00 a.m. and 12:00 midnight.

(f) *Exterior lighting.* Lights illuminating off-street parking or loading areas shall be arranged and installed so that no material glare or direct light shall spill over onto adjacent parcels. Lighting standards shall not exceed 20 feet in height and shall be of a directional type capable of shielding the light source from direct view.

(g) *Loading areas.* Buildings or structures having loading areas shall be designed with an appropriate interior courtyard so that the loading operations are not visible from any of the project perimeters adjoining any A or R district and are shielded from the roadways within the project.

(h) *Architectural treatment.* The exterior wall surfaces (front, rear and sides) of each individual building shall be similar in architectural treatment and materials. All rooftop equipment shall be shielded so that it is screened from public view.

(i) *Parking.* Off-street parking for each use shall be provided in accordance with the provisions in section 24-96 of this Code.

(Code 1980, § 22-50.22; Code 1995, § 24-50.22; Ord. No. 958, § 1, 8-13-1997)

Sec. 24-50.23. Area, yard and height regulations.

(a) *Minimum lot area.* Each lot within the office/service district shall contain at least one acre.

(b) *Lot width.* Each site shall have a minimum lot width of 100 feet.

(c) *Front yard.* The front yard setback shall be a minimum of 40 feet from right-of-way lines or project drives.

(d) *Side yards.* The minimum side yards shall be 20 feet. The minimum side yard on the street side of a corner lot shall be 40 feet.

(e) *Rear yard.* The minimum rear yard setback shall be 40 feet.

(f) *Permitted variations in yard requirements.* The required minimum side or rear yards may be eliminated or reduced except when said yard adjoins a public street or private street, if the equivalent minimum yard area is provided elsewhere on the site in addition to all other minimum yard requirements.

(g) *Maximum height.* The maximum height of buildings shall be three stories or 45 feet, except that buildings up to eight stories (110 feet) may be permitted by special exception; but in no case shall any building or part of a building within 100 feet of an A or R district exceed 40 feet in height. The setback requirements for any building in excess of 45 feet in height shall be regulated by the standards for tall buildings contained in section 24-94.1 of this Code.

(Code 1980, § 22-50.23; Code 1995, § 24-50.23)

Sec. 24-50.24. Plan of development required.

A plan of development as regulated by section 24-106 of this Code shall be submitted for each site within the office/service district. In order to ensure that the project is being developed in accordance with the requirements of this article, a conceptual master plan for the entire project shall be submitted with each plan of development.

(Code 1980, § 22-50.24; Code 1995, § 24-50.24; Ord. No. 958, § 1, 8-13-1997)

Sec. 24-50.25. Individual buildings in projects with previously issued provisional use permits.

In O/S projects for which a provisional use permit reducing the minimum required office use percentage was granted prior to August 13, 1997, individual buildings may contain up to 60 percent light industrial uses and retail and service uses without an additional provisional use permit if:

(a) The retail and service uses comply with sections 24-50.18(e) and 24-50.18:1; and

(b) Retail and service uses combined do not exceed 20 percent of the building's gross square footage; and

(c) The building contains at least 40 percent office use.

(Code 1995, § 24-50.25; Ord. No. 958, § 1, 8-13-1997)

Sec. 24-50.26. Applicability.

All uses on property zoned O/S as of August 13, 1997, shall be deemed to be conforming with respect to the minimum required percentage office use and the maximum allowed percentage service use, and existing building(s) may be expanded for a similar ratio of use. New uses on property zoned O/S on August 13, 1997, vacant property zoned O/S on August 13, 1997, and all property rezoned O/S after August 13, 1997, shall be developed in accordance with the ordinance in effect at the time of development.

(Code 1995, § 24-50.26; Ord. No. 958, § 1, 8-13-1997)

ARTICLE XE. OFFICE SERVICE 2 DISTRICT

Sec. 24-50.27. Purpose of district.

The purpose of this district is to provide for the development of attractive and efficient office and industrial uses in combination with appropriate retail uses which are compatible with the office/service and light industry designations of the land use plan. All development within this district must occur within a distinct and planned campus-style environment under unified development and operational standards. Development and operational standards within this district emphasize high quality site design, landscaping, and architectural design. This district is intended to accommodate a mixture of uses, predominantly light industrial in nature. This district is best suited to accommodate high technology uses that are similar in function to light industrial uses, but closer in impact to office uses.

(Code 1995, § 24-50.27; Ord. No. 980, § 1, 9-23-1998)

Sec. 24-50.28. Minimum district area.

To be eligible for development, a project area must contain at least 10 acres. In calculating the minimum acreage of the project area, land zoned C-1 conservation district may be included, but existing dedicated streets and proposed public rights-of-way may not be included.

(Code 1995, § 24-50.28; Ord. No. 980, § 1, 9-23-1998)

Sec. 24-50.29. Covenants required.

Prior to building permit approval, the developer shall record covenants requiring each site to be under the supervision or control of a unified, central authority for the life of the project. The covenants shall be submitted to the planning office for review and approval as to form and substance by the county attorney prior to any formal approval for development within the project. The covenants shall, at a minimum, provide for the creation of a property owners' association; provide for maintenance of individual sites, common areas, open spaces, landscaping and buffering and private streets; and provide for minimum development and operational standards for each site.

(Code 1995, § 24-50.29; Ord. No. 980, § 1, 9-23-1998)

Sec. 24-50.30. Principal uses permitted.

[The following are principal permitted uses:]

(a) Principal uses permitted in the O-3 district;
(b) Schools, colleges, universities, conference centers, and training facilities;
(c) Distribution businesses;
(d) Retail (as described in the B-2 district and as regulated in section 24-50.33 of this Code) including, but not limited to, uses such as barbershops, beauty parlors, dining rooms, exercise rooms, newsstands, restaurants, cocktail lounges, cafeterias, valet service, automobile rental office, travel agency, retail stores for wearing apparel, jewelry, sporting goods, books, records, photographic equipment, gifts, art objects, stationery and office supplies, luggage, flowers, house plants, food, beverages, packaged fruits, tobacco, drugs, sundries, showroom, sales and service areas. Retail uses within an O/S-2 project shall be designed to serve principally employees and employers of the O/S-2 project area;
(e) Laboratories, research, development, testing, medical or dental, excluding testing of explosives;
(f) Wholesaling;
(g) Warehousing (excluding miniwarehouses and self-service storage);
(h) Testing and repair;
(i) Light manufacturing, compounding or assembly uses that do not require outdoor operations;
(j) Data processing center; and
(k) Medical or dental clinics.
(Code 1995, § 24-50.30; Ord. No. 980, § 1, 9-23-1998)

Sec. 24-50.31. Provisional uses permitted.

The following uses may be permitted as provisional uses if approved by the board of supervisors in accordance with section 24-122.1 of this Code:

(a) Helistop (landing facilities only, no servicing or fueling facilities).
(b) Storage, assembly, or other industrial or retail uses conducted outside enclosed buildings when related to the principal use.
(c) Buildings up to eight stories (110 feet) when located at least 100 feet from any A or R district.
(Code 1995, § 24-50.31; Ord. No. 980, § 1, 9-23-1998)

Sec. 24-50.32. Accessory uses permitted.

[The following are accessory permitted uses:]

(a) Accessory uses permitted and as regulated in the O-3 district.
(b) Accessory uses customarily accessory and incidental to any permitted use, unless otherwise prohibited.
(c) Signs as regulated in section 24-104.1.
(d) Freestanding structures containing an auditorium, lecture hall or recreation facilities, primarily for the use of employees who work in the project.
(e) Parking of commercial vehicles associated with principal or provisional uses, subject to section 24-50.33(h).
(Code 1995, § 24-50.32; Ord. No. 980, § 1, 9-23-1998)

Sec. 24-50.33. Development standards and use restrictions.

The development standards set out below shall supplement requirements found elsewhere in this

Code. If the provisions of this section conflict with other requirements of the County Code, the more restrictive shall apply:

(a) *Access.* Access points shall be located and designed to minimize traffic hazards and congestion in accordance with accepted principles of good planning, traffic engineering and established county policy.

(b) *Landscaping and buffering.* Landscaping, buffering and screening shall be provided in accordance with the requirements of section 24-106.2 and the following additional standards:

(1) *Project perimeter buffer and minimum required landscaping along street.* Project perimeters adjoining major or minor arterial streets or interstate rights-of-way shall be buffered by a transitional buffer 25 as defined in section 24-106.2. Any lot which fronts on a public street shall have a landscaped area at least 20 feet in width, measured from the ultimate proposed right-of-way line, along the entire street side(s) of the lot.

(2) *Encroachment on buffers.* Should drainage, utility or other easements be located in the project perimeter buffer or any other transitional buffer, such buffer area shall be increased by the area of the easement. Structures, parking, and driveways shall not be permitted within this area except for vehicular and pedestrian ingress and egress and permitted signs.

(3) *Minimum required open space.* At least 20 percent of every site within the project shall be used for permanent open space. The open space area shall be used for landscaping, lawns, screening and/or buffer areas and may include bodies of water, works of art and outdoor recreation areas. The area devoted to the transitional buffer, minimum required landscaping along streets, and parking lot landscaping may be counted toward this requirement, and must be shown on the plan of development.

(c) *Public water and sewer.* All development within the district shall be served by public water and sewer.

(d) *Utility lines underground.* All utility lines, such as electric, telephone, or cable television lines, shall be installed underground. This requirement applies to lines serving individual sites as well as to utility lines necessary within the project. All junction and access boxes shall be screened with appropriate landscaping.

(e) *Exterior lighting.* Lights illuminating off-street parking or loading areas shall be arranged and installed so that neither material glare nor direct light shall spill over onto adjacent properties. Lighting standards shall not exceed 20 feet in height and shall be of a directional type capable of shielding the light source from direct view.

(f) *Loading areas.* Buildings or structures having loading areas shall be designed so that loading operations are not visible from any of the project perimeters adjoining any A or R district, and are screened from adjacent public streets, or from the roadways within the project, subject to the following standards:

(1) When adjacent to an A or R district, loading areas must be concealed within an interior courtyard formed by permanent masonry structures, such as the building that the loading area serves or a wing wall. An existing building on the same site within the same project may comprise a side of the courtyard if it meets the other criteria of this paragraph (f).

(2) When adjacent to a public street or other roadways within the project, loading areas may be screened by other methods such as a berm, permanent masonry structure, and/or evergreen plant materials.

(g) *Architectural treatment.* The exterior wall surfaces (front, rear and sides) of each individual building, including wing walls, and screening structures, excluding fences and walls erected along the project perimeter, shall be similar in architectural treatment and materials.

(h) *Parking.* Fleet parking is permitted only where the vehicles are screened from view from any A or R district.

(i) *Outdoor use restriction and refuse containers.* All uses shall be conducted within a completely enclosed building, except as allowed by provisional use permit under section 24-50.31. There shall be no outside storage of any equipment, materials, or supplies. Refuse containers shall be completely screened from view by means of an opaque fence or wall constructed with materials similar to those of the principal building. Such containers shall be serviced only between the hours of 6:00 a.m. and 12:00 midnight.

(j) *Impact restriction.* All uses shall be conducted so as not to impose any danger to the health, safety and welfare or any material adverse impact on surrounding areas by creating any excessive noise, vibration, smoke, dust, lint, odor, heat, or glare beyond the boundaries of the site.

(k) *Limitation on retail uses.* Retail uses, if any, shall be located within a building containing at least 10,000 square feet of floor area; provided, that such retail uses shall not occupy more than 20 percent of each building in which they are located.

(l) *Outside speakers.* There shall be no outside speakers, although an intercom system in conjunction with a drive-through window is allowed as long as it is not audible at the property line.

(Code 1995, § 24-50.33; Ord. No. 980, § 1, 9-23-1998)

Sec. 24-50.34. Area, yard and height regulations.

(a) *Minimum lot area.* Each lot within the office/service district shall contain at least one acre.

(b) *Lot width.* Each lot shall have a minimum width of 100 feet.

(c) *Front yard.* The front yard setback shall be a minimum of 40 feet from the ultimate planned right-of-way lines or project roadways.

(d) *Side yards.* The minimum side yards shall be 20 feet. The minimum side yard on the street side of a corner lot shall be 40 feet.

(e) *Rear yard.* The minimum rear yard setback shall be 40 feet.

(f) *Permitted variations in yard requirements.* The required minimum side or rear yards may be eliminated or reduced except when said yard adjoins a public street or private street or any A or R district, if the equivalent minimum yard area is provided elsewhere on the site in addition to all other minimum yard requirements.

(g) *Maximum height.* The maximum height of buildings shall be three stories or 45 feet, except that buildings up to eight stories (110 feet) may be permitted by provisional use permit; but in no case shall any building or part of a building within 100 feet of an A or R district exceed 40 feet in height. The setback requirements for any building in excess of 45 feet in height shall be regulated by the standards for tall buildings contained in section 24-94.1 of this Code.

(Code 1995, § 24-50.34; Ord. No. 980, § 1, 9-23-1998)

Sec. 24-50.35. Plan of development required.

A plan of development shall be submitted for each site within the project. In order to ensure that the project is being developed in accordance with the requirements of this article, a conceptual master plan for the entire project shall be submitted with each plan of development.

(Code 1995, § 24-50.35; Ord. No. 980, § 1, 9-23-1998)

ARTICLE XI. A-1 AGRICULTURAL DISTRICT; USES

Sec. 24-51. Principal uses permitted.

A building or land shall be used only for the following purposes:

(a) Any principal use permitted and as regulated in the R-0 district.

(b) Forestry, including temporary sawmills used only for the sawing of timber cut from the immediate premises; provided, that sawmills shall observe the distance requirements of section 24-10.

(c) Summerhouses, cabins or camps for seasonal (not permanent or yearround) occupancy only, and which buildings need not abut on a street.

(d) Farming, dairy farming, commercial hog farms, livestock, rabbit and poultry raising and all uses

commonly classed as agricultural with no restrictions as to the operation of such vehicles or machinery or buildings as are incident to such uses and with no restrictions as to the sale or marketing of produce raised on the premises; except that no hogs, livestock, rabbits, poultry or other animals shall be permitted to run at large, and any buildings or yards to enclose and feed them shall observe the distance requirements of section 24-10.

(e) Antique shops.

(f) County-owned sanitary landfill operations having a lot area not less than 50 acres.

(g) Assisted living facilities and group homes, when located in a one-family dwelling as permitted by this section and as regulated by this chapter.

(h) Manufactured homes for single-family use, placed on a permanent foundation, located on individual lots, enclosed with skirting as required by Code of Virginia, § 36-99.8, as amended, and subject to all other zoning requirements and development standards applicable to all single-family dwellings in this zoning district.

(i) Farm winery, limited brewery, or limited distillery.

(Code 1980, § 22-51; Code 1995, § 24-51; Ord. No. 907, 8-9-1995)

Sec. 24-51.1. Provisional uses permitted.

(a) Clubs, fraternities, lodges or similar meeting places of nonprofit organizations in accordance with section 24-122.1.

(b) Marina activities, such as docking and launching of boats; rental of slips, both open and covered, for the storage of boats; rental space for dry storage of boats and trailers; sale of fuel, supplies and services for boating use; and outdoor marine recreation, such as bathing beaches and fishing areas.

Boat service and repair and the sale of new and used boats may also be permitted as provisional uses under specified conditions if the sale, service and repair activities are incidental to permitted marina activities.

Marina facilities shall comply with the following criteria and any other conditions imposed in accordance with section 24-121 of this Code:

1. There shall be a minimum of ten acres of land and 300 feet of water frontage;

2. Minimum distances shall be at least three times the distance requirements of section 24-10 of this Code except for septic drainfields, drainage facilities for water quality or similar features;

3. The use permit may specify greater minimum distances for facilities engaged in boat service and repair and the sale of new and used boats;

4. There shall be direct access to a public road adequate to handle the traffic generated by the facilities; and

5. A plan of development must be approved for the site.

(c) A bed and breakfast home. Bed and breakfast homes shall comply with the following criteria and any other conditions imposed in accordance with section 24-122.1 of this Code:

(1) Each application for a bed and breakfast home shall include an operations and site plan showing the location and design of structures and features of the site, number of employees and other details, and how the bed and breakfast home will comply with the requirements of this section.

(2) The bed and breakfast home shall have no more than three guestrooms, unless the board finds that the additional rooms will not detrimentally impact the surrounding neighborhood.

(3) The owner shall reside in and operate the bed and breakfast home.

(4) The exterior of the building shall not be altered from its single-family character.

(5) The home shall have at least 2,500 square feet of livable floor area for the first three guestrooms and 300 square feet of additional livable floor area for each guestroom thereafter.

(6) Parking areas shall be located and designed to complement the residential character of the lot and to

minimize potential impacts on adjacent properties. Notwithstanding the regulations set out in section 24-98, the board may permit parking areas to remain unpaved.

(7) There must be at least one bathroom available for the exclusive use of paying guests.

(d) A stage tower or scenery loft taller than the maximum height permitted in section 24-94.

(e) Gated subdivision. When the roads in a subdivision have not been accepted into the county road system for maintenance, serve only, or are primarily for, the general welfare of the residents of the subdivision, and do not serve as a connector to other public roads, the owners of two-thirds of the subdivision lots, including the subdivider, if he has an interest in the subdivision, may file a petition with the board of supervisors requesting that they be allowed to restrict ingress and egress to the subdivision. The board of supervisors may permit the restriction subject to the following conditions:

(1) The restriction may be abolished at any time in the sole discretion of the board of supervisors;

(2) The restriction shall not be asserted in opposition to the public ownership of streets dedicated to the public;

(3) The streets shall not be blocked to ingress and egress of government or public service company vehicles;

(4) Necessary maintenance of the streets will be paid for by the owners of the individual lots;

(5) Such other conditions which are imposed by the board of supervisors, including written guidelines and standards established by the director of planning and the director of public works.

(f) For any lot or parcel created after January 1, 1960, the maximum building height shall be 40 feet. For any lot or parcel created prior to January 1, 1960, the maximum building height shall be 35 feet by right and 40 feet if approved by provisional use permit.

(Code 1980, § 22-51.1; Code 1995, § 24-51.1; Ord. No. 903, § 1, 7-12-1995; Ord. No. 957, § 4, 8-13-1997; Ord. No. 1061, § 2, 11-25-2003; Ord. No. 1063, § 2, 3-9-2004; Ord. No. 1111, § 9, 8-14-2007)

Sec. 24-52. Conditional uses permitted by special exception.

(a) Any conditional use permitted and as regulated in the R-0 district. However, a conditional use permit shall only be required for a noncommercial kennel where the kennel structure or fenced areas for confinement of animals do not comply with setbacks equal to those specified for stables in section 24-10(b).

(b) Gun clubs, shooting ranges or traps of a noncommercial nature subject to three times the distance requirements of section 24-10 and subject also to being at least 1,200 feet from any public road.

(c) Kennels and/or veterinary clinics for the breeding, raising, boarding of dogs or other animals, providing that all buildings and runways shall comply with the distance requirements of section 24-10, and providing that if large animals are to be bred, raised, boarded or treated, all necessary facilities shall be located on a tract of land of not less than ten acres.

(d) Sand, gravel or clay pits, quarries, mines and other extractive operations including topsoil removal; provided:

(1) The excavations are at least 100 feet from any R district, and are accessible from a general traffic thoroughfare without traversing any local residential street in an R district.

(2) The special requirements in section 24-103 shall be complied with, in addition to any others ordered by the board in accordance with section 24-116(c).

(e) Hospitals, sanitoriums, rest homes, charitable institutions for human care and charitable institutions for the care of contagious diseases or for drug, or liquor, or mental patients; provided, that any such establishment shall have a minimum lot area of eight acres and shall be sufficiently isolated from residential areas as to safeguard their health, safety and welfare.

(f) Airports, provided that they shall comply with three times the distance requirements of section 24-10, and that the approaches to landing strips shall not be over any R district, or any school, place of worship, or other institution for human care or any place of public assembly, for a distance of at least one mile and a width of

one-half mile. An airport in the A-1 district may include any buildings, structures or service facilities that are necessary, customary and accessory to the operation of the airport, such as hangars, terminal buildings, restaurants, parking areas, fuel or parts storage and sales and the like, but not the manufacturing, major repairing or testing of aircraft, except that the flight testing of aircraft may be permitted by the board of supervisors after a public hearing of which at least ten days' public notice shall be given by publication in a newspaper having general circulation in the county.

(g) Fairgrounds, but only as generally set forth in the application for POD 74-00 (other than the proposed Youth and Convocation Center) filed on July 13, 2000; racetracks or grounds for the racing or showing of horses; and riding stables or academies; provided, that all such uses shall comply with three times the distance requirements of section 24-10.

(h) Cemeteries and graveyards, including such accessory uses as mausoleums and crematories; provided, that any new cemetery shall have an area of at least 20 acres, all graves shall be located at least 50 feet from adjacent property lines and 250 feet from any dwelling or well on adjacent property, and any mausoleum or crematory shall observe twice the distance requirements of section 24-10; except that cemeteries and graveyards accessory to places of worship shall not be restricted in area. Existing cemeteries and graveyards shall be subject to the foregoing distance requirements except where existing graves are located or lots sold closer to property lines than the specified distances, in which case such lots may be used, and other graves may be located as close as the closest existing grave.

(h1) Cemeteries for pets, including all accessory uses, such as, but not limited to, mausoleums and crematories in accordance with the following:

(1) Any cemetery shall have an area of at least five acres.

(2) All graves, mausoleums, crematories or other accessory uses shall have the minimum front yard depth required by section 24-95(g) of this chapter and shall be located at least 25 feet from any other adjacent property line and 100 feet from any well on adjacent property.

(3) No cemetery shall be established within 250 feet of any dwelling at its nearest point thereto.

(4) Any cemetery shall be operated, maintained and a perpetual care fund established as required by the provisions set forth in Code of Virginia, title 57, ch. 3, art. 3.2, as amended, pertaining to cemeteries for human interment.

(i) Reserved.

(j) Par-three or "pitch and putt" golf courses, including golf driving ranges and miniature golf courses when operated in conjunction with par-three or "pitch and putt" golf course. Such establishments shall have a minimum of 12 acres of land area and a length of 900 yards for a nine-hole course or a minimum of 22 acres of land and a length of 1,800 yards for an 18-hole course, and shall comply with at least twice the distance requirements of section 24-10, except that such distances may be reduced by the board when their findings under section 24-116(c) indicate that, because of exceptional circumstances, persons residing or working in the neighborhood will not be adversely affected. Any lighting of the course shall be arranged so as to direct the light and glare away from the property in the neighborhood.

(k) Commercial golf courses, but not including any use first permitted in section 24-62.2(f). Such establishments shall have a minimum of 100 acres of land area and a length of 6,000 yards for an 18-hole course and shall comply with the distance requirements of section 24-10, except that such distances may be reduced by the board when their findings under section 24-116(c) indicate that because of exceptional circumstances, persons residing or working in the neighborhood will not be adversely affected. Any lighting of the course shall be arranged so as to direct the light and glare away from property in the neighborhood.

(l) Sand and gravel, washing and grading plant for the processing of materials extracted only from the premises on which the plant is located; when located at least 600 feet from any R district; the plant site shall not exceed five acres in area; the special requirements in section 24-103 shall be complied with, in addition to any others ordered by the board in accordance with section 24-116(c).

(m) Private kennels, for the keeping of animals by the occupant of the property, of a noncommercial nature.

(n) Campgrounds containing not less than ten acres developed for camping units to be used for temporary living quarters or shelter during periods of recreation, vacation, leisure time or travel. Camping sites shall not be occupied for more than 14 days. All campgrounds to be subject to the approval of the state health commissioner, through the county health department, under "Rules and Regulations of the Board of Health Governing Campgrounds" adopted June 2, 1971.

(Code 1980, § 22-52; Code 1995, § 24-52; Ord. No. 903, § 2, 7-12-1995; Ord. No. 1002, § 1, 8-8-2000; Ord. No. 1016, § 2, 8-14-2001)

Sec. 24-53. Accessory uses permitted.

(a) Accessory uses permitted and as regulated in the R-0 district.

(b) Facilities for the selling of bait and the selling or leasing of boats and fishing equipment, docks, dressing rooms, restaurants, refreshment stands and other accessory uses customarily accessory and incidental to commercial outdoor marine recreation areas.

(c) Other accessory uses, not otherwise prohibited, customarily accessory and incidental to any permitted use.

(d) Signs as regulated in section 24-104.1.

(e) A recycling collection facility operated by a not-for-profit or tax-exempt organization for a period not to exceed 30 days within any six-month period pursuant to a permit to be obtained from the director of planning or the director's designee. The facility shall meet or exceed the following criteria:

(1) No recycling facility may be situated on the same lot with a one-family dwelling when such dwelling is a principal permitted use.

(2) Area and site size: A recycling collection facility shall not exceed a maximum area of 972 square feet.

(3) Setbacks: Setbacks shall be as set forth in sections 24-94 and 24-101.

(4) Parking: Parking shall be provided as required in section 24-96.

(5) Exterior storage: Exterior storage shall not be permitted. Provisions shall be made for daily maintenance to ensure this requirement is met.

(6) Vehicular and pedestrian circulation: A recycling collection facility shall be located in a manner that does not impede or adversely affect vehicular or pedestrian circulation.

(f) Noncommercial kennels for the keeping of animals by the occupant of the property where the kennel structure and all fenced areas for the confinement of animals comply with setbacks equal to those specified for stables in section 24-10(b).

(g) One temporary family health care structure on property owned or occupied by a caregiver as his residence in accordance with section 24-100.1.

State law reference: Code of Virginia §15.2-2292.1.

(Code 1980, § 22-53; Code 1995, § 24-53; Ord. No. 1016, § 3, 8-14-2001)

Sec. 24-53.1. Development standards and conditions for permitted uses.

Refuse containers. Refuse containers shall be completely screened from view by means of an opaque fence or wall. Such containers shall be serviced only between the hours of 6:00 a.m. and 12:00 midnight.

ARTICLE XII. B-1 BUSINESS DISTRICT

Sec. 24-54. Purpose of district.

This district is primarily for low-intensity retail and personal service uses developed either as a

coordinated unit or on individual parcels, serving the needs of a relatively small area, primarily nearby, residential neighborhoods. In order to enhance the general character of the district, its function of neighborhood service and its compatibility with residential surroundings, the building height and size of certain uses and the permitted hours of operation are all limited.

(Code 1980, § 22-54; Code 1995, § 24-54)

Sec. 24-54.1. Principal uses permitted.

A building or land shall be used only for the following purposes:

(a) Any principal use permitted and as regulated in the R-6 district except for dwellings as herein provided and the minimum lot area and lot width for a place of worship may be reduced in accordance with the B-1 district regulations. The permitted height of buildings or structures shall be subject to the B-1 district requirements unless otherwise provided for by this chapter.

(b) Antique shops for the sale of bona fide antiques, except that no indoor or outdoor auctions are permitted.

(c) Reserved.

(d) Banks, savings and loan, small loan offices and similar financial institutions. Adequate space shall be provided off the street for all vehicles waiting for drive-in service.

(e) Bakeries, provided that all products produced on the premises shall be sold at retail on the premises.

(f) Barbershops and beauty parlors.

(g) Bicycle sales and repair shops.

(h) Child care centers, baby sitting services and adult day care centers.

(i) Clinics and laboratories: Medical, dental and optical. No one building shall contain more than 15,000 square feet of floor area.

(j) Florist and flower shop.

(k) Funeral home, mortuary and/or undertaking establishment, provided that vehicular access to the premises shall be from a major or minor arterial designated on the county major thoroughfare plan. Adequate stacking space shall be provided on the premises for the formation of funeral processions. No such activity shall take place on public streets or rights-of-way.

(l) Grocery or convenience food store, provided that no individual store shall exceed 30,000 square feet of floor area except within an approved shopping center.

(m) Hospital or clinic for small animals, dogs, cats, birds and the like. All treatment rooms, cages, pens or kennels shall be within a completely enclosed, soundproof building, and such hospital or clinic shall be operated in such a way so as not to produce any objectionable noise or odors or vermin outside its walls. Site plans shall be reviewed and approved by the planning commission in accordance with section 24-106 of this chapter.

(n) Laundromats and self-service dry-cleaning establishments. Also, laundry or cleaning and pressing establishments, retail, employing not more than three persons in the actual cleaning process. Such establishments shall use nonflammable cleaning solvents, fully enclosed cleaning and solvent reclamation processes, fully enclosed pressing equipment with no outside steam exhaust and such other devices or arrangements as may be required to fully protect adjacent properties from noise, odors and vapors.

(o) Office and office building, business, professional and administrative. No one office building shall contain more than 15,000 square feet of floor area, unless approved in accordance with section 24-55 of this chapter.

(p) Packaging store and mailing service when located in an approved shopping center.

(q) Parking lots, commercial. Such use shall not be construed to permit any automobile, truck, motorcycle, boat, recreational vehicle sales, rental or storage lot.

(r) Pet shop, dog beauty parlor and obedience school. All work rooms, cages, pens or kennels shall be maintained within a completely enclosed, soundproof building and such shop, parlor or school shall be operated in such a way as to produce no objectionable noise, odors or vermin outside its walls.

(s) Private club, lodge, meeting hall and fraternal organization.

(t) Restaurant, delicatessen or ice cream parlor, but not restaurants or establishments which primarily provide outside delivery of packaged goods to patrons. No outside dining areas shall be provided.

(u) Shopping centers, neighborhood. A neighborhood center shall contain a lot of at least two but not more than ten acres and shall consist of a coordinated group of two or more indoor retail and service establishments with common parking, access and service areas in accordance with section 24-101 of this chapter. Shopping center site plans shall be reviewed and approved by the planning commission in accordance with section 24-106 of this chapter.

(v) Stores or shops for the conduct of retail sales including sale of art and art supplies, auto parts and accessories (but no service and/or installation), beverages (but not including brewing, distilling, or manufacturing alcoholic beverages), books, carpets, clothing, computers and software, draperies, drugs, fabrics, furniture and appliances, garden supplies, gifts, glass sales and service excluding auto or truck repairs, handcrafts, hardware or locksmiths, hobby supplies, jewelry, office supplies and stationery, paint, picture framing, wallpaper, shoes and shoe repair, sporting goods, televisions, video recorders, stereos, radios, microwaves, sales, service and small appliance repair, video store, variety store and stores and shops similar to the preceding. No individual shop or store shall occupy more than 10,000 square feet of floor area except when located within an approved shopping center.

(w) Studios and shops for artists, photographers, writers, teachers, jewelers, tailors and dressmakers, taxidermists, weavers and other craftsmen, sculptors and musicians with floor area not exceeding 3,000 square feet unless located in an approved shopping center.

(x) Temporary outdoor stand and/or sales area for the retail sale of Christmas trees, wreaths, holly and similar decorative horticultural materials subject to the requirements and development standards of subsection (n) of section 24-57.

(y) Training classes, dance, martial arts instruction and health clubs.

(z) Other retail and service uses which are of the same general character as those listed above as permitted uses. Such additional uses may be permitted by the director of planning pursuant to section 24-109 of this chapter, provided that they shall be only retail and service establishments primarily selling new merchandise (except antiques) and/or rendering a personal service. Such additional uses may be permitted only in accordance with development standards as herein provided.

(Code 1980, § 22-54.1; Code 1995, § 24-54.1)

Sec. 24-55. Provisional uses permitted.

The following uses may be permitted as provisional uses if approved by the board of supervisors in accordance with sections 24-120 and 24-122.1 of this chapter. Such uses shall be permitted only subsequent to site plan review and approval by the planning commission in accordance with section 24-106 and the development standards as herein provided:

(a) Automotive filling and service stations as regulated in the B-2 business district.

(b) Grocery or food store in excess of 30,000 square feet of floor area when located outside an approved shopping center.

(c) Office buildings in excess of 15,000 square feet of floor area.

(d) Any principal or conditional use permitted and as regulated in the O-3 district.

(e) Greenhouses accessory to a florist or flower shop.

(f) A recycling collection facility, pursuant to a provisional use permit and administratively approved site

plan, for a period in excess of 30 days. The facility shall meet or exceed the following criteria:

(1) Area and site size: A recycling collection facility shall not exceed a maximum area of 972 square feet.

(2) Setbacks: Setbacks shall be as set forth in sections 24-94 and 24-101 or greater as specified by the provisional use permit.

(3) Parking: Parking shall be provided as required in sections 24-96 and 24-101(e)(5).

(4) Exterior storage: Exterior storage shall not be permitted.

(5) Vehicular and pedestrian circulation: A recycling collection facility shall be located in a manner that does not impede or adversely affect vehicular or pedestrian circulation.

(6) A site plan shall be submitted for administrative review and approval by the director of planning or the director's designee. Appeal of any condition of approval shall be to the planning commission. Failure to maintain strict conformity with conditions of approval shall be deemed just cause for revocation. The site plan shall depict the location and size of the proposed facility; the number, type and size of containers and/or trailers and/or vehicles to be utilized; and the means of maximizing the compatibility of the proposed facility with the overall design, character and aesthetic considerations of the principal use of the property. Amendments to approved plans shall be reviewed and approved administratively by the director of planning or the director's designee.

(7) Operation and maintenance plan. An operation and maintenance plan containing provisions for an attendant, daily operations and maintenance of the facility shall be submitted for review and approval as part of the plan submitted for approval by the director of planning.

(8) Time limits and hours of operation. The duration or time period of the facility and daily hours of operations shall be established by the board of supervisors in its approval of the provisional use permit.

(9) A tonnage collection report for the previous six-month period shall be submitted to the planning office no later than January 15 and July 15 of each year.

(g) Accessory dwellings. Up to four dwelling units, located on a floor or floors above a retail or office use, may be permitted as a provisional use, subject to the following requirements:

(1) The dwelling shall be categorized as nonresidential for the purpose of applying area and bulk regulations.

(2) Each dwelling shall provide one parking space.

(3) The dwelling entrance must be either an exterior door leading directly outside or a door to a common entrance shared with the principal use.

(4) The dwelling shall have at least 500 square feet of livable floor area.

(5) The requirements of section 24-122.1 of this Code.

(h) Service to the public between 4:00 a.m. and 6:00 a.m.

(Code 1980, § 22-55; Code 1995, § 24-55; Ord. No. 1029, § 4, 6-11-2002)

Sec. 24-56. Conditional uses permitted by special exception.

The following uses may be permitted as special exceptions in accordance with the procedures, guides and standards of subsection (c) of section 24-116 and/or sections 24-2 and 24-106 of this chapter:

(a) Any conditional use permitted and as regulated in the R-6 district.

(b) Outside display of merchandise for any of the retail or service uses permitted in section 24-54.1 when located in a shopping center, provided that:

(1) The specific location and arrangement will not adversely affect adjacent property.

(2) The exterior display area shall be a permanent structure, capable of being secured from entry, and shall be an integral part of the architectural design of the building. A chainlink or similar fence shall not be

considered to be a permanent structure for the purpose of outside display.

(3) The exterior display area must be immediately adjoining the front or side of the building and extending not more than ten feet from it and be constructed in such a way that there shall be at least five feet of sidewalk for pedestrian movement adjacent to and outside of the display area.

(4) Outside storage of merchandise or stock shall not be permitted under this subsection.

(c) Automotive filling stations consisting of an attendant sales office and/or convenience food or grocery store or any permitted use with fuel pumps. Bulk storage of fuel shall be underground and there shall be no exterior display of merchandise and no facilities for automotive service, maintenance or washing. Lighting fixture shall not exceed a height greater than 20 feet. No temporary storage of wrecked or inoperative vehicles or storage or rental of vehicles, trailers, campers, vans or similar equipment shall be permitted. Site plans shall be reviewed and approved by the planning commission in accordance with section 24-106 of this chapter.

(Code 1980, § 22-56; Code 1995, § 24-56)

Sec. 24-56.1. Accessory uses permitted.

(a) Any accessory use permitted and as regulated in the O-3 district and the R-6 district except as provided herein and in subsection (i) of section 24-95 of this chapter.

(b) A dwelling unit within an office or business building for occupancy by the proprietor or an employee of an establishment within such office or business building.

(c) Signs as regulated in section 24-104.1.

(d) Storage of office supplies and merchandise for retail sale, provided such items are normally carried in stock in connection with a permitted office or business use subject to applicable district regulations.

(e) Not more than two electronic amusement games and billiard, pool or bagatelle tables operated incidental to the principal business use shall be permitted in any single business establishment.

(f) Vending machines for food, beverage and similar merchandise. Not more than two such machines may be permitted on the premises outside of an enclosed building.

(g) Other accessory uses, not otherwise prohibited and customarily accessory and incidental to any permitted use.

(h) Attached automatic teller machine and depository at a bank or savings and loan building with no restriction as to hours of operation.

(i) Newspaper boxes, public telephone stations and similar uses.

(j) A recycling collection facility operated by a not-for-profit or tax-exempt organization for a period not to exceed 30 days within any six-month period pursuant to a permit to be obtained from the director of planning or the director's designee. The facility shall meet or exceed the following criteria:

(1) No recycling facility may be situated on the same lot with a one-family dwelling when such dwelling is a principal permitted use.

(2) Area and site size: A recycling collection facility shall not exceed a maximum area of 972 square feet.

(3) Setbacks: Setbacks shall be as set forth in sections 24-94 and 24-101.

(4) Parking: Parking shall be provided as required in sections 24-96 and 24-101.

(5) Exterior storage: Exterior storage shall not be permitted. Provisions shall be made for daily maintenance to ensure this requirement is met.

(6) Vehicular and pedestrian circulation: A recycling collection facility shall be located in a manner that does not impede or adversely affect vehicular or pedestrian circulation.

(k) A recycling collection facility as an accessory to a permitted retail operation when situated inside an enclosed building.

(Code 1980, § 22-56.1; Code 1995, § 24-56.1)

Sec. 24-57. Development standards and conditions for permitted uses.

(a) *Purpose.* In order to encourage compatibility with adjacent and nearby properties and to enhance harmonious relationships with surrounding properties, whether developed or undeveloped, the building or buildings and site shall be designed to:

(1) Employ such development techniques as may be appropriate to a particular case in order to fulfill the purposes of this chapter and the goals, objectives and policies of the comprehensive plan; and

(2) Include design considerations which may address matters such as location of permitted elements, orientation, spacing and setback of buildings, maintenance of natural vegetation, location and number of vehicular access points, size and location of signs, open spaces and parking areas, grading, landscaping, screening and servicing.

(b) *Lot area and width unless otherwise provided by this chapter.*

(1) For permitted uses in the one-family residence districts, other than dwellings and places of worship, the lot area and width requirements shall not be less than required in the R-4A district.

(2) For permitted and accessory uses there are no minimum lot area and width requirements except as may be required by the health department to meet sanitary standards.

(c) *Minimum yard depths.* Minimum yards shall be provided in accordance with section 24-94 and any applicable requirement of sections 24-95 and 24-101 of this chapter, except that any building, structure or use not classified as a shopping center, when located directly across a street from any R district, shall be set back 50 feet from any street right-of-way of less than 80 feet in width. Notwithstanding any other provisions of this chapter, on corner or double frontage lots the minimum front yard depth required for the district shall be observed from any street right-of-way line.

(d) *General height and bulk standards.* See sections 24-93, 24-94 and 24-95 of this chapter.

(e) *Off-street parking and loading.* Off-street parking and loading design standards and space requirements for particular uses are contained in sections 24-96, 24-97 and 24-98 of this chapter.

(f) *No exterior display or storage.* Display and storage for permitted uses, stores, shops, offices or businesses (except parking lots) shall be wholly within a completely enclosed building as herein provided.

(g) *Reserved.*

(h) *Reserved.*

(i) *Refuse containers.* Refuse containers shall be completely screened from view by means of an opaque fence or wall. Such containers shall be located as far from adjacent R districts as practicable. Such containers shall be serviced only between the hours of 6:00 a.m. and 12:00 midnight.

(j) *Drainage.* Provision shall be made for appropriate stormwater management and drainage. Water from buildings, parking and loading areas shall not be permitted to drain from such areas onto adjacent property except into a natural watercourse or a drainage easement. Plans shall be prepared in accordance with design criteria established by the county engineer and any governmental body having jurisdiction with respect thereto and approved prior to beginning any construction.

(k) *Lighting.* Site and exterior lighting, if provided, shall be directed away from adjoining R districts and streets. Lighting shall be of such design and type as to minimize the impact of the lights on adjacent property in accordance with approved lighting plans approved by the planning office or, if required, by the planning commission prior to the issuance of an occupancy permit.

(l) *Hours of service.* Unless otherwise provided for by this chapter, no business permitted in this district shall begin service to the public or any outside activity before 6:00 a.m. nor extend any outside activity or hours of service after 12:00 midnight.

(m) *Services and production of goods.* Processes and equipment employed and goods processed or sold shall be limited to those which are not objectionable by reason of odor, dust, smoke, cinders, gas, fumes, noise, vibration, refuse matters or water-carried waste. Goods may be produced for retail sale on the premises (but

not including brewing, distilling, or manufacturing alcoholic beverages); provided, that not more than five persons are engaged in such production. The number of persons employed in production does not include any persons engaged in the sale of products or deliveries.

(n) *Temporary outdoor Christmas tree sales.*

(1) Sales shall not begin before November 15 and shall be restricted only to retail sales of Christmas trees, wreaths, holly and similar decorative horticultural materials.

(2) A temporary stand not to exceed 200 square feet in area may be constructed or placed on site in accordance with any applicable law, and/or one properly licensed, inspected and operative truck or other vehicle may be parked, when utilized for such sales.

(3) Any portion of the sales area shall be located in accordance with the minimum yard depths (setbacks) required for the district.

(4) Sufficient area of not less than 1,900 square feet shall be set aside on site to provide a minimum of five temporary off-street parking spaces. If the sales area is located on the same lot with an existing use, the required minimum and most convenient parking space for the existing use shall not be used for Christmas tree sales.

(5) Signs shall only be permitted in accordance with section 24-104.1 of this chapter.

(6) Any structure erected thereon, vehicle parked, signs, trash, debris and the like shall be removed no later than January 15.

(Code 1980, § 22-57; Code 1995, § 24-57)

ARTICLE XIII. B-2 BUSINESS DISTRICT

Sec. 24-58. Purpose of district.

This district is to provide commercial and community shopping, recreational and service activities generally serving a community of several neighborhoods and appropriately located on major collector or arterial roadways. Uses and activities characterized by extensive warehousing, frequent heavy trucking activity, open storage of material or the nuisance factors of dust, odor and noise associated with manufacturing are not intended to be located within such areas.

(Code 1980, § 22-58; Code 1995, § 24-58)

Sec. 24-58.1. Principal uses permitted.

A building or land shall be used only for the following purposes:

(a) Any use permitted and as regulated in the R-6 district except dwellings as herein provided and any principal use permitted and as regulated in the O-3 district except the permitted height of buildings or structures shall be subject to the B-2 district requirements unless otherwise provided for by this chapter.

(b) Any use permitted in the B-1 business district but subject to the development standards for the B-2 district, with no limit on floor area unless otherwise provided for in this section.

(c) Automotive filling and service stations including towing service and consisting of an attendant sales office and/or convenience food store or similar use with fuel pumps. A maximum of two service bays shall be permitted for lubrication, minor repair, maintenance and inspection of vehicles not exceeding 10,000 pounds gross weight. All operations shall be performed within one completely enclosed building on the site. Bulk storage of fuel shall be underground and there shall be no exterior display of merchandise except on pump islands and on paved walkway areas within three feet of the building. Lighting fixtures shall not exceed 20 feet in height. There shall be no temporary storage of wrecked or inoperative vehicles or rental of vehicles, trailers, campers, vans or similar equipment. The planning commission shall review and approve

site plans in accordance with section 24-106.

(d) Catering establishments and meal delivery services.

(e) Department stores.

(f) Drapery making and furniture upholstering shops. No such establishment shall exceed a floor area of 3,000 square feet.

(g) Flea markets and antique auctions, indoors.

(h) Furniture, television and appliance sales, service and repair including service and repair of any type of home appliance.

(i) Garage, parking or storage.

(j) Garden center, with sale or display of merchandise, indoor or outdoor in approved locations.

(k) Gun shop, sales and repair.

(l) Hotels, motels, and motor lodges with no restriction as to hours of operation.

(m) Lawnmower, yard and garden equipment, rental, sales and services, when located within a completely enclosed, air conditioned and soundproof building.

(n) Nurseries for growing plants, trees and shrubs, including sale, display and storage of garden supplies and equipment, indoor or outdoor in approved locations.

(o) Office and office buildings; business, professional and administrative.

(p) Packaging and mailing service.

(q) Printing, publishing and engraving, blueprinting, photocopying and similar uses. No such establishment shall exceed a floor area of 5,000 square feet.

(r) Radio and television stations and studios or recording studios with no limit as to hours of operation.

(s) Recreation facilities, indoor, including theaters, bowling alleys, skating rinks (ice skating and roller skating), swimming pools, tennis, model racing tracks, electronic video game rooms, bingo halls, archery ranges and similar activities.

(t) Restaurants (with dancing), take out and meal delivery service, delicatessens, ice cream parlors, or microbreweries.

(u) Shopping centers, community. A community center shall contain in the aggregate not more than 40 acres, and shall consist of a coordinated group of two or more retail and service establishments, indoor and outdoor, with common parking, access and service areas in accordance with section 24-101 of this chapter. Shopping center site plans shall be approved by the planning commission in accordance with section 24-106 of this chapter. Outside display of merchandise is permitted as regulated in the B-1 district.

(v) Sign printing and painting shop, excluding fabrication.

(w) Specialty store or shop for the conduct of a retail business, with no limit on floor area, except as provided herein.

(x) Other retail, recreational and service uses which are of the same general character as those listed above as permitted uses. Such additional uses may be permitted by the director of planning pursuant to section 24-109 of this chapter; provided, that they shall be only retail and service establishments primarily selling new merchandise (except antiques) and/or rendering a personal service. Such additional uses may be permitted only in accordance with the development standards as herein provided.

(y) Permanent on-site recycling collection facility subject to section 24-106.

(Code 1980, § 22-58.1; Code 1995, § 24-58.1; Ord. No. 957, § 5, 8-13-1997)

Sec. 24-58.2. Provisional uses permitted.

The following uses may be permitted as provisional uses if approved by the board of supervisors in accordance with sections 24-120 and 24-122.1 of this chapter:

(a) Hours of service to the general public up to 24 hours per day, except as otherwise provided in this section.

(b) Self-service storage facility, subject to the following requirements:

(1) *Access.* The facility shall have access to at least a minor arterial roadway as designated on the county thoroughfare plan.

(2) *Size.*

a. The site area shall not exceed three acres.

b. The minimum gross floor area of the building or buildings shall not contain less than 50,000 square feet of rentable space.

c. The structure or structures shall not exceed 30 feet in height or two stories whichever is lesser.

(3) *Lot coverage.* The lot coverage of the structure or structures shall be limited to 60 percent of the total area.

(4) *Access to structure.* Access to the rental spaces shall be from within the premises with not more than four exterior loading doors/ramps.

(5) *Parking.* Parking is required as follows:

a. One space for each 40 storage cubicles, equally distributed among the entrance(s) to the structure.

b. A minimum of three spaces located at the project office for the use of prospective clients.

c. Two spaces for manager's quarters.

(6) Storage.

a. All storage on the property shall be kept within the enclosed building and no commercial sales or uses shall be conducted on site.

b. No perishable or hazardous goods, including highly flammable products, shall be placed in the storage spaces by lessees.

(7) *Aesthetics.* The exterior areas of the self-service facility shall be of finished quality and maintained so as not to be offensive from view from adjacent property or abutting streets.

(8) *Hours of service.* The hours of service to the general public or any outside activity, shall not begin before 6:00 a.m. nor extend after 10:00 p.m.

(c) Auto parts sales, service and/or installation when within a completely enclosed, air conditioned building not exceeding 15,000 square feet of floor area and in accordance with the development standards as herein provided.

(d) Outside dining areas for restaurants, provided the location and arrangement will not adversely affect adjacent property or uses.

(e) Billiard parlors with hours of service to the general public from 1:00 p.m. on Sunday and 6:00 a.m. on other days until midnight, unless extended hours of operation are specifically authorized by the board of supervisors as a condition of the permit approval.

(f) A recycling collection facility, pursuant to obtaining a provisional use permit and administratively approved site plan, for a period in excess of 30 days. The facility shall meet or exceed the following criteria:

(1) Area and site size: A recycling collection facility shall not exceed a maximum area of 972 square feet.

(2) Setbacks: Setbacks shall be as set forth in sections 24-94 and 24-101 or greater as specified by the provisional use permit.

(3) Parking: Parking shall be provided as required in sections 24-96 and 24-101(e)(5).

(4) Exterior storage: Exterior storage shall not be permitted.

(5) Vehicular and pedestrian circulation: A recycling collection facility shall be located in a manner that does not impede or adversely affect vehicular or pedestrian circulation.

(6) A site plan shall be submitted for administrative review and approval by the director of planning or the director's designee. Appeal of any condition of approval shall be to the planning commission. Failure to

maintain strict conformity with conditions of approval shall be deemed just cause for revocation. The site plan shall depict the location and size of the proposed facility; the number, type and size of containers and/or trailers and/or vehicles to be utilized; and the means of maximizing the compatibility of the proposed facility with the overall design, character and aesthetic considerations of the principal use of the property. Amendments to approved plans shall be reviewed and approved administratively by the director of planning or the director's designee.

(7) Operation and maintenance plan. An operation and maintenance plan containing provisions for an attendant, daily operations and maintenance of the facility shall be submitted for review and approval as part of the plan submitted for approval by the director of planning.

(8) Time limits and hours of operation. The duration or time period of the facility and daily hours of operations shall be established by the board of supervisors in its approval of the provisional use permit.

(9) A tonnage collection report for the previous six-month period shall be submitted to the planning office no later than January 15 and July 15 of each year.

(g) Accessory dwellings. Up to four dwelling units, located on a floor or floors above a retail or office use, may be permitted as a provisional use, subject to the following requirements:

(1) The dwelling shall be categorized as nonresidential for the purpose of applying area and bulk regulations.

(2) Each dwelling shall provide one parking space.

(3) The dwelling entrance must be either an exterior door leading directly outside or a door to a common entrance shared with the principal use.

(4) The dwelling shall have at least 500 square feet of livable floor area.

(5) The requirements of section 24-122.1 of this Code.

(h) Buildings or structures up to 200 feet in height.

(Code 1980, § 22-58.2; Code 1995, § 24-58.2; Ord. No. 1029, § 5, 6-11-2002; Ord. No. 1091, § 2, 11-14-2006)

Sec. 24-59. Conditional uses permitted by special exception.

The following uses may be permitted as special exceptions in accordance with the procedures, guides and standards of subsection (c) of section 24-116 and/or sections 24-2 and 24-106 of this chapter:

(a) Any conditional uses permitted and as regulated in the B-1 district.

(b) Dyeing and cleaning works employing not more than five persons in the dyeing and cleaning process, but not closer than 200 feet to any R district.

(c) Buildings or structures in excess of 45 feet in height but not exceeding 110 feet in height.

(d) A single coin-operated carwash building not exceeding 800 square feet in area, when located on the premises of an automotive filling station or convenience food store with fuel pumps. Adequate stacking space shall be provided for all vehicles off of the street for the wash lane.

(Code 1980, § 22-59; Code 1995, § 24-59; Ord. No. 1091, § 3, 11-14-2006)

Sec. 24-60. Accessory uses permitted.

(a) Accessory uses as permitted and as regulated in the B-1 district, except as provided herein and in subsection (i) of section 24-95 of this chapter.

(b) Other accessory uses, not otherwise prohibited, customarily accessory and incidental to any permitted use.

(c) Living accommodations for a resident manager employed on the premises of self-service storage facility.

(d) Signs as regulated in section 24-104.1.

(e) A dwelling unit within an office or business building for occupancy by the proprietor or an employee of an establishment within such office or business building.

(f) Storage of office supplies and/or merchandise for retail sale, provided such items are normally carried in stock in connection with a permitted office or business use subject to applicable district regulations.

(g) Not more than two electronic amusement games and billiard, pool or bagatelle tables operated incidental to the principal business use shall be permitted in any single business establishment.

(h) Vending machines for food and beverage and similar merchandise. Not more than two such machines may be permitted on the premises outside of an enclosed building.

(i) One carwash bay, automatic or otherwise, when located within an automotive filling station permitted in this district. Such bay shall not be permitted in addition to the number of otherwise permitted service bays. Adequate stacking space shall be provided for all vehicles off of the street for the wash lane.

(j) Newspaper boxes, public telephone stations and similar uses.

(k) A recycling collection facility operated by a not-for-profit or tax-exempt organization for a period not to exceed 30 days within any six-month period pursuant to a permit to be obtained from the director of planning or the director's designee. The facility shall meet or exceed the following criteria:

(1) No recycling facility may be situated on the same lot with a one-family dwelling when such dwelling is a principal permitted use.

(2) Area and site size: A recycling collection facility shall not exceed a maximum area of 972 square feet.

(3) Setbacks: Setbacks shall be as set forth in sections 24-94 and 24-101.

(4) Parking: Parking shall be provided as required in sections 24-96 and 24-101(e)(5).

(5) Exterior storage: Exterior storage shall not be permitted. Provisions shall be made for daily maintenance to ensure this requirement is met.

(6) Vehicular and pedestrian circulation: A recycling collection facility shall be located in a manner that does not impede or adversely affect vehicular or pedestrian circulation.

(Code 1980, § 22-60; Code 1995, § 24-60)

Sec. 24-61. Development standards and conditions for permitted uses.

(a) *Purpose.* In order to encourage compatibility with adjacent and nearby properties and to enhance harmonious relationships with surrounding properties, whether developed or undeveloped, the building or buildings and site shall be designed to:

(1) Employ such development techniques as may be appropriate to a particular case in order to fulfill the purposes of this chapter and the goals, objectives and policies of the comprehensive plan.

(2) Include design considerations which may address matters such as location of permitted elements, orientation, spacing and setback of buildings, maintenance of natural vegetation, location and number of vehicular access points, size and location of signs, open spaces and parking areas, grading, landscaping, screening and servicing.

(b) *Lot area and width unless otherwise provided by this chapter.*

(1) For permitted uses in the one-family residence districts other than dwellings and places of worship, the lot area and width requirements shall not be less than required in the R-4A district.

(2) For permitted and accessory uses, there are no minimum lot area and width requirements except as may be required by the health department to meet sanitary standards.

(c) *Minimum yard depths.* Minimum yards shall be provided in accordance with sections 24-94, 24-95 and 24-101 of this chapter, except that any building, structure or use not classified as a shopping center, when located directly across the street from any R district, shall be set back 50 feet from any street right-of-way of less than 80 feet in width. Notwithstanding any other provisions of this chapter, on corner or double frontage lots the minimum front yard depth required for the district shall be observed from any street right-of-way

line.

(d) *General height and bulk standards.* See sections 24-93, 24-94 and 24-95 of this chapter.

(e) *Off-street parking and loading.* Off-street parking and loading design standards and space requirements for particular uses are contained in sections 24-96, 24-97 and 24-98 of this chapter.

(f) *No exterior display or storage.* Display and storage for permitted uses, stores, shops, offices or businesses (except parking lots) shall be wholly within a completely enclosed building except as herein provided.

(g) *Reserved.*

(h) *Reserved.*

(i) *Refuse containers.* Refuse containers shall be completely screened from view by means of an opaque fence or wall. Such containers shall be located as far from adjacent R districts as practicable. Such containers shall be serviced only between the hours of 6:00 a.m. and 12:00 midnight.

(j) *Drainage.* Provisions shall be made for appropriate stormwater management and drainage. Water from buildings, parking and loading areas shall not be permitted to drain from such areas onto adjacent property except into a natural watercourse or a drainage easement. Plans shall be prepared in accordance with design criteria established by the county engineer or any governmental body having jurisdiction with respect thereto and approved prior to beginning any construction.

(k) *Lighting.* Site and exterior lighting, if provided, shall be directed away from adjoining R districts and streets. Lighting shall be of such design and type as to minimize the impact of the lights on adjacent property in accordance with lighting plans approved by the planning office or, if required, by the planning commission prior to the issuance of an occupancy permit.

(l) *Hours of service.* Unless otherwise provided for by this chapter, no business permitted in this district shall begin service to the public or any outside activity before 6:00 a.m. nor extend any outside activity or hours of service after 12:00 midnight. (See also section 24-58.2.)

(m) *Services and production of goods.* Services and production of goods shall be subject to the development standards of the B-1 district, except that brewing of beer is allowed for up to 3,000 barrels per calendar year.

(n) *Temporary outdoor Christmas tree sales.* Temporary outdoor sales shall be subject to the requirements and development standards of the B-1 district.

(Code 1980, § 22-61; Code 1995, § 24-61)

ARTICLE XIV. B-3 BUSINESS DISTRICT

Sec. 24-62. Purpose of district.

This district is to provide locations for a variety of commercial, automotive, recreational and service activities, serving a wide area of the county and located along arterial thoroughfares where a general mixture of commercial and service activity may exist. Uses and activities which are characterized by extensive warehousing, frequent heavy trucking activity, open storage of material or the nuisance factors of dust, odor and noise associated with manufacturing are not to be located within such areas.

(Code 1980, § 22-62; Code 1995, § 24-62)

Sec. 24-62.1. Principal uses permitted.

A building or land shall be used only for the following purposes:

(a) Any use permitted and as regulated in the R-6 district except dwellings as herein provided. The permitted height of buildings or structures shall be subject to the B-2 district requirements except as otherwise provided for by this chapter.

(b) Any use permitted in the B-1 and B-2 business districts, subject to the development standards of the B-3

district.

(c) Animal hospital or kennel. Any open pens or enclosures for animals shall be located at least 200 feet from any R district.

(d) Automobile service station. Bulk storage of fuel shall be underground.

(e) Automobile, truck, trailer, motorcycle or bus sales, rental and repair, including towing service and automotive body and paint shops, but not auto salvage or junk operations. All repair or storage of equipment or materials and damaged or inoperative vehicles shall be inside a completely enclosed building except as provided herein and damaged or inoperative vehicles removed from the highways as an emergency measure may be stored for a maximum of 30 days.

(f) Automobile or truck tires or parts sales, wholesale or retail, service and/or installation.

(g) Automobile, truck or recreational vehicle, storage lot for new or used cars and other vehicles. Such use shall not include storage or sale of junk or inoperative vehicles.

(h) Boat and boat trailer sales, service and storage.

(i) Building materials store, wholesale or retail, but not a lumberyard. All outside storage or sales areas shall be located, secured and screened in accordance with the development standards of this section.

(j) Carwash, automatic or otherwise. Adequate stacking space for all vehicles shall be provided off of the street for each washing lane.

(k) Cleaning or dyeing, linen service or laundry, furniture repairing or refinishing; cabinet or carpenter shop; plumbing, electrical and heating shop; painting shop; upholstering shop; tinsmithing shop. General service and repair establishments, similar in character or operation to those listed in this item may be permitted, provided that no outside storage of material or products is permitted except as provided by this section.

(l) Exterminating establishment.

(m) Farm supply and service establishment, implement sales, rental and service, feed and seed store.

(n) Fortuneteller, palmist, astrologist, numerologist, clairvoyant, craniologist, phrenologists, card reader, spiritual reader or similar activity.

(o) Janitorial service establishment.

(p) Landscape contracting and tree service.

(q) Manufactured home sales, display and storage or sales, rental, display and storage of travel trailer, travel vans, campers and truck camper tops. All vehicles and units shall be in useable condition and none shall be placed in a required front yard.

(r) A single office-warehouse, when the warehouse area does not exceed 15,000 square feet and all materials are stored within an enclosed building for use by the business concern occupying the building.

(s) Printing, publishing and engraving establishments, photographic processing and blueprinting.

(t) Public utility service buildings, including facilities for construction and repair, or for the service or storage of utility materials or equipment.

(u) Public dancehalls within a fully enclosed, air conditioned and soundproofed building.

(v) Restaurants of any kind, delicatessens, ice cream parlors, and microbreweries.

(w) Rifle or pistol range within a fully enclosed, air conditioned and soundproofed building.

(x) School for industrial training, trade or business.

(y) Sheet metal shop or roofing company. No outside storage of material shall be permitted except as provided for in this section.

(z) Shell houses or display houses, but not within 20 feet of any side lot line, nor within 20 feet of each other.

(aa) Shopping centers, regional. A regional center shall contain more than 40 acres in the aggregate, and shall consist of a coordinated group of retail and service establishments, indoor and outdoor, with common parking, access and service areas in accordance with section 24-101 of this chapter. Shopping center site plans

shall be approved by the planning commission in accordance with section 24-106 of this chapter. Outside display areas are permitted as regulated in the B-1 district.

(bb) Sign shop, including fabrication.

(cc) Temporary outdoor sales lots and stands for retail sales of a temporary nature (except livestock sales and outdoor flea markets), and when located 200 feet from any R district. Retail sale of Christmas trees, wreaths, holly and similar decorative horticultural materials shall be permitted and as regulated in the B-1 district.

(dd) Wholesale establishments with not more than 15,000 square feet of accessory storage per establishment.

(ee) Other retail, service and recreational uses which are of the same general character as those listed above as permitted uses. Such additional uses may be permitted by the director of planning pursuant to section 24-109 of this chapter, provided that they shall be only retail and service establishments primarily selling new merchandise and/or rendering a personal service. Such additional uses may be permitted only in accordance with the development standards as herein provided.

(ff) Permanent on-site recycling collection facility subject to section 24-106.

(gg) Outdoor advertising signs as regulated in section 24-104.l.

(hh) Adult business, as regulated in section 24-65(n).

(Code 1980, § 22-62.1; Code 1995, § 24-62.1; Ord. No. 975, § 4, 5-27-1998; Ord. No. 993, § 2, 10-12-1999; Ord. No. 1023, § 2, 2-12-2002)

Sec. 24-62.2. Provisional uses permitted.

The following uses may be permitted as provisional uses if approved by the board of supervisors in accordance with sections 24-120 and 24-122.1 of this chapter; and further provided, that site plans are reviewed and approved by the planning commission pursuant to section 24-106 of this chapter and the development standards as herein provided:

(a) Amusement park, carnival, circus and fairgrounds.

(b) Auditorium and assembly hall.

(c) Bus and railroad passenger station.

(d) Drive-in theater.

(e) Heliport (including landing, fueling and service facilities).

(f) Recreational facilities of a commercial nature when located out-of-doors. Such facilities may include miniature golf courses, golf driving ranges, skating rinks, swimming pools and water slides, skateboard parks and similar uses and activities.

(g) Commercial outdoor flea markets.

(h) Self-service storage facility in accordance with section 24-58.2(b) of this chapter.

(i) Billiard parlors with hours of service to the general public from 1:00 p.m. on Sunday and 6:00 a.m. on other days until midnight, unless extended hours of operation are specifically authorized by the board of supervisors as a condition of the permit approval.

(j) A recycling collection facility, pursuant to obtaining a provisional use permit and administratively approved site plan, for a period in excess of 30 days. The facility shall meet or exceed the following criteria:

(1) Area and site size: A recycling collection facility shall not exceed a maximum area of 972 square feet.

(2) Setbacks: Setbacks shall be as set forth in sections 24-94 and 24-101 or greater as specified by the provisional use permit.

(3) Parking: Parking shall be provided as required in sections 24-96 and 24-101(e)(5).

(4) Exterior storage: Exterior storage shall not be permitted.

(5) Vehicular and pedestrian circulation: A recycling collection facility shall be located in a manner that does not impede or adversely affect vehicular or pedestrian circulation.

(6) A site plan shall be submitted for administrative review and approval by the director of planning or the director's designee. Appeal of any condition of approval shall be to the planning commission. Failure to maintain strict conformity with conditions of approval shall be deemed just cause for revocation. The site plan shall depict the location and size of the proposed facility; the number, type and size of containers and/or trailers and/or vehicles to be utilized; and the means of maximizing the compatibility of the proposed facility with the overall design, character and aesthetic considerations of the principal use of the property. Amendments to approved plans shall be reviewed and approved administratively by the director of planning or the director's designee.

(7) Operation and maintenance plan. An operation and maintenance plan containing provisions for an attendant, daily operations and maintenance of the facility shall be submitted for review and approval as part of the plan submitted for approval by the director of planning.

(8) Time limits and hours of operation. The duration or time period of the facility and daily hours of operations shall be established by the board of supervisors in its approval of the provisional use permit.

(9) A tonnage collection report for the previous six-month period shall be submitted to the planning office no later than January 15 and July 15 of each year.

(k) Coliseum, stadium and racetrack. Buildings and structures may be any height in excess of 45 feet permitted by the board of supervisors.

(l) Accessory dwellings. Up to four dwelling units, located on a floor or floors above a retail or office use, may be permitted as a provisional use, subject to the following requirements:

(1) The dwelling shall be categorized as nonresidential for the purpose of applying area and bulk regulations.

(2) Each dwelling shall provide one parking space.

(3) The dwelling entrance must be either an exterior door leading directly outside or a door to a common entrance shared with the principal use.

(4) The dwelling shall have at least 500 square feet of livable floor area.

(5) The requirements of section 24-122.1 of this Code.

(m) Buildings or structures up to 200 feet in height.

(Code 1980, § 22-62.2; Code 1995, § 24-62.2; Ord. No. 1010, §§ 1, 2, 4-24-2001; Ord. No. 1029, § 6, 6-11-2002; Ord. No. 1091, § 4, 11-14-2006)

Sec. 24-63. Conditional uses permitted by special exception.

The following uses may be permitted as special exceptions in accordance with the procedures, guides and standards of subsection (c) of section 24-116 and/or sections 24-2 and 24-106 of this chapter:

(a) Any conditional uses permitted and as regulated in the B-2 district.

(b) Unless otherwise permitted by the provisions of this district, any of the retail sales or service uses permitted in section 24-62.1 requiring display of merchandise out-of-doors may be permitted, provided that:

(1) The specific location and arrangement will not adversely affect adjacent property.

(2) The exterior display area shall be a permanent structure, capable of being secured from entry, and shall be an integral part of the architectural design of the building. A chainlink or similar fence shall not be considered to be a permanent structure for the purpose of outside display.

(3) The exterior display area must be immediately adjoining the front or side of the principal building, extending not more than ten feet from it, and must be constructed in such a way that there shall be at least five feet of sidewalk for pedestrian movement adjacent to and outside of the display area.

(c) Buildings or structures in excess of 45 feet in height but not exceeding 110 feet in height.

(d) Helistop (landing facilities only; no fueling or service facilities).

(e) Any other retail business not otherwise permitted in this district, or specifically excluded therefrom, including any kind of manufacturing or treatment incidental to the conduct of a retail business on the same premises. This provision shall not be construed to include any use which is first permitted or is prohibited in the M-1 district.

(Code 1980, § 22-63; Code 1995, § 24-63; Ord. No. 1091, § 5, 11-14-2006)

Sec. 24-64. Accessory uses permitted.

(a) Accessory uses as permitted and as regulated in the B-2 district, except as provided herein and in subsection (i) of section 24-95 of this chapter.

(b) Other accessory uses, not otherwise prohibited, customarily accessory and incidental to any permitted use.

(c) Signs as regulated in section 24-104.1.

(d) A dwelling unit within an office or business building for occupancy by the proprietor or an employee of an establishment within such office or business building.

(e) Storage of office supplies and merchandise for retail sale, provided such items are normally carried in stock in connection with a permitted office or business use subject to applicable district regulations.

(f) Vending machines for food, beverage and similar merchandise. Not more than two such machines may be permitted on the premises outside of an enclosed building.

(g) Newspaper boxes, public telephone stations and similar uses.

(h) Not more than two billiard, pool or bagatelle tables operated incidental to the principal business use shall be permitted in any single business establishment. Any business open to the public when billiards, pool or bagatelle tables are provided shall close between the hours of 12:00 a.m. midnight and 6:00 a.m. unless extended hours of service are permitted pursuant to subsection (a) of section 24-58.2 of this chapter.

(i) A recycling collection facility operated by a not-for-profit or tax-exempt organization for a period not to exceed 30 days within any six-month period pursuant to a permit to be obtained from the director of planning or the director's designee. The facility shall meet or exceed the following criteria:

(1) No recycling facility may be situated on the same lot with a one-family dwelling when such dwelling is a principal permitted use.

(2) Area and site size: A recycling collection facility shall not exceed a maximum area of 972 square feet.

(3) Setbacks: Setbacks shall be as set forth in sections 24-94 and 24-101.

(4) Parking: Parking shall be provided as required in sections 24-96 and 24-101(e)(5).

(5) Exterior storage: Exterior storage shall not be permitted. Provisions shall be made for daily maintenance to ensure this requirement is met.

(6) Vehicular and pedestrian circulation: A recycling collection facility shall be located in a manner that does not impede or adversely affect vehicular or pedestrian circulation.

(Code 1980, § 22-64; Code 1995, § 24-64)

Sec. 24-65. Development standards and conditions for permitted uses.

(a) *Purpose.* In order to encourage compatibility with adjacent and nearby properties and to enhance harmonious relationships with surrounding properties, whether developed or undeveloped, the building or buildings and site shall be designed to:

(1) Employ such development techniques as may be appropriate to a particular case in order to fulfill the purposes of this chapter and the goals, objectives and policies of the comprehensive plan; and

(2) Include design considerations which may address matters such as location of permitted elements, orientation, spacing and setback of buildings, maintenance of natural vegetation, location and number of

vehicular access points, size and location of signs, open spaces and parking areas, grading, landscaping, screening and servicing.

(b) *Lot area and width unless otherwise provided by this chapter.*

(1) For permitted uses in the one-family residence districts, other than dwellings and places of worship, the lot area and width requirements shall not be less than required in the R-4A district.

(2) For permitted and accessory uses there are no minimum lot area and width requirements except as may be required by the health department to meet sanitary standards.

(c) *Minimum yard depths.* Minimum yards shall be provided as herein required and in accordance with sections 24-94, 24-95 and 24-101 of this chapter, except that any building, structure or use not classified as a shopping center, when located directly across the street from any R district, shall be set back 50 feet from any street right-of-way of less than 80 feet in width. Notwithstanding any other provisions of this chapter, on corner or double frontage lots the minimum front yard depth required for the district shall be observed from any street right-of-way line.

(d) *General height and bulk standards.* See sections 24-93, 24-94 and 24-95 of this chapter.

(e) *Off-street parking and loading.* Off-street parking and loading design standards and space requirements for particular uses are contained in sections 24-96, 24-97 and 24-98 of this chapter.

(f) *Exterior storage.* Storage for permitted uses, stores, shops, offices or businesses (except parking lots) shall be conducted wholly within a completely enclosed building except as follows:

(1) Permitted exterior display or storage of vehicles or boats shall be separated from any existing or proposed street right-of-way by a landscape strip not less than ten feet in width of appropriate planting materials designed in accordance with section 24-106.2 of this chapter.

(2) Permitted exterior storage of merchandise, refuse, discarded vehicle parts and tires or salvage materials resulting from services and/or installation permitted on the premises shall be located and screened from view when stored outside a building, either from within or outside the premises, by means of an opaque fence, masonry wall of approved design and materials, or dense evergreen landscape planting, or any combination thereof. This provision shall not be constructed to permit uses or activities first permitted in any M district. Stored materials shall not be stacked or otherwise placed in a manner that exceeds the height of the screen.

(g) *Reserved.*

(h) *Reserved.*

(i) *Drainage.* Provision shall be made for proper stormwater management and drainage. Water from buildings, parking and loading areas shall not be permitted to drain from such areas onto adjacent property except into a natural watercourse or a drainage easement. Plans shall be prepared in accordance with design criteria established by the county engineer and any governmental body having jurisdiction with respect thereto, and approved prior to beginning construction.

(j) *Lighting.* Site and exterior lighting, if provided, shall be directed away from adjoining R districts and streets. Lighting shall be of such design and type as to minimize the impact of the lights on adjacent property in accordance with approved lighting plans approved by the planning office, or if required, by the planning commission prior to the issuance of an occupancy permit.

(k) *Hours of service.* Unless otherwise provided by this article, hours of operation of any permitted business or establishment are unrestricted.

(l) *Services and production of goods.* Processes and equipment employed and goods processed or sold shall be limited to those which are not objectionable by reason of odor, dust, smoke, cinders, gas, fumes, noise, vibration, refuse matters or water-carried waste. Goods may be produced for retail sale on the premises, provided not more than 15 persons are engaged in such production. The number of persons employed in production does not include any persons engaged in the sale of products or deliveries.

(m) *Refuse containers.* Refuse containers shall be completely screened from view by means of an opaque fence

or wall. Such containers shall be located as far from adjacent R districts as practicable. Such containers shall be serviced only between the hours of 6:00 a.m. and 12:00 midnight.

(n) *Adult businesses.* In addition to all other requirements, any adult business shall conform to the following requirements:

(1) The business shall be located at least 500 feet away from any residential or agricultural zoning district, and at least 500 feet from the property line of any land used for any of the following:

a. A residence;

b. A nursing home, assisted living facility, or similar institution;

c. An adult day care center;

d. A child day care center;

e. A public or private school, college or university;

f. A public park;

g. A public library, museum or cultural center;

h. A place of worship;

i. A hotel, motel or boardinghouse;

j. Any other adult business.

(2) Adult merchandise shall not be visible from any point outside the establishment.

(3) Signs or attention-getting devices for the business shall not contain any words or graphics depicting, describing or relating to specified sexual activities or specified anatomical areas, as defined in section 24-3.

(4) The business shall not begin service to the public or any outside activity before 6:00 a.m. Hours of operation for any adult movie theater, adult nightclub or other business providing adult entertainment shall not extend after 2:00 a.m. Hours of operation for any adult bookstore, adult video store, adult model studio, adult store or any other adult business except an adult motel shall not extend after 12:00 midnight.

(5) In any adult business other than an adult motel or adult movie theater, there shall be no viewing of videotapes, computer disks, CD-ROMs, DVD-ROMs, virtual reality devices, Internet sites or files transmitted over the Internet, or similar media characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas, as defined in section 24-3, while on the premises.

(6) Adult merchandise shall be located in a separate room or other area inaccessible to persons under 18 years of age.

(7) All owners, managers, employees and entertainers shall be at least 18 years of age.

(8) The owner or operator shall install, operate and maintain a security camera and videotape system designed by a security specialist. Surveillance cameras shall continuously monitor all entrances, parking areas and all areas of the establishment where the adult business is conducted, except for the sleeping rooms of an adult motel. Such cameras shall provide clear imagery of the establishment's patrons and their vehicles. Tapes recording activities in the areas under surveillance shall be preserved for a period of four months. Authorized representatives of the Henrico County Division of Police or the Henrico County Planning Office shall have access to such tapes upon request.

(9) The owner or operator shall provide adequate lighting for all entrances, exits and parking areas serving the adult business, and all areas of the establishment where the adult business is conducted, except for the private rooms of an adult motel or the movie viewing areas in an adult movie theater. "Adequate lighting" means sufficient lighting for clear visual and security camera surveillance.

(Code 1980, § 22-65; Code 1995, § 24-65; Ord. No. 993, § 3, 10-12-1999; Ord. No. 1023, § 3, 2-12-2002)

ARTICLE XV. M-1 LIGHT INDUSTRIAL DISTRICT; USES

Sec. 24-66. Principal uses permitted.

A building or land shall be used only for the following purposes, subject to the conditions in section 24-69:

(a) Any use permitted and as regulated in the B-3 district except dwellings, schools, hospitals and other institutions for human care, and adult businesses; provided, however, that any such prohibited use other than an adult business legally existing in the M-1 district at the time of adoption of this chapter or any amendment thereto shall not be subject to the restrictions on nonconforming uses contained herein.

(b) Except as otherwise provided herein, the manufacturing, assembling, compounding, processing, packaging, baling, repairing, storage or distribution of products made from previously prepared basic materials, such as bond, cloth, cork, fibre, leather, paper, plastics, metals (not involving punch presses over 75 tons rated capacity), stones, tobacco, wax, yarns or wood (except where sawmills or planing mills are employed).

(c) The manufacturing, compounding, processing, packaging or treatment of cosmetics, pharmaceuticals and food products (except fish and meat products, sauerkraut, vinegar, yeast and the rendering or refining of fats and oils).

(d) Manufacture of pottery or other similar ceramic products, from previously pulverized clay, and in kilns fired only by smokeless furnaces.

(e) Laboratories—Experimental, film or testing.

(f) Warehouses.

(g) The following uses when located at least 200 feet from any R district:

(1) Bag, carpet and rug cleaning, provided necessary equipment is installed and operated to effectively precipitate and recover dust, except that such operations which use noninflammable solutions and are completely enclosed within a masonry building shall be exempt from the 200-foot setback from an R district.

(2) Blacksmith, welding or other metal shop, excluding punch presses over 75 tons rated capacity, drop hammers and the like.

(3) Bottling, manufacturing, cold storage or distribution plant, including a milk processing plant, a winery, or a brewery that produces no more than 15,000 barrels of beer per calendar year, but not including a distillery.

(4) Tire manufacturing, rebuilding or recapping plants.

(5) Recyclable materials processing facility within a fully enclosed building or approved opaque wall or fence.

(h) Bulk storage or distribution plant for inflammable liquids (other than an automobile service station) for underground storage of not to exceed 30,000 gallons, when located 200 feet from an R district.

(i) Permanent on-site recycling collection facility within a fully enclosed building or approved opaque wall or fence and subject to section 24-106.

(Code 1980, § 22-66; Code 1995, § 24-66; Ord. No. 993, § 4, 10-12-1999; Ord. No. 1023, § 4, 2-12-2002)

Sec. 24-66.1. Provisional uses permitted.

(a) A recycling collection facility, pursuant to a provisional use permit and administratively approved site plan, for a period in excess of 30 days. The facility shall meet or exceed the following criteria:

(1) Area and site size: A recycling collection facility shall not exceed a maximum area of 972 square feet.

(2) Setbacks: Setbacks shall be as set forth in sections 24-94 and 24-101 or greater as specified by the provisional use permit.

(3) Parking: Parking shall be provided as required in sections 24-96 and 24-101(e)(5).

(4) Exterior storage: Exterior storage shall not be permitted.

(5) Vehicular and pedestrian circulation: A recycling collection facility shall be located in a manner that does not impede or adversely affect vehicular or pedestrian circulation.

(6) A site plan shall be submitted for administrative review and approval by the director of planning or the director's designee. Appeal of any condition of approval shall be to the planning commission. Failure to maintain strict conformity with conditions of approval shall be deemed just cause for revocation. The site plan shall depict the location and size of the proposed facility; the number, type and size of containers and/or trailers and/or vehicles to be utilized; and the means of maximizing the compatibility of the proposed facility with the overall design, character and aesthetic considerations of the principal use of the property. Amendments to approved plans shall be reviewed and approved administratively by the director of planning or the director's designee.

(7) Operation and maintenance plan. An operation and maintenance plan containing provisions for an attendant, daily operations and maintenance of the facility shall be submitted for review and approval as part of the plan submitted for approval by the director of planning.

(8) Time limits and hours of operation. The duration or time period of the facility and daily hours of operations shall be established by the board of supervisors in its approval of the provisional use permit.

(9) A tonnage collection report for the previous six-month period shall be submitted to the planning office no later than January 15 and July 15 of each year.

(b) Buildings or structures up to 200 feet in height.

(Code 1980, § 22-66.1; Code 1995, § 24-66.1; Ord. No. 1091, § 6, 11-14-2006)

Sec. 24-67. Conditional uses permitted by special exception.

(a) Sand, gravel or clay pits, quarries, mines and other extractive operations, including topsoil removal, subject to the special provisions of section 24-103.

(b) Airports, when not less than 1,200 feet from any R district and provided that the approaches to runways shall not be over any R district or any school, place of worship, or any institution for human care or any place of public assembly, for a distance of at least one mile and a width of one-half mile. Any airport or part thereof located in an M district may include any of the accessory buildings, structures or service facilities permitted and as regulated in the A-1 district, and may include any other use herein permitted in the district in which such part of the airport is located.

(c) Mixing of cement concrete, but not within 100 feet of any lot in an agricultural or residential district. Such mixing operation, including equipment, materials, vehicle and trailer storage, shall be limited to a single mixer of one cubic yard capacity and shall be further subject to the requirements of subsection (c) of section 24-69. Any vehicles or trailers associated with the operation shall be limited to one cubic yard or 4,000 pounds capacity.

(d) Buildings or structures up to 110 feet in height.

(Code 1980, § 22-67; Code 1995, § 24-67; Ord. No. 1091, § 7, 11-14-2006)

Sec. 24-68. Accessory uses permitted.

(a) Accessory uses customarily accessory and incidental to any permitted use.

(b) Signs as regulated in section 24-104.1.

(c) Living accommodations for a resident manager, caretaker and/or security guard employed on the premises.

(d) Accessory to a brewery or winery, on-site tasting and retail sales of any of the following beverages manufactured on site: beer, wine, or cider.

(Code 1980, § 22-68; Code 1995, § 24-68)

Sec. 24-69. Required conditions.

(a) All uses specified in section 24-66, subsections (b) through (g) inclusive, shall be conducted wholly within an enclosed building, except for parking, loading and unloading facilities.

(b) No use shall be permitted which by reason of its nature or manner of operation is or may become hazardous, objectionable or offensive because of odor, dust, smoke, cinders, fumes, noise, vibration, wastes, fire, explosion or unsightliness.

(c) All outside storage shall be located within an enclosed area, which conforms to the distance requirements of the use from other districts. The area shall be enclosed and screened by a continuous opaque masonry wall of approved design and materials or fence of approved design and not less than seven feet in height.

(d) Refuse containers. Refuse containers shall be completely screened from view by means of an opaque fence or wall. Such containers shall be serviced only between the hours of 6:00 a.m. and 12:00 midnight.

(Code 1980, § 22-69; Code 1995, § 24-69)

ARTICLE XVI. M-2 GENERAL INDUSTRIAL DISTRICT; USES

Sec. 24-70. Principal uses permitted.

A building or land shall be used only for the following purposes:

(a) Any principal use permitted and as regulated in the M-1 district, except for the requirement that certain uses be conducted within enclosed buildings.

(b) The following uses when located at least 300 feet from any R district:

(1) Automobile or aircraft assembly or major repair; provided, that any ground testing of aircraft shall be conducted at least 1,200 feet from any R district and shall be subject to a special exception.

(2) Foundry casting lightweight nonferrous metals or electric foundry not causing noxious fumes or odors.

(3) Building material sales yards including Portland cement concrete mixing; lumberyards including millwork; contractor's equipment storage or rental yard or plant; grain elevators and mills; trucking or hauling service yards; manufacturing of concrete products.

(4) Structural steel fabricating plant.

(5) Railroad yards and shops; machine shops.

(6) Freight stations and terminals, rail or motor.

(7) Brewery.

(c) The following uses when located at least 600 feet from any R district:

(1) Acetylene manufacture or storage.

(2) Asbestos processing.

(3) Bleaching plant.

(4) Boiler shop, metalworking shop employing reciprocating hammers or punch presses over 75 tons rated capacity.

(5) Bottled gas (inflammable or noxious) storage or distribution depot.

(6) Distillery.

(7) Brick, tile or terracotta manufacturing.

(8) Candle or sperm oil manufacture.

(9) Coal yards not elsewhere permitted.

(10) Cooperage works.

(11) Crematory.

(12) Disinfectant, insecticide or poison manufacturing.

(13) Dye or dyestuff manufacturing.

(14) Enameling, lacquering or japanning.

(15) Emery cloth or sandpaper manufacturing.

(16) Felt manufacturing.

(17) Forge or foundry works.

(18) Bulk storage or distribution plant for inflammable liquids (other than an automobile service station) for aboveground storage of not to exceed 80,000 gallons capacity.

(19) Grain drying or feed manufacturing.

(20) Hair processing or hair products manufacturing.

(21) Junk storage, dismantling, sorting or baling, including iron, rags, paper, lumber, automobiles and the like, when conducted entirely within an enclosed building.

(22) Lime or cement products manufacturing.

(23) Linoleum, oilcloth or oiled goods manufacturing.

(24) Match manufacturing.

(25) Meat or fish products manufacturing (edible products only), but not including any stockyard or slaughterhouse.

(26) Oil paint, shellac, turpentine, varnish or enamel manufacturing or the grinding of colors by machine.

(27) Paper or pulp manufacturing.

(28) Perfume manufacturing.

(29) Pickle, sauerkraut, vinegar or yeast manufacturing.

(30) Plaster or plaster products manufacturing.

(31) Port facilities such as docks, warehouses, storage yards and shipyards.

(32) Poultry slaughtering, packing and storage, for wholesale trade.

(33) Printing ink manufacturing.

(34) Racetracks, for the racing of animals.

(35) Rubber, gutta-percha, balata or similar products manufacturing or treatment, from crude or scrap material.

(36) Sandblasting or cutting.

(37) Sawmills, planing mills or the manufacturing of excelsior, wood fibre or sawdust products.

(38) Reserved.

(39) Shoddy manufacturing.

(40) Shoe blacking or polish or stove polish manufacturing.

(41) Soap manufacturing.

(42) Steam power plant, other than accessory plant.

(43) Stone or monument works.

(44) Sugar refining.

(45) Tar or asphalt roofing or waterproofing manufacturing.

(46) Tar distillation or manufacturing.

(47) Wire or rod drawing, nut, screw or bolt manufacturing.

(48) Wood preserving or pressure treating or manufacturing of wood preservative.

(49) Fertilizer manufacture from natural products.

(50) Sand and gravel washing and grading plant.

(51) Asphalt pavement mixing plant.

(52) Vehicle storage area; provided, that it shall be within an enclosed area which is shielded or screened

from public view.

(d) Any other lawful use except those specifically prohibited, or those listed as conditional uses in this district, and those first permitted in the M-3 district, provided such use is not a kind that ordinarily is especially obnoxious or dangerous because of odor, dust, smoke, gas, noise, fire, explosion or similar nuisance.

(e) Office trailers (not to be used for living purposes).

(f) Recyclable materials processing facility within a fully enclosed building or approved opaque wall or fence when located at least 200 feet from any R district.

(Code 1980, § 22-70; Code 1995, § 24-70)

Sec. 24-70.1. Provisional uses permitted.

(a) Sewage disposal plants and class A sludge storage facilities except for those plants and facilities operated by the county, when located no closer than 300 feet to any lot line, no closer than 1,000 feet to any dwelling, and no closer than 1,000 feet to any R district and in accordance with section 24-106 and section 24-122.1 and the following guides and standards:

(1) These provisional uses should be approved only if it is found that the location is appropriate and not in conflict with the land use plan, that the public health, safety, morals and general welfare will not be adversely affected and that adequate utilities and roadways, both public and private, are or will be provided. Furthermore, adequate off-street parking and loading areas must be furnished and additional necessary safeguards provided for the protection of surrounding property, persons and neighborhood values from noise, odor, fumes, dust, gas, fire, explosion or similar nuisance.

(2) The board of supervisors may, in its discretion, approve this provisional use and may impose such reasonable conditions as it deems necessary to accomplish the objectives of this section with respect to: use, compliance with the requirements of the state health department and state water control board, drainage, washdown areas, spill control and cleanup, security, paving requirements, access road(s), parking and loading areas, insurance, bonding of maintenance and reclamation, water quality monitoring, screening, buffering, erosion control, seeding, landscaping, lighting, hours of operation, noise, fumes, odor, vector control, dust, fire and explosion control operation, maintenance or other requirements; otherwise the provisional use will be denied.

(b) Additional standards required for all class A sludge storage facilities:

(1) Documentation of approval of the proposal by the state health department and the state water control board.

(2) The highway entrance to such a facility shall be located not more than 1,000 feet from a major or minor arterial or a major collector. Unless specifically reduced by the board of supervisors for good cause shown, the entrance shall be on a road with an existing pavement width of not less than 24 feet.

(3) The elevation of the lowest part of the storage facility berm shall not be less than the base flood elevation.

(4) Proof that insurance in an amount satisfactory to the county has been obtained covering the proposed activities in order to adequately protect the public from damage and injury resulting from the hauling or storage of the sludge.

(5) Adequate provisions shall be made for monitoring of the effects of the storage facility on surface water and groundwater including, without limitation, the authorization of the county to sample sludge and test water samples at the expense of the storage facility operator.

(6) All vehicles used in transporting sludge shall be completely enclosed and marked so that they can be identified and said marking along with vehicle identification numbers shall be filed with the director of planning.

(7) Documentation verifying that the applicant has sufficient land available upon which to apply the holding

capacity of the storage facility within a period of 90 days. This documentation shall be submitted at the time of application and periodically thereafter when requested by the county.

(8) The number of cubic feet of sludge stored at any point in time shall not exceed the operator's ability to apply it to the land within the following 90-day period.

(c) A recycling collection facility, pursuant to a provisional use permit and administratively approved site plan, for a period in excess of 30 days. The facility shall meet or exceed the following criteria:

(1) Area and site size: A recycling collection facility shall not exceed a maximum area of 972 square feet.

(2) Setbacks: Setbacks shall be as set forth in sections 24-94 and 24-101 or greater as specified by the provisional use permit.

(3) Parking: Parking shall be provided as required in sections 24-96 and 24-101(e)(5).

(4) Exterior storage: Exterior storage shall not be permitted.

(5) Vehicular and pedestrian circulation: A recycling collection facility shall be located in a manner that does not impede or adversely affect vehicular or pedestrian circulation.

(6) A site plan shall be submitted for administrative review and approval by the director of planning or the director's designee. Appeal of any condition of approval shall be to the planning commission. Failure to maintain strict conformity with conditions of approval shall be deemed just cause for revocation. The site plan shall depict the location and size of the proposed facility; the number, type and size of containers and/or trailers and/or vehicles to be utilized; and the means of maximizing the compatibility of the proposed facility with the overall design, character and aesthetic considerations of the principal use of the property. Amendments to approved plans shall be reviewed and approved administratively by the director of planning or the director's designee.

(7) Operation and maintenance plan. An operation and maintenance plan containing provisions for an attendant, daily operations and maintenance of the facility shall be submitted for review and approval as part of the plan submitted for approval by the director of planning.

(8) Time limits and hours of operation. The duration or time period of the facility and daily hours of operations shall be established by the board of supervisors in its approval of the provisional use permit.

(9) A tonnage collection report for the previous six-month period shall be submitted to the planning office no later than January 15 and July 15 of each year.

(d) Buildings or structures up to 200 feet in height.

(Code 1980, § 22-70.1; Code 1995, § 24-70.1; Ord. No. 1091, § 8, 11-14-2006; Ord. No. 1116, § 6, 11-27-2007)

Sec. 24-71. Conditional uses permitted by special exception.

(a) Any conditional use permitted and as regulated in the M-1 district, except as may otherwise be provided herein.

(b) Any other lawful use that would otherwise be prohibited because of a kind that ordinarily is especially obnoxious or dangerous as specified in section 24-70; provided, that the establishment is so designed, equipped and operated as to eliminate or satisfactorily overcome the obnoxious or dangerous characteristics.

(Code 1980, § 22-71; Code 1995, § 24-71)

Sec. 24-72. Accessory uses permitted.

(a) Accessory uses permitted and as regulated in the M-1 district.

(b) Other accessory uses customarily accessory and incidental to any permitted use, except of a type which is permitted only as a conditional use or is prohibited in this district.

(c) Signs as regulated in section 24-104.1.

(d) A recycling collection facility operated by a not-for-profit or tax-exempt organization for a period not to

exceed 30 days within any six-month period pursuant to a permit to be obtained from the director of planning or the director's designee. The facility shall meet or exceed the following criteria:

(1) No recycling facility may be situated on the same lot with a one-family dwelling when such dwelling is a principal permitted use.

(2) Area and site size: A recycling collection facility shall not exceed a maximum area of 972 square feet.

(3) Setbacks: Setbacks shall be as set forth in sections 24-94 and 24-101.

(4) Parking: Parking shall be provided as required by sections 24-96 and 24-101(e)(5).

(5) Exterior storage: Exterior storage shall not be permitted. Provisions shall be made for daily maintenance to ensure this requirement is met.

(6) Vehicular and pedestrian circulation: A recycling collection facility shall be located in a manner that does not impede or adversely affect vehicular or pedestrian circulation.

(e) Accessory to a brewery, distillery, or winery, on-site tasting and retail sales of alcoholic beverages manufactured on site.

(Code 1980, § 22-72; Code 1995, § 24-72)

Sec. 24-72.1. Development standards and conditions for permitted uses.

Refuse containers. Refuse containers shall be completely screened from view by means of an opaque fence or wall. Such containers shall be serviced only between the hours of 6:00 a.m. and 12:00 midnight.

ARTICLE XVII. M-3 HEAVY INDUSTRIAL DISTRICT; USES

Sec. 24-73. Principal uses permitted.

(a) Any principal use permitted and as regulated in the M-2 district.

(b) The following uses when located at least 2,000 feet from any R district and 500 feet from any other district except an M-1, M-2, A-1 or C-1 district:

(1) Abattoirs, slaughterhouses, stockyards or auction barns.

(2) Acid manufacturing or wholesale storage of acids.

(3) Bone distillation.

(4) Cement, lime, gypsum or plaster of paris manufacturing.

(5) Chemical works for the production of nitrogen, ammonia, cyanide or similar products or their compounds.

(6) Explosives or fireworks manufacturing or storage.

(7) Fat or oil rendering or refining.

(8) Fertilizer (chemical) manufacturing.

(9) Gas manufacturing.

(10) Glue manufacturing.

(11) Petroleum or petroleum products refining or reclaiming.

(12) Racetracks or racecourses for motor vehicles, motor boats or aircraft.

(13) Smelting or reduction of ores of metallurgical products.

(14) Carnivals, fairs or circuses.

(15) Permanent on-site recycling collection facility subject to section 24-106.

(c) Bulk storage or distribution plant or tank farm for inflammable liquids without limit as to amount of storage, when located at least 600 feet from any residence or business district.

(d) Recyclable materials processing facility within a fully enclosed building or approved opaque wall or

fence when located at least 200 feet from any R district.
(Code 1980, § 22-73; Code 1995, § 24-73)

Sec. 24-73.1. Provisional uses permitted.

(a) A recycling collection facility, pursuant to a provisional use permit and administratively approved site plan, for a period in excess of 30 days. The facility shall meet or exceed the following criteria:
(1) Area and site size: A recycling collection facility shall not exceed a maximum area of 972 square feet.
(2) Setbacks: Setbacks shall be as set forth in sections 24-94 and 24-101 or greater as specified by the provisional use permit.
(3) Parking: Parking shall be provided as required in sections 24-96 and 24-101(e)(5).
(4) Exterior storage: Exterior storage shall not be permitted.
(5) Vehicular and pedestrian circulation: A recycling collection facility shall be located in a manner that does not impede or adversely affect vehicular or pedestrian circulation.
(6) A site plan shall be submitted for administrative review and approval by the director of planning or the director's designee. Appeal of any condition of approval shall be to the planning commission. Failure to maintain strict conformity with conditions of approval shall be deemed just cause for revocation. The site plan shall depict the location and size of the proposed facility; the number, type and size of containers and/or trailers and/or vehicles to be utilized; and the means of maximizing the compatibility of the proposed facility with the overall design, character and aesthetic considerations of the principal use of the property. Amendments to approved plans shall be reviewed and approved administratively by the director of planning or the director's designee.
(7) Operation and maintenance plan. An operation and maintenance plan containing provisions for an attendant, daily operations and maintenance of the facility shall be submitted for review and approval as part of the plan submitted for approval by the director of planning.
(8) Time limits and hours of operation. The duration or time period of the facility and daily hours of operations shall be established by the board of supervisors in its approval of the provisional use permit.
(9) A tonnage collection report for the previous six-month period shall be submitted to the planning office no later than January 15 and July 15 of each year.
(b) Buildings or structures up to 200 feet in height.
(Code 1980, § 22-73.1; Code 1995, § 24-73.1; Ord. No. 1091, § 9, 11-14-2006)

Sec. 24-74. Conditional uses permitted by special exception.

(a) Any conditional use permitted and as regulated in the M-2 district, except as may otherwise be provided herein.
(b) Garbage, offal or dead animal reduction or dumping.
(c) Atomic laboratories or plants for the production of fissionable or other nuclear materials, or production of radium or radioactive materials.
(d) Junkyards for the storage, drying, cleaning, sorting, refining, baling or dismantling of iron, junk, rags, glass, cloth, paper, machinery or other waste or discarded materials, including automobile graveyards, wool pulling and scouring, subject to the following conditions:
(1) No such junkyard or automobile graveyard shall hereafter be established, any part of which is closer than 500 feet to a public street or road.
Every such yard shall effectively be screened from all public streets or roads by natural or other means and shall be surrounded by a solid and sightly fence or wall not less than eight feet in height.

(2) The owner or operator of such junkyard or automobile graveyard shall not allow junk, vehicles or parts thereof to be collected or stored in piles more than six feet in height.

(3) The collection or storage of any material containing or contaminated with dangerous explosives, chemicals, gases or radioactive substances is prohibited.

(4) Every such junkyard or automobile graveyard shall be operated and maintained in such a manner as not to allow the breeding of rats, flies, mosquitoes or other disease-carrying animals and insects.

(Code 1980, § 22-74; Code 1995, § 24-74)

Sec. 24-75. Accessory uses permitted.

(a) Accessory uses permitted and as regulated in the M-2 district.

(b) Other accessory uses customarily accessory and incidental to any permitted use.

(c) Signs as regulated in section 24-104.1.

(d) A recycling collection facility operated by a not-for-profit or tax-exempt organization for a period not to exceed 30 days within any six-month period pursuant to a permit to be obtained from the director of planning or the director's designee. The facility shall meet or exceed the following criteria:

(1) No recycling facility may be situated on the same lot with a one-family dwelling when such dwelling is a principal permitted use.

(2) Area and site size: A recycling collection facility shall not exceed a maximum area of 972 square feet.

(3) Setbacks: Setbacks shall be as set forth in sections 24-94 and 24-101.

(4) Parking: Parking shall be provided as required in sections 24-96 and 24-101(e)(5).

(5) Exterior storage: Exterior storage shall not be permitted. Provisions shall be made for daily maintenance to ensure this requirement is met.

(6) Vehicular and pedestrian circulation: A recycling collection facility shall be located in a manner that does not impede or adversely affect vehicular or pedestrian circulation.

(Code 1980, § 22-75; Code 1995, § 24-75)

Sec. 24-75.1. Development standards and conditions for permitted uses.

Refuse containers. Refuse containers shall be completely screened from view by means of an opaque fence or wall. Such containers shall be serviced only between the hours of 6:00 a.m. and 12:00 midnight.

ARTICLE XVIII. PMD PLANNED INDUSTRIAL DISTRICT

Sec. 24-76. Purpose and intent.

The planned industrial district is intended to permit, in accordance with the comprehensive plan, the development of a planned industrial district (popularly known as planned industrial park) containing not less than 20 contiguous acres in those areas of the county provided with public sanitary sewer, sewage disposal facilities and water supply. The district shall be located within one mile of an interchange of a limited access freeway or a primary four-lane highway having a carrying capacity of 1,000 vehicles per lane per hour. The location of any compatible commercial facility deemed appropriate shall be controlled in such a manner as to exist solely for such district. Such district, when approved, shall constitute a part of the comprehensive plan for the county as a whole and the preliminary consideration of such district by the planning commission shall be based on recognition of this requirement.

(Code 1980, § 22-76; Code 1995, § 24-76)

Sec. 24-77. Principal uses permitted.

(a) The manufacturing, compounding, processing, packaging or treatment of cosmetics, pharmaceuticals and food products, including creameries, bottling plants, bakeries, canneries, ice manufacture, freezer plant and meat packing except fish products, sauerkraut, slaughter and dressing of the carcass.

(b) The manufacturing, compounding, assembling or treatment of articles or merchandise from previously prepared materials such as bone, cloth, cork, fibre, hair, leather, paper, plastics, metals, stone, tobacco, wax, yarn or wood, except where sawmills or planing mills are employed.

(c) The manufacturing of musical instruments, toys, novelties and molded plastic or rubber products.

(d) The manufacturing or assembly of electrical appliances, instruments and devices, communication equipment, professional, scientific and control instrumentation and photographic and optical goods.

(e) The manufacturing of pottery or other similar ceramic products using only previously pulverized clay and kilns fired only by electricity or gas.

(f) The manufacture of electric signs, advertising structure, light sheet metal products, including heating and ventilating equipment.

(g) Enameling, japanning, galvanizing, lacquering, plating, when accessory to a principal use.

(h) Printing and publishing plant, typesetting and allied plants, automotive assembly.

(i) Rolling, drawing, extruding, casting and forging of nonferrous metals and plastics.

(j) Research, experimental and testing laboratories and research and development centers; computer and data processing centers; engineering service centers; editorial publications and/or distribution centers for periodicals, books, records, films and similar publications; central billing and record center; management and real estate offices for industrial district operation; and storage and repair facilities for industrial district maintenance subject to screening requirements in section 24-106.2.

(k) Services primarily for industries located in the industrial district such as industrial instruments repair service, small machine "job" shops, photographic service and development, computer and data processing service, printing and duplicating service.

(l) Commercial facilities whose services are solely oriented to the needs of the industries located in the industrial district and must be located within the interior of the district.

(m) Underground facilities for pipelines, electrical power and energy, distribution lines, telephone and telegraph lines. Control instrumentation, substation and similar aboveground equipment installation shall not be subject to minimum lot size or maximum floor space requirements, but must be screened by planting or by an ornamental wall, as provided in section 24-106.2.

(n) Wholesale warehouses and service facilities for retail and chain stores and distribution facilities, public warehouse, cold storage warehouse, except that no retail sales shall be permitted on the premises.

(o) Helistop, subject to standard recommendations by the Federal Aviation Agency or its successor agency.

(p) Any other uses determined by the director of planning, after a duly authenticated report or investigation that he shall make or have made, to be of the same general character as the permitted uses, including new products and technological processes.

(q) Permanent on-site recycling collection facility subject to section 24-106.

(r) Places of worship.

(Code 1980, § 22-77; Code 1995, § 24-77)

Sec. 24-77.1. Provisional uses permitted.

(a) A recycling collection facility, pursuant to a provisional use permit and administratively approved site plan, for a period in excess of 30 days. The facility shall meet or exceed the following criteria:

(1) Area and site size: A recycling collection facility shall not exceed a maximum area of 972 square feet.

(2) Setbacks: Setbacks shall be as set forth in sections 24-94 and 24-101 or greater as specified by the provisional use permit.

(3) Parking: Parking shall be provided as required in sections 24-96 and 24-101(e)(5).

(4) Exterior storage: Exterior storage shall not be permitted.

(5) Vehicular and pedestrian circulation: A recycling collection facility shall be located in a manner that does not impede or adversely affect vehicular or pedestrian circulation.

(6) A site plan shall be submitted for administrative review and approval by the director of planning or the director's designee. Appeal of any condition of approval shall be to the planning commission. Failure to maintain strict conformity with conditions of approval shall be deemed just cause for revocation. The site plan shall depict the location and size of the proposed facility; the number, type and size of containers and/or trailers and/or vehicles to be utilized; and the means of maximizing the compatibility of the proposed facility with the overall design, character and aesthetic considerations of the principal use of the property. Amendments to approved plans shall be reviewed and approved administratively by the director of planning or the director's designee.

(7) Operation and maintenance plan. An operation and maintenance plan containing provisions for an attendant, daily operations and maintenance of the facility shall be submitted for review and approval as part of the plan submitted for approval by the director of planning.

(8) Time limits and hours of operation. The duration or time period of the facility and daily hours of operations shall be established by the board of supervisors in its approval of the provisional use permit.

(9) A tonnage collection report for the previous six-month period shall be submitted to the planning office no later than January 15 and July 15 of each year.

(Code 1980, § 22-77.1; Code 1995, § 24-77.1)

Sec. 24-78. Accessory uses.

(a) Accessory uses demonstrably related to permitted uses, including a central heating and/or air conditioning facility to service occupants of the district; indoor and/or outdoor recreational facilities; eating facilities for employees and their guests; health clinics and first aid station; technical library; auditoriums; classrooms; meeting and display room; provided that all the facilities are restricted to use primarily by employees and official visitors.

(b) Antenna; cooling towers; and air cleaning equipment and structure. All such equipment, except antennas, shall be screened from public view.

(c) Temporary buildings, trailers and vehicles for uses incidental to construction work, which building shall be removed within one month of substantial completion or abandonment of construction or moved to the next approved section of the district scheduled for construction.

(d) Other accessory uses and structures customarily incidental to any permitted principal use not otherwise prohibited.

(e) A recycling collection facility operated by a not-for-profit or tax-exempt organization for a period not to exceed 30 days within any six-month period pursuant to a permit to be obtained from the director of planning or the director's designee. The facility shall meet or exceed the following criteria:

(1) No recycling facility may be situated on the same lot with a one-family dwelling when such dwelling is a principal permitted use.

(2) Area and site size: A recycling collection facility shall not exceed a maximum area of 972 square feet.

(3) Setbacks: Setbacks shall be as set forth in sections 24-94 and 24-101.

(4) Parking: Parking shall be provided as required in section 24-96.

(5) Exterior storage: Exterior storage shall not be permitted. Provisions shall be made for daily maintenance to assure this requirement is met.

(6) Vehicular and pedestrian circulation: A recycling collection facility shall be located in a manner that does not impede or adversely affect vehicular or pedestrian circulation.

(Code 1980, § 22-78; Code 1995, § 24-78)

Sec. 24-79. Required conditions.

(a) Processes and equipment employed, and materials or goods used in manufacture and/or storage, shall be limited to those which are not objectionable at the property line, without the use of instruments, of each industrial occupant by reason of odor, dust, smoke, fumes, noise, vibration, refuse matter or water-carried waste.

(b) Each future industrial occupant shall be required to submit to the planning commission as a part of the application for a building permit, a qualified engineer's report describing the proposed operation, all machines, processes, product and byproduct, stating the nature and expected levels of emission or discharge to land, air or water of liquid, solid or gaseous effluent and electrical impulses under normal operations, and the specifications of treatment mechanism and methods to be used in restricting the emission of dangerous or objectionable elements.

(c) *Refuse containers*. Refuse containers shall be completely screened from view by means of an opaque fence or wall. Such containers shall be serviced only between the hours of 6:00 a.m. and 12:00 midnight.

(Code 1980, § 22-79; Code 1995, § 24-79)

Sec. 24-80. Plan of development, subdivision, landscaping and screening requirements.

(a) In acting upon a plat for the district or site plan for a lot, the planning commission shall approve, based upon such following considerations: Preservation of topographic features and natural amenities such as wetlands, watercourses and trees, with the objective of achieving maximum compatibility among the proposed industrial facility, the district and the surrounding areas.

(b) Plans for the district shall conform to the provisions of chapter 19, subdivisions, of the Code of the county.

(c) Site and landscape plans shall conform to the requirements for a plan of development and landscaping standards as set forth in sections 24-106 and 24-106.2 of this chapter.

(Code 1980, § 22-80; Code 1995, § 24-80)

Sec. 24-81. Vehicular access.

All streets within the industrial district shall be built to county specifications and be dedicated to the county.

(Code 1980, § 22-81; Code 1995, § 24-81)

Sec. 24-82. Reserved.

Sec. 24-83. Utilities plan.

A preliminary utilities plan shall be submitted for approval to the planning commission as a part of preliminary development plans. This shall show the size and the proposed location of all exterior lines and equipment. All utilities shall be underground except control instrumentation and substations, which must be screened by planting or ornamental wall. No overhead wires are permitted within the district.

(Code 1980, § 22-83; Code 1995, § 24-83)

Sec. 24-84. Height, area and yard requirements.

Notwithstanding any other requirements in this chapter, height, area and yard requirements shall be provided in accordance with the following schedules:

(1) Buildings shall not exceed 35 feet in height and communication towers and other structures shall not exceed 50 feet in height except as provided in section 24-95(a).

(2) The minimum district size shall be 20 acres. The minimum frontage on an existing principal highway shall be 600 feet. A parcel may be added to a PMD district where the parcel adjoins and has a common boundary with the PMD district and is at least two acres in size. However, there shall be no size limit for an addition to the PMD district when the addition is for expansion of an existing industrial facility.

(3) The minimum parcel shall be two acres. The minimum lot frontage shall be 200 feet except where otherwise stated.

(4) The minimum ground coverage of any principal building shall be 10,000 square feet except public utility buildings and structure necessary for public convenience and service. A principal building may be occupied by two industrial occupants, providing the subdivided structure is constructed for compatible industrial uses.

(5) The maximum ground coverage of any lot by a structure, including accessory building, shall not exceed 40 percent of the total area of the lot. Enclosed portions of off-street loading areas under roof shall not be included in computation of ground coverage of structure.

(Code 1980, § 22-84; Code 1995, § 24-84)

Sec. 24-85. Reserved.

Sec. 24-86. Reserved.

Sec. 24-87. Exterior lighting.

Major structures and detached signs located in planted areas may be floodlighted or spotlighted, providing such lights are not directed toward any other districts, highways or streets.

Parking lot or loading area lights or light standards, if located near screening strips adjacent to residential or agricultural districts shall be shielded to direct lights away from adjacent areas.

(Code 1980, § 22-87; Code 1995, § 24-87)

ARTICLE XIX. C-1 CONSERVATION DISTRICT; USES

Sec. 24-88. Principal uses permitted.

(a) Farming, dairy farming, livestock, rabbit and poultry raising and all uses commonly classed as agricultural, subject to the same provisions and limitations as in the A-1 district.

(b) Forestry, including temporary sawmills as permitted in the A-1 district.

(c) Public and private forests or wildlife preserves and similar conservation areas.

(d) Publicly owned properties and incidental buildings of a recreation, sports or conservation nature.

(e) Private noncommercial recreation areas and facilities such as country clubs, swimming clubs, golf courses, boat clubs, fishing clubs and riding clubs, provided each such site shall contain an area of 50 acres or more, and any shooting range or traps shall observe three times the distance requirements of section 24-10.

(f) Summerhouses, cabins or camps, for seasonal (nonpermanent or yearround) occupancy only, and which buildings need not abut on a street.

(g) Waterworks, wells, reservoirs, flood-control works, drainage works.

(h) Places of worship.

(Code 1980, § 22-88; Code 1995, § 24-88)

Sec. 24-89. Conditional uses permitted by special exception.

(a) Racetracks, riding schools, when located on premises abutting on a primary state highway and subject to three times the distance requirement of section 24-10.

(b) Airports and landing fields, subject to three times the distance requirements of section 24-10; and provided, that the approaches to landing strips shall not be over any R district, or any school, place of worship, or any institution for human care or any place of public assembly, for a distance of at least one mile and a width of one-half mile.

(c) Sand, gravel or clay pits, quarries, mines and other extractive operations including topsoil removal; provided:

(1) The excavations are at least 100 feet from any R district, and are accessible from a general traffic thoroughfare without traversing any local residential street in an R district.

(2) The special requirements in section 24-103 shall be complied with in addition to any others ordered by the board in accordance with section 24-116(c).

(d) Commercial outdoor marine recreation areas, involving principally the use of natural water resources such as boat harbors, bathing beaches and fishing areas. Such establishments shall have a minimum of ten acres of land area and 300 feet of water frontage and shall comply with at least three times the distance requirements of section 24-10.

(e) Par-three or "pitch and putt" golf course, including golf driving ranges and miniature golf courses when operated in conjunction with par-three or "pitch and putt" golf course. Such establishments shall have a minimum of 12 acres of land area and a length of 900 yards for a nine-hole course or a minimum of 22 acres of land area and a length of 1,800 yards for an 18-hole course, and shall comply with at least twice the distance requirements of section 24-10, except that such distances may be reduced by the board when their findings under section 24-116(c) indicate that, because of exceptional circumstances, persons residing or working in the neighborhood will not be adversely affected.

(f) Commercial golf courses, but not including any use first permitted in section 24-62.2(f). Such establishments shall have a minimum of 100 acres of land area and a length of 6,000 yards for an 18-hole course, and shall comply with the distance requirements of section 24-10, except that such distances may be reduced by the board when their findings under section 24-116(c) indicate that, because of exceptional circumstances, persons residing or working in the neighborhood will not be adversely affected. Any lighting of the course shall be arranged so as to direct the light and glare away from property in the neighborhood.

(g) Sand and gravel, washing and grading plant for the processing of materials extracted only from the premises on which the plant is located, when located at least 600 feet from an R district; the plant site shall not exceed five acres in area; the special requirements in section 24-103 shall be complied with, in addition to any others ordered by the board in accordance with section 24-116(c).

(Code 1980, § 22-89; Code 1995, § 24-89)

Sec. 24-90. Accessory uses permitted.

(a) Accessory uses customarily incidental to permitted principal or conditional use on the same lot therewith, including among others:

(1) Accessory uses as permitted and as regulated in the A-1 district.

(2) The selling of bait and the selling or leasing of boats and fishing equipment.

(3) Refreshment stands; the seasonal sale of groceries and meat, and including meals, in connection with a seasonal principal use.

(4) Other accessory uses, not otherwise prohibited, customarily accessory and incidental to any permitted use.

(5) A recycling collection facility operated by a not-for-profit or tax-exempt organization for a period not to exceed 30 days within any six-month period pursuant to a permit to be obtained from the director of planning or the director's designee. The facility shall meet or exceed the following criteria:

a. No recycling facility may be situated on the same lot with a one-family dwelling when such dwelling is a principal permitted use.

b. Area and site size: A recycling collection facility shall not exceed a maximum area of 972 square feet.

c. Setbacks: Setbacks shall be as set forth in sections 24-94 and 24-101.

d. Parking: Parking shall be provided as required in section 24-96.

e. Exterior storage: Exterior storage shall not be permitted. Provisions shall be made for daily maintenance to ensure this requirement is met.

f. Vehicular and pedestrian circulation: A recycling collection facility shall be located in a manner that does not impede or adversely affect vehicular or pedestrian circulation.

(Code 1980, § 22-90; Code 1995, § 24-90)

Sec. 24-90.1. Development standards and conditions for permitted uses.

Refuse containers. Refuse containers shall be completely screened from view by means of an opaque fence or wall. Such containers shall be serviced only between the hours of 6:00 a.m. and 12:00 midnight.

ARTICLE XX. I-1 INSTITUTIONAL DISTRICT; USES

Sec. 24-91. Principal uses permitted.

(a) Penal or correctional institutions.

(b) Hospitals or institutions for the confinement of mental patients.

(c) Federal, state or municipal government buildings and establishments.

(d) Places of worship.

(Code 1980, § 22-91; Code 1995, § 24-91)

Sec. 24-92. Accessory uses permitted.

(a) Accessory uses customarily incidental to a permitted principal use on the same lot therewith.

(b) A recycling collection facility operated by a not-for-profit or tax-exempt organization for a period not to exceed 30 days within any six-month period pursuant to a permit to be obtained from the director of planning or the director's designee. The facility shall meet or exceed the following criteria:

(1) No recycling facility may be situated on the same lot with a one-family dwelling when such dwelling is a principal permitted use.

(2) Area and site size: A recycling collection facility shall not exceed a maximum area of 972 square feet.

(3) Setbacks: Setbacks shall be as set forth in sections 24-94 and 24-101.

(4) Parking: Parking shall be provided as required in sections 24-96 and 24-101(e)(5).

(5) Exterior storage: Exterior storage shall not be permitted. Provisions shall be made for daily maintenance to ensure this requirement is met.

(6) Vehicular and pedestrian circulation: A recycling collection facility shall be located in a manner that does not impede or adversely affect vehicular or pedestrian circulation.

(Code 1980, § 22-92; Code 1995, § 24-92)

ARTICLE XXA. OVERLAY DISTRICTS

Sec. 24-92.1. Overlay districts in general.

(a) *Purpose of districts.* Overlay districts, as presented in this article, are created for the purpose of imposing special regulations in given designated areas of the county to accomplish stated purposes that are set forth for each overlay district. Overlay districts shall be in addition to, and shall overlap and overlay, all other zoning districts so that any parcel of land lying in an overlay district shall also lie in one or more of the other zoning districts provided for by this chapter. All regulations of the underlying zoning districts shall be applicable except as modified by the regulations imposed by the overlay district.

(b) *Establishment and mapping of overlay districts.* Overlay districts shall be established as set forth by this chapter in section 24-5 for the creation of zoning districts and in accordance with the provisions of state law. When so established, the boundaries of overlay districts shall be shown on the official zoning maps as provided in this chapter.

(Code 1980, § 22-92.1; Code 1995, § 24-92.1)

Sec. 24-92.2. ASO airport safety overlay district.

(a) *Purpose of the district.* The purpose of this district is to regulate and restrict the height of permanent and temporary structures, objects and natural growth in the vicinity of Richmond International Airport ("airport") and to restrict the uses of land in the vicinity of the airport by prohibiting any use that would in any way interfere with aircraft landing, taking off or maneuvering with the intention of using such airport.

(b) *Boundaries of the district.* The boundaries of the ASO district shall conform to the limits of the horizontal surfaces, conical surfaces, primary surfaces, approach surfaces and transitional surfaces applicable to the airport. The definitions of these surfaces, including specific geometric standards which defined their dimensions, are set forth in section 77.25, subpart C (Obstruction Standards) of title 14 of the Code of Federal Regulations or successor regulations. These surfaces shall be superimposed over the county zoning maps to delineate those areas covered by the ASO district.

(c) *District restrictions.*

(1) *Height limitations.* Except as otherwise provided in this section, no structures, objects or natural growth shall be permitted to penetrate the floor of any of the surfaces referenced in section 24-92.2(b).

(2) *Use limitations.* Notwithstanding any other provisions of this section, and within the area below the horizontal limits of any surface identified in section 24-92.2(b), no use may be made of land or water in such a manner as to:

a. Create electrical interference with navigational signals or radio communications between the airport and airborne aircraft;

b. Diminish the ability of pilots to distinguish between airport lights and other lights;

c. Result in glare in the eyes of pilot using the airport;

d. Impair visibility in the vicinity of the airport;

e. Create the potential for bird strike hazards; or

f. Otherwise in any way endanger or interfere with the landing or takeoff or maneuvering of aircraft intended to use the airport.

(d) *Existing uses.* These regulations shall not require the removal, lowering or other changes or alteration of any structure or vegetation that violates the provisions of this section at the effective date of the section.

(e) *Permits.*

(1) Any structure, object or natural growth that exists at the effective date of this section and which violates the provisions of this section shall be deemed a nonconforming use or structure and shall be subject to the regulations in sections 24-6, 24-7 and 24-8.

(2) No permit shall be issued for any construction within the ASO district except in accordance with section 24-107. If the director of planning is not satisfied that the proposed construction complies with all provisions of the ASO district, the director may consult with the FAA, the state department of aviation or the airport owner to determine whether any changes are necessary to bring the proposed construction into compliance with the provisions of this section.

(3) If the applicant for a permit which has been denied seeks a variance from the requirements of this section, no action shall be taken by the county on the variance request until the state department of aviation determines that the proposal will not adversely affect the operation of the airport and the safe, efficient use of navigable airspace above and around the airport.

(Code 1980, § 22-92.2; Code 1995, § 24-92.2)

Sec. 24-92.3. West Broad Street overlay district.

(a) *Purpose.* The West Broad Street overlay district is hereby created to provide additional requirements for development in the West Broad Street corridor of the West End of the County in order to reduce traffic congestion, avoid distracting visual clutter, and preserve the aesthetic values of the district by:

(1) Encouraging a mixture of land uses with adequate buffering, screening and landscaping to help reduce the visual impacts of development.

(2) Encouraging well planned development sites.

(3) Protecting landowners from possible adverse impacts of adjoining development.

(4) Enhancing the appearance and environment of western Henrico County.

(5) Encouraging the timing and location of development consistent with available public facilities.

(b) *Boundaries.* The boundaries of the district shall be those of the "West Broad Street Special Strategy Area" in the 2010 Land Use Plan adopted by the Henrico County Board of Supervisors on December 13, 1995. The district is generally comprised of the area on either side of the West Broad Street corridor west of the West Broad Street/Interstate 64 interchange to the Goochland County line. This area shall be superimposed over the County of Henrico Zoning Maps to delineate the district.

(c) *Prohibited uses.* The following uses are expressly prohibited within the district:

(1) Attention getting devices.

(2) Outside speakers which are audible beyond the property lines of the development.

(d) *Applicability of design standards.* All applications for development or redevelopment in the district filed after the establishment of the district must satisfy the design standards contained in subsections (e) through (i).

(e) *Design standards – Streetscape buffers.*

(1) Streetscape buffers with a minimum width of 35 feet shall be required for all new development and redevelopment on the portions of West Broad Street, North Gayton Road, future John Rolfe Parkway, Lauderdale Drive, Pouncey Tract Road, Pump Road and Three Chopt Road within the district. However, this requirement does not apply to single-family residential developments.

(2) Streetscape buffers shall contain the landscaping materials required in the underlying zoning district as well as both of the following:

a. An average of four trees for each 100 feet of road frontage, with the exception of driveways. Such trees shall be evenly spaced along the right-of-way frontage, located within ten feet of the edge of roadway pavement, and placed between the edge of roadway pavement and sidewalk if sidewalks are constructed parallel to the roadway. This requirement may be satisfied if such trees are located within the right-of-way instead of the streetscape buffer. Such trees shall be regularly trimmed so that the bottom six to eight feet of the tree trunk remains clear of branches and vegetation.

b. A continuous line of evergreen shrubbery planted along the entire length of the streetscape buffer not

more than ten feet behind the trees along the right-of-way frontage. The shrubbery must be at least two feet high when planted and shall be regularly trimmed for appearance and height not to exceed 3½ feet.

(3) Vegetation planted in the streetscape buffer shall be of a type and/or positioned so as to not interfere with overhead or underground utility lines when fully grown.

(4) Streetscape buffers may also contain a sidewalk or trail, utility easements and signs.

(5) Streetscape buffers must be irrigated and properly maintained.

(6) Streetscape buffers shall adhere to all sight distance requirements as determined by the Department of Public Works or the Virginia Department of Transportation.

(f) *Design standards – Outparcel access.* There shall be no direct access onto adjacent public roadways from those outparcels which are part of a larger development site or shopping center.

(g) *Design standards – Signage.*

(1) Each parcel shall have an overall sign plan which requires a consistent sign style and specifies the size and color scheme for proposed signage.

(2) Identification signage located within the streetscape buffer shall be ground mounted, monument-style and shall not exceed ten feet in height.

(3) All signs within the West Broad Street overlay district must also satisfy this chapter's requirements for signs in the underlying zoning district.

(h) *Design standards – Architecture.*

(1) Consistent architectural style is required within individual shopping center sites, including outparcels.

(2) On properties zoned or used for office, commercial, industrial or multi-family residential use, heating and air conditioning units, ventilation units, loading docks, trash containers and mechanical equipment shall be screened from view at the property line.

(i) *Design standards – Enhanced transitional buffers.*

(1) Parcels zoned for business or industrial use which abut properties with R-district zoning must provide an enhanced transitional buffer at least 15 feet wide in addition to the transitional buffer required under section 24-106.2.(3).

(2) Enhanced transitional buffers shall contain plantings which meet the plantings requirements in section 24-106.2.(3).

(j) *Exceptions.* The director of planning may approve development plans which deviate from the streetscape buffer or enhanced transitional buffer requirements if the site's topography, configuration, or other unique circumstances prevents full compliance with the requirements. In all such cases, the director of planning may impose conditions which will accomplish the purposes of the requirements to the maximum extent practicable.

(Code 1995, § 24-92.3; Ord. No. 937, § 3, 11-13-1996)

Sec. 24-92.4. Innsbrook Redevelopment overlay district.

(a) *Purpose.* The purpose of the Innsbrook Redevelopment overlay district is to enhance and provide flexibility for redevelopment projects within the overlay district by:

(1) Using different minimum area requirements for Urban Mixed Use projects in accordance with section 24-34(a),

(2) Encouraging use of development policies adopted with the Innsbrook Area Study contained in the 2026 Land Use Plan adopted by the board of supervisors on September 14, 2010,

(3) Protecting landowners from possible adverse impacts of adjoining development, and

(4) Encouraging the timing and location of development consistent with available public facilities.

(b) *Boundaries.* The boundaries of the district shall be those areas identified as Land Bays A, B and C of the "Innsbrook Study Area" in the 2026 Comprehensive Plan. This area shall be superimposed over the county's

zoning maps to delineate the district.

(c) *Building height.* Building heights shall be limited as follows:

(1) Buildings within 150 feet of a one-family dwelling existing on June 28, 2016, shall not exceed 45 feet in height except as provided in section 24-95(a)(1).

(2) Buildings more than 150 feet and up to 300 feet from a one-family dwelling existing on June 28, 2016, shall not exceed 80 feet in height except as provided in section 24-95(a)(1).

(d) *Internal circulation.* Properties within the overlay district shall provide vehicular and pedestrian circulation between adjacent properties unless otherwise approved by the director of planning due to design considerations such as utility conflicts, steep topography, or other factors. Copies of applicable cross access agreements shall be provided at the request of the director of planning.

(e) *Development standards.* Implementation of the development policies adopted with the Innsbrook Area Study is strongly encouraged.

Sec. 24-92.5. Westwood Redevelopment overlay district.

(a) *Purpose.* The Westwood Redevelopment overlay district is hereby created to enhance and provide flexibility for redevelopment projects within the overlay district by:

(1) Providing alternative parking requirements for properties within the overlay district;

(2) Protecting landowners from adverse impacts of adjoining development;

(3) Ensuring adequate access for existing and future development; and,

(4) Encouraging the timing and location of development consistent with available public facilities.

(b) *Boundaries.* The boundaries of the district shall be those of the "Westwood Area Study" in the amendment to the 2026 Comprehensive Plan adopted by the board of supervisors on December 11, 2018. This area shall be superimposed over the county's zoning maps to delineate the district.

(c) *Provisional uses permitted.* The following are allowed by provisional use permit:

(1) Multifamily dwelling units in conjunction with nonresidential development permitted in the district.

(2) Uses and structures that would not otherwise comply with the setback and height provisions of Section 24-94.

Each application for a provisional use permit shall include a master plan showing the location and height of all existing and proposed structures, public and private streets, parking spaces, the developer's architectural design requirements, pedestrian accommodations, open space, landscaping, buffers, and site lighting.

(d) *Alternative parking requirements*. In lieu of compliance with the parking requirements of section 24-96, a development or redevelopment, after the establishment of this overlay district, may provide parking in compliance with the following requirements:

(1) Each parking space allocated to the property must be located within 1,000 feet of the main entrance of the building to which it is allocated, measured along an accessible walking path.

(2) A parking study submitted with a master plan containing the information for master plans in subsection (c) must show that the parking allocation for the development is not likely to conflict on a regular basis with the parking allocation for other properties within the overlay district, based on the manner and time of parking for other properties. The parking study must be prepared by a licensed engineer and must show the number of parking spaces required and provided for the proposed development. The parking study may consider the use of on-street parking and the use of shared parking under shared parking agreements. Such agreements shall be included with the parking study.

(e) *Development standards*. All development or redevelopment, after the establishment of the overlay district, shall meet the following development standards:

(1) *Traffic Circulation.* Vehicular and pedestrian circulation shall be provided between adjacent properties unless otherwise approved by the director of planning due to design considerations such as environmental features, steep topography, or utility conflicts. Copies of cross-access agreements shall be

provided at the request of the director of planning.
(2) *Sidewalks.* Sidewalks shall be provided along all public streets contiguous to a proposed development. Sidewalks on the opposite side of the street shall not satisfy this requirement.

ARTICLE XXI. HEIGHT, LOT, YARD AND BUILDING REGULATIONS

Sec. 24-93. General requirements.

(a) No building shall exceed the height regulations specified in this article.
(b) Every building or group of buildings, together with its accessory buildings, shall be located on a lot having at least the area, width and yards prescribed herein.
(c) No lot shall be reduced in area to less than the area and width prescribed herein, or so as to cause any yard or court to be less than the minimum required herein. If any lot, yard or court is already less than required herein, it shall not be further reduced.
(d) No part of a yard or court provided about any building for the purpose of complying with the provisions of this chapter shall be included as part of a yard or court required under this chapter for another building.
(e) Except as otherwise provided herein, no lot shall contain more than one dwelling, and no building in the rear of a principal building on the same lot shall be used for dwelling purposes.
(Code 1980, § 22-93; Code 1995, § 24-93)

Sec. 24-94. Table of regulations.

(See section 24-95 for additional requirements, exceptions and modifications.)

		Min. Lot Area		Minimum		Min. Side Yard		Minimum	
District and Use	Maximum Height (ft.)	Total (sq. ft.)	Per Family (sq. ft.)	Lot Width (ft.)	Front Yd. Depth (ft.)	Least Yard (c) (ft.)	Sum of Yards (ft.)	Rear Yd. Depth (ft.)	Finished Floor Area (sq. ft.)
R-0 district									
Dwellings	40(dd)	1 acre	1 acre	200	50(aa)	20(aa)(bb)	50(aa)	50(aa)	2000(j)(u)
Places of worship and	45	1 acre		150	50	40	80	50	

other assembly uses									
Schools	45	5 acres		400	50	40	80	50	
Other permitted uses except as otherwise specified	45	1 acre		200	50	40	80	50	
R-0A district									
Dwellings	40(dd)	35,000	35,000	175	50(aa)	20(aa)(bb)	50(aa)	50(aa)	1900(u)
Places of worship and other assembly uses	45	1 acre		150	50	40	80	50	
Schools	45	5 acres		400	50	40	80	50	
Other permitted uses except as otherwise specified	45	1 acre		200	50	40	80	50	
R-1 district									
Dwellings	40(dd)	25,000	25,000	150	50(aa)	20(aa)(bb)	50(aa)	50(aa)	1700(k)(u)
Places of worship and other assembly uses	45	1 acre		150	50	40	80	50	
Schools	45	5 acres		400	50	40	80	50	
Other permitted uses	45	1 acre		200	50	40	80	50	
R-1A district									
Dwellings	40(dd)	21,500	21,500	125	45(aa)	15(aa)(b	40(a	45(	1600(u)

						b)	a)	a a)	
Places of worship and other assembly uses	45	1 acre		150	50	40	80	50	
Schools	45	5 acres		400	50	40	80	50	
Other permitted uses	45	1 acre		200	50	40	80	50	
R-2 district									
Dwellings	40(dd)	18,000	18,000	100	45(aa)	15(aa)(bb)	35(aa)	45(aa)	1500(l)(u)
Places of worship and other assembly uses	45	1 acre		150	45	25	50	45	
Schools	45	5 acres		400	45	25	50	45	
Other permitted uses	45	20,000		100	45	20	40	45	
R-2A district									
Dwellings	40(dd)	13,500	13,500	80	45(aa)	12(aa)(bb)	30(aa)	45(aa)	1300(n)(u)
Places of worship and other assembly uses	45	1 acre		150	45	25	50	45	
Schools	45	5 acres		400	45	25	50	45	
Other permitted uses	45	20,000		100	45	20	40	45	
R-3 district									
Dwellings	40(dd)	11,000	11,000	80	40(aa)	12(aa)(b	30(a	40(	1100(i)(u)

						b)	a)	a a)	
Places of worship and other assembly uses	45	1 acre		150	40	25	50	40	
Schools	45	5 acres		400	40	25	50	40	
Other permitted uses	45	20,000		100	40	20	40	40	
R-3A district									
Dwellings	40(dd)	9,500	9,500	70	35(aa)	10(aa)(bb)	25(aa)	35(aa)	1050(u)
Places of worship and other assembly uses	45	1 acre		150	40	25	50	40	
Schools	45	5 acres		400	40	25	50	40	
Other permitted uses	45	20,000		100	40	20	40	40	
R-4 district									
Dwellings	40(dd)	8,000	8,000	65	35(aa)	10(aa)(bb)	25(aa)	35(aa)	1000(o)(u)
Places of worship and other assembly uses	45	1 acre		150	40	25	50	40	
Schools	45	5 acres		400	40	25	50	40	
Other permitted uses	45	20,000		100	40	20	40	40	
R-4A district									
Dwellings	40(dd)	7,750	7,750	60	35(aa)	8(aa)(bb)	20(a	35(	950(u)

							a)	a a)	
Places of worship and other assembly uses	45	1 acre		150	40	25	50	40	
Schools	45	5 acres		400	40	25	50	40	
Other permitted uses	45	20,000		100	40	20	40	40	
R-5A district									
2-family dwellings	40(dd)	11,250	5,625	80	35(aa)	12(aa)(bb)	24(aa)	35(aa)	700(m)
Places of worship and other assembly uses	45	1 acre		150	40	25	50	40	
R-5 district									
3 or more family dwellings	45(b)	12,000	3,000	100	35(cc)	25(cc)	50(cc)	30(cc)	500(m)
Boardinghouses	40	7,500	7,500	60	45	8	20	35	900(o)
Places of worship and other assembly uses	45	1 acre		150	50	40	80	50	
Other permitted uses	45(b)	16,000		100	35(p)	20(p)	40(p)	35(p)	
R-6 district									
3 or more family dwellings	80(b)	40,000	2,200	150	35(cc)	25(cc)	50(cc)	30(cc)	500(m)
Boardinghouses	40	7,500	7,500	60	45	8	20	35	900(o)

Places of worship and other assembly uses	45	1 acre		150	50	40	80	50	
Other permitted uses	45(b)	16,000		100	35(p)	20(p)	40(p)	30(p)	
A-1 district									
Dwellings and manufactured homes	40(dd)	1 acre	1 acre	150	50(aa)	20(aa)(bb)	50(aa)	50(aa)	900(o)(u)
Places of worship and other assembly uses	45	2 acres		200	50	40	80	50	
Other permitted uses, except as otherwise specified	45	5 acres		400	50	40	80	50	
O-1 district									
Offices	30(v)	16,000		100	40	20	40	40	
Other permitted uses	30(v)	16,000		100	50	20	40	50	_____
O-2 district									
Offices	45(w)(x)	16,000		100	35(y)	20(y)	40(y)	35(y)	
Other permitted uses	45(w)(x)	16,000		100	40(y)	20(y)	40(y)	50(y)	_____
O-3 district									
Offices	110(b)(w)	25,000		100	35(y)	15(y)	40(y)	40(y)	

Other permitted uses	110(b)(w)	25,000		100	35(y)	15(y)	40(y)	40(y)	
B-1 district									
Dwellings, boardinghouses			Same as in R-6 district						
Other permitted uses	35				25(d)	none (e)			
B-2 district									
Dwellings, boardinghouses			Same as in R-6 district						
Hotel, motel, motor lodge, motor hotel	45(b)	20,000		100	25	15	30		
Other permitted uses	45(b)				15(d)	none(e)(q)			
B-3 district									
Dwellings, boardinghouses			Same						

			as in R-6 district						
Hotel, motel, motor lodge, motor hotel(b)	45(b)	20,000		100	25	15	30	40(s)	
Other permitted uses	45(b)(z)				15(d)	none(e)(q)		40(s)	

	Maxium	Minimum	Minimum Side Yard		Minimum
District and Use	Height (ft.)	Front Yard Depth (ft.)	Least(c)(q)(ft.)	Sum of Yards (ft.)	Rear Yard Depth (feet)
M-1 district	45(b)	25	none(f)		30(h)(r)(s)
M-2 district	50(b)	25	non		30(h)(r)(s)

			e(f)		
M-3 district	60(b)	25	none(f)		30(h)(r)(s)
C-1 district	35(a)	50	25	50	50
I-1 district	50	200	100	200	200

(a) Farm and public utility structures may be constructed to any necessary height, when located as far from all lot lines as the height of the structure.

(b) Buildings up to 110 feet in height may be permitted by special exception. Buildings or structures up to 200 feet in height may be permitted by provisional use permit. Buildings or structures for stadiums, racetracks and coliseums may be any height permitted by provisional use permit.

(c) For additional regulations applying to corner lots, see section 24-95(k).

(d) Or greater where specified elsewhere in this chapter.

(e) Except adjoining any R district, in which case not less than 15 feet.

(f) Except adjoining any R district, in which case not less than 25 feet.

(g) Reserved.

(h) Except adjoining any R district, in which case not less than 50 feet.

(i) Finished floor area for one story dwellings may be 1,000 square feet.

(j) Finished floor area for one-story dwellings may be 1,800 square feet.

(k) Finished floor area for one-story dwellings may be 1,600 square feet.

(l) Finished floor area for one-story dwellings may be 1,400 square feet.

(m) Total floor area, each dwelling unit, except as otherwise permitted by this chapter.

(n) Finished floor area for one story dwellings may be 1,200 square feet.

(o) Finished floor area for one-story dwellings may be 900 square feet.

(p) Except adjoining any R district, in which case the setback shall be increased as required by section 24-94.1.

(q) Side yard width to be increased as required by section 24-94.1.

(r) Except equivalent rear yard may be provided elsewhere when it is necessary to accommodate railroad siding to premises in rear yard, or rear yard adjoins railroad right-of-way equal to rear yard requirements.

(s) Except that equivalent rear yard depth may be provided in side yard width except adjoining an R district.

(t) Parking in minimum side yards is prohibited except adjoining B or M districts.

(u) A maximum of one-third of the total floor area of the dwelling may be contained in unfinished rooms capable of being made livable floor area.

(v) Any building or part of a building within 100 feet of any R district shall not exceed 25 feet in height.

(w) Any building or part of a building within 100 feet of any R district shall not exceed 40 feet in height.

(x) Buildings up to 110 feet in height may be permitted by special exception.

(y) Setback requirements for buildings in excess of 45 feet in height shall be determined from standards for tall buildings in section 24-94.1.

(z) Greater heights may be permitted by provisional use permit as provided in section 24-62.2(k).

(aa) For all residential developments which did not have a recorded subdivision, conditional subdivision approval, proffers relating to setbacks or buffers approved as part of a rezoning case, an approved and valid plan of development, or an approved special exception as of March 26, 2002, where the front, side, or rear yard is adjacent to a major arterial, minor arterial, or controlled access roadway identified on the major thoroughfare plan and having a projected right-of-way of 60 feet or greater, the setback shall be increased by 35 feet; if the front, rear, or side yard is adjacent to a minor collector or major collector identified on the major thoroughfare plan and having a projected right-of-way of 60 feet or greater, the setback shall be increased by 25 feet. The increased setback may be divided between the residential lot and any common area immediately adjacent to the projected right-of-way. The increased setback may be reduced only if approved by the planning commission as an exception under section 19-4(a).

(bb) For all residential developments which did not have a recorded subdivision, conditional subdivision approval, proffers relating to setbacks or buffers approved as part of a rezoning case, an approved and valid plan of development, or an approved special exception as of March 26, 2002, where the side yard is adjacent to any public road there shall be a minimum 25-foot setback from the right-of-way of the public road.

(cc) For all residential developments which did not have a recorded subdivision, conditional subdivision approval, proffers relating to setbacks or buffers approved as part of a rezoning case, an approved and valid plan of development, or an approved special exception as of March 26, 2002, where the front, side, or rear yard is adjacent to a major arterial, minor arterial, major collector, minor collector or controlled access roadway identified on the major thoroughfare plan and having a projected right-of-way of 60 feet or greater, the setback shall be increased by 15 feet.

(dd) For any lot or parcel created prior to January 1, 1960, the maximum building height shall be 35 feet by right and 40 feet if approved by provisional use permit.

(Code 1980, § 22-94; Code 1995, § 24-94; Ord. No. 957, § 6, 8-13-1997; Ord. No. 1010, § 3, 4-24-2001; Ord. No. 1026, § 4, 3-26-2002; Ord. No. 1091, § 10, 11-14-2006; Ord. No. 1111, § 10, 8-14-2007)

Sec. 24-94.1. Yard and setback standards for tall buildings.

For buildings in excess of 45 feet in height, interior side and rear yard setbacks shall be increased over that required for 45-foot buildings by six feet for each additional ten feet of height or any portion thereof over 45 feet. The required front or side yards along a street shall be increased over that required for 45-foot buildings by seven feet for each additional ten feet of height or any portion thereof over 45 feet. Portions of the building not exceeding 20 feet in height may project into and occupy no more than 25 percent of the area of the increased yards required by this section. Accessory structures may occupy any part of the increased yards required by this section, provided, in all cases, that other requirements of these regulations are complied with.

(Code 1980, § 22-94.1; Code 1995, § 24-94.1; Ord. No. 1010, § 4, 4-24-2001; Ord. No. 1091, § 11, 11-14-2006)

Sec. 24-95. Additional requirements, exceptions and modifications.

(a) *Height limitations and supplementary requirements for communication towers:*

(1) The height limitations of this chapter do not apply to the following structures or uses, provided any such structure or use does not penetrate the floor of any surfaces regulated in the ASO district by section 24-92.2 or exceed 50 feet in any R district and 100 feet in any other district, except for airport approach zones, and unless a greater height is authorized as a special exception by the board of zoning appeals.

a. Belfries; chimneys and flues; spires, minarets or similar architectural features of places of worship; cooling towers; elevator penthouses; fire, bulkhead and parapet walls extending no more than four feet above the limiting height of the building; flagpoles; ornamental towers and spires; domes; cupolas; roof-mounted mechanical equipment such as heating, air conditioning, ventilating, solar collector panels and similar equipment for the operation and maintenance of the building when not exceeding 25 percent of the roof area; public monuments; silos and grain dryers; smokestacks; stair towers; tanks; water towers and standpipes; windmills and similar structures.

b. Electric power structures and lines, derricks or other necessary industrial, utility or public service structures except communication towers and antennas as regulated by subparagraph (3) of this subsection.

(2) Communication towers and antennas located within the ASO district shall be subject to the limitations contained in sections 24-92.2(c)(1) and 24-92.2(c)(2) as well as the height limitations contained in subsection (3) below.

(3) Unless otherwise permitted by any provision of this chapter, communication towers and antennas shall be limited to a height of 100 feet in any M district and 50 feet in any other district, unless a greater height is authorized pursuant to the approval of a provisional use permit by the board of supervisors in accordance with sections 24-120 and 24-122.1 of this chapter and the following additional requirements:

a. A site plan to scale shall be filed with the application for a provisional use permit submitted to the director of planning and shall include the location of towers, guy anchors when used, buildings, other accessory uses, vehicular access, parking, fencing and screening, landscaping, zoning, ownership and use of adjoining properties and any other information deemed appropriate by the director of planning.

b. Certification by the manufacturer or an engineering report by a Virginia-registered structural engineer shall be filed by the applicant indicating the tower height and design, structure, installation and total anticipated capacity of the structure, including number and type of antennas which could be accommodated and demonstrating to the satisfaction of the building official that all structural requirements and other safety considerations set forth in the BOCA Basic Building Code and section 222(D) of the standards adopted by the Electronics Industries Association, or any amendments thereof, can be met. This information shall be filed with the provisional use permit application.

c. A licensed professional engineer primarily experienced with the design and operation of communication towers and antennas shall certify at the time of application that the NIER (nonionizing electromagnetic radiation) emitted from the facility will not result in a level of exposure at any point beyond the property line of the facility which exceeds the lowest applicable exposure standards established by any regulatory agency of the federal government or by the American National Standards Institute. Exceptions to this requirement may be authorized by the director of planning for low power transmission facilities such as two-way radio, telephone (cellular and VHF), microwave, government communication equipment and similar type transmitters.

d. Verifiable evidence from the applicant of the lack of space on suitable existing towers, buildings or other structures to locate the proposed antennas and the lack of space on existing tower sites to construct a tower for the proposed antennas within the anticipated service area shall be considered in the review of the provisional use permit application for any new tower.

e. Development standards and conditions:

1. The minimum setback from the base of the tower to any property line adjacent to any R district and the distance from any dwelling on any lot used for dwelling purposes other than a lot in any R district shall be equal to 110 percent of the proposed tower height. The minimum yard depth from other property lines shall be 50 feet unless a greater setback is required as a condition of approval due to icing potential or other circumstances adversely affecting the public health, safety or welfare.

2. More than one tower may be permitted on the site, provided all minimum yard depths, design and plan requirements are met.

3. Towers shall be painted in accordance with the requirements of the Federal Communications Commission or the Federal Aviation Administration; provided, however, if there are no applicable regulations of the Federal Communications Commission or the Federal Aviation Administration, then towers 200 feet or less in height shall have a galvanized finish or be painted silver or light blue.

4. Lighting, beacons and/or other safety devices shall be provided only if required by the Federal Communications Commission or the Federal Aviation Administration.

5. No commercial advertising material or signs shall be allowed on a communication tower or portion thereof.

6. Landscaping and screening shall be provided and maintained in accordance with any applicable provisions of this chapter and additional landscaping plan submitted to and approved by the director of planning.

7. Should the regulations and requirements of this subsection conflict with any regulation of the Federal Communications Commission or the Federal Aviation Administration, then the regulations of the Federal Communications Commission and the Federal Aviation Administration shall govern.

(4) Except as restricted within ASO district, communication towers and antennas as principal or accessory uses may be placed on the roof or otherwise attached to a building or structure as follows:

a. No such antenna, except for home use, shall be placed on the roof of any residential building less than three stories (45 feet in height).

b. The total area devoted to placement of communication antennas and permitted roof-mounted mechanical equipment shall not exceed 25 percent of the roof area of the building or structure.

c. The height of the attached antenna or dish measured from the peak of the roof shall not exceed 20 feet or 25 percent of the building height, whichever is greater.

d. The diameter of roof-mounted dish antenna shall not exceed 15 percent of the building height. More than one antenna shall be permitted, provided that no dish shall be visible from front yard areas and the color, location and design do not detract from the character and appearance of the building and surrounding property.

e. Exceptions to any of the above regulations in this subparagraph (4) may be authorized as a special exception by the board of zoning appeals.

f. Antennas as permitted by this paragraph shall meet all structural and safety requirements to the satisfaction of the building official in accordance with the standards of the BOCA Basic Building Code and section 222(D) of the Electronic Industries Association or any amendment thereof, and shall be in accordance with the regulations and requirements of the Federal Communications Commission or the Federal Aviation Administration.

(b) *Exceptions to section 24-94.* Where a lot of record at the time of the effective date of this chapter or of any amendment thereto has less area or width than herein required in the district in which it is located, and the owner of such lot does not own any other lot, parcel or tract adjacent thereto, or where a lot is part of an officially or tentatively approved or recorded subdivision, said lot may nonetheless be used for a one-family dwelling, subject to the conditions hereinafter specified, provided such one-family dwelling be otherwise permitted in such district; except that any lot having less than the minimum area or width specified below shall not be used except under a variance authorized by the board of appeals.

District	Minimum Area (sq. ft.)	Minimum Lot Width (ft.)
(1) R-0	25,000	100
(2) R-1	15,000	80
(3) R-2	11,000	65

(4) R-2A	10,000	65
(5) R-3	8,000	65
(6) R-4	6,000	50
(7) R-5	6,000	50
(8) Agricultural	30,000	150

(c) *Conditions.*

(1) On any such lot less than 150 feet wide, the sum of the side yards may be reduced to not less than 30 percent of the lot width, and the least side yard may be reduced to not less than ten percent of such lot width, provided no side yard shall be less than seven feet wide. Corner lots shall be subject to the additional requirements of subsection (k) of this section.

(2) The rear yard on any such lot less than 150 feet deep shall not be less than 25 feet.

(3) On any such lot the minimum finished floor area shall conform to the requirements listed in section 24-94.

(4) On any such lot the minimum front yard depth shall be 35 feet, or as shown on such plat, or that which was established as a condition of tentative or final approval, whichever is greater.

(5) Any such lot shall have a maximum building height of 35 feet. Building height up to 40 feet may be approved by provisional use permit.

(d) *Lots without public water and sewer.*

(1) Where any parcel or lot is not served by either public water supply or public sewer, the minimum area and width of such lot or parcel on which a building may be erected shall be one acre and 150 feet, respectively, except where greater requirements are specified elsewhere in this chapter.

(2) Where public water is available but not sewer, a lot or parcel on which a building may be erected shall have a minimum area of 18,000 square feet and a minimum width of 100 feet.

(3) Where public sewer is available but not public water, a lot or parcel on which a building may be erected shall have a minimum area of 8,000 square feet and minimum width of 50 feet.

(4) For two-family dwellings all requirements shall be increased 50 percent.

(5) Apartment buildings must be served by water and sewer.

(6) In any R district, all dwellings and other buildings designed or intended for human occupancy must be served by an approved method of disposal of human excrement as defined in section 23-31(1)a and (1)b of this Code, as amended.

(e) *Exceptions to subsection (d) of this section.* Where a lot of record at the effective date of this chapter has less area or width than herein required in the district in which it is located and the owner of such lot does not own any other lot, parcel or tract adjoining thereto, or where a lot is part of an officially or tentatively approved or recorded subdivision, the minimum lot area and width required for a single-family dwelling lot under subsection (d) of this section:

(1) Shall be reduced to 15,000 square feet and 80 feet, respectively, where neither public water nor public sewer is available;

(2) Shall be reduced to 11,000 square feet and 65 feet, respectively, where public water is available but not sewer; provided, however, that any such lot is certified by the county health department to be large enough, considering its particular location, soil characteristics, etc., to satisfy all applicable requirements concerning water supply and disposal of sanitary wastes.

(f) *Reverse corner lots.*

(1) In determining the front yard for a building, the side yard on a reversed corner lot shall not be a factor.

(2) If a reversed corner lot is resubdivided to front on the street on which it originally sided, it shall observe the front yard requirements of both streets.

(g) *Front yards for cemeteries and graveyards.* The minimum front yard regulation for buildings shall apply also to all graves in new or existing cemeteries and graveyards, except where existing graves are closer to the road in which case any new graves may be located as close as the closest existing grave.

(h) *Measurement of yards.*

(1) The minimum front yard depths specified herein, and the minimum widths of side yards on the street sides of corner lots, shall be measured from the existing street right-of-way line except where a street is designated for widening or extension as indicated on the county major thoroughfare plan component of the comprehensive plan, in which case the measurement shall be taken from the future right-of-way line. In determining the location of such future right-of-way line, it shall be assumed that the street is to be widened equally on both sides of the established centerline to the full width designated by the major thoroughfare plan, unless there is on file with the director of planning an attested copy of an officially adopted detailed plan for such street widening, extension or location, in which case the latter shall control. In no case shall any street in an A or R district be considered for the purpose of this section as having a right-of-way less than 50 feet unless otherwise approved by the county engineer pursuant to the Department of Public Works Cross-Section Pavement Design Standards dated October 14, 1981.

(2) For nonresidential uses any portion of a lot which is zoned C-1 conservation district may be included in the computation of the minimum front, side and rear yard requirements.

(3) Notwithstanding the minimum yard depths required for a lot used for dwelling purposes, no dwelling or house trailer may be located any closer to a C-1 district boundary line than the minimum side yard width otherwise required for the lot or ten feet, whichever is greater.

(4) Each yard shall be measured horizontally to the nearest point of the building or use area, except for allowable projections.

(i) *Buildings and projections in yards.* The following buildings, parts of buildings and uses may occupy or project into required minimum yards as indicated:

(1) *Into any yard.* Cornices, eaves, sills, leaders, belt courses and similar ornamental features, three feet; uncovered stairs or fire escapes, four feet six inches; terraces, steps and landings not higher than the entrance floor of the building, ten feet; bay windows and balconies occupying not more than one-third of the wall length, three feet; outside storm enclosures not more than six feet in width, four feet; provided, that no such projection shall extend to within less than five feet of any interior side lot line nor within less than ten feet of any street side lot line.

(2) *In a rear yard of a one-family or semidetached dwelling.* Any accessory use or detached accessory building or structure is permitted subject to the following:

a. In an R district, the buildings or structures in the aggregate may not occupy more than 30 percent of the required minimum rear yard for the district. Unless otherwise provided by this chapter, accessory buildings located on any other lot or parcel may occupy in the aggregate not more than 30 percent of the actual rear yard area. In calculating the rear yard coverage, structures at or below grade and aboveground swimming pools four feet or less in depth and 24 feet or less in diameter shall not be included in the 30 percent coverage permitted in both of the above situations.

b. The buildings or structures shall not exceed 20 feet in height.

c. The buildings or structures must be located not less than ten feet from the nearest point of the principal use or building and a minimum of six feet from any other detached building or structure.

d. The buildings or structures shall be located not less than ten feet from all street and alley lines, not less than three feet from all other lot lines unless otherwise provided by this chapter (see also subsection (k) of this section), and shall not be located within county easements. However, a building or structure may be located within a special flood hazard area or drainage and utility easement in the special flood hazard area if it is located to not interfere with the construction, operation or maintenance of any existing or planned facility therein as determined by the director of the department responsible for the facility.

e. On double frontage lots accessory buildings must meet the front yard setback at the rear of the principal building unless a planting strip easement is provided in accordance with chapter 19 of the County Code.

f. Accessory swimming pools, open and unenclosed, may occupy a required rear yard, provided they are located not less than ten feet from the nearest point of the principal building, not less than ten feet from any street or alley, not less than six feet from the rear lot line or less than ten feet from a side lot line measured from an interior pool wall (see also subsection (k) of this section), and are not located within county easement. However, an accessory swimming pool may be located within a special flood hazard area or drainage and utility easement in the special flood hazard area if it is located to not interfere with the construction, operation or maintenance of any existing or planned facility therein, as determined by the director of the department responsible for the facility.

g. Accessory uses other than buildings or structures may occupy all or part of a rear yard or side yard.

h. No accessory building on the same lot as a one-family or semidetached dwelling shall be occupied for dwelling purposes, except as provided in section 24-13(b) and (c).

(3) *Location in any yard for other permitted uses unless otherwise provided by this chapter.* Uses, buildings and structures accessory to principal permitted uses shall observe the same required minimum yards for the principal use, building or structures, except for the following:

a. Convenience stations, including, but not limited to, bus shelters, public telephone stations, gatehouses and guard stations (for security or aesthetic purposes), may be located in any yard. Such convenience stations shall not exceed 15 feet in height. Any necessary vehicular stopping, standing or parking areas must be provided off of the public right-of-way. The convenience station shall not obstruct vision in a sight distance triangle and shall not be located within any county easement.

b. Accessory structures or uses incidental and customary to the recreational use or aesthetic enjoyment of water resources, such as lakes, ponds, streams and rivers, may be located in any yard which adjoins the open water; provided, that the location also complies with any other applicable laws.

(4) *In the side or front yard of a one-family, two-family, or semi-detached dwelling.*

a. Detached accessory buildings or structures, including swimming pools, may be approved by conditional use permit.

b. In a subdivision approved prior to January 1, 1960, a front porch on a one-family dwelling may extend into the front yard setback up to eight feet, provided the porch is no wider than the front of the dwelling.

(j) *Attached accessory buildings.* A private garage or other accessory building may be attached to the principal building if made integral therewith, or may be attached thereto by a covered passageway not less than ten feet wide. No such accessory building shall occupy any portion of a minimum required front, side or rear yard, nor shall it exceed the height of the main building.

(k) *Side yard on corner lots.* On each corner lot on which a side yard is required the minimum yard on the street side shall not be less than ten feet, except that on a reversed corner lot which rears upon the side lot line of another lot, either directly or across any alley, the minimum yard on the street side shall not be less than 25 feet, provided that this regulation shall not be applied so as to reduce the buildable width of a lot of record at the effective date of this chapter to less than 50 percent of its width. Any building in the rear yard of such corner lot shall be set back to the full front yard depth for the lot in the rear plus 20 feet, provided no setback of more than 65 feet shall be required, and it shall be located at least as far from the common lot line as is required for a minimum side yard on the lot in the rear.

(l) *Fences, walls or hedges.*

(1) *Height measurement.* The height required and/or permitted by any provision of this chapter for a fence, wall, hedge or screening in any yard shall be measured from the average finished yard grade at the base of the structure or planting to the top. Posts or columns extending above and supporting a fence or wall may be excluded from the height measurement when, in the opinion of the director of planning, such extension is for engineering, architectural and ornamental purposes relating to the elevation design of the fence or wall.

(2) *Planting strip easement.* Pursuant to the provisions of chapter 19 requiring a planting strip easement on lots abutting a major street as identified on the major thoroughfare plan having a projected right-of-way of 60 feet or greater, a fence, wall or hedge may be permitted in addition to required landscaping in the planting strip easement as follows:

a. Seven feet in height in the rear yard of double frontage lots when the rear yards abut the major street; and seven feet in height along the street side lot line of a corner or reversed corner lot to the front lot line, provided adequate sight distance is maintained as required in subparagraph (3) of this subsection.

b. The location, design, height and elevation details of the fence, wall or hedge and any required supplemental or existing landscaping to be retained shall be provided on a landscaping plan to be approved by the director of planning or, if required, by the planning commission prior to any of the following three occurrences:

1. Recordation of the lots;

2. Issuance of any occupancy permits; or

3. Beginning any work within the planting strip easement.

c. The planning commission in accordance with this paragraph, pursuant to the review and approval of a landscape plan, shall permit an alternative height exceeding seven feet, but not exceeding ten feet, for a fence, wall or hedge of uniform design, provided the permitted height and design does not adversely affect:

1. The health, safety and/or welfare of persons residing on or working on the premises;

2. The visibility or value of abutting and/or adjacent properties;

3. The adequate supply of light and air to adjoining property;

4. Traffic or pedestrian safety; and

5. Adequate sight distance as provided in subparagraph (3) of this subsection.

d. The owner(s) of any lot upon which the planting strip easement is located shall be responsible for the continued and proper maintenance of any portion of any yard, landscaping material and fence, wall or other improvements located within the easement on the lot.

e. For all residential developments which did not have a recorded subdivision, conditional subdivision approval, proffers approved as part of a rezoning case, an approved and valid plan of development, or an approved special exception as of March 26, 2002, no fencing adjacent to any road identified on the major thoroughfare plan and having a projected right-of-way of 60 feet or greater shall be located closer than 15 feet to the projected right-of-way if the fence height is greater than 42 inches.

(3) *Sight distance triangles.* Except as provided elsewhere in this chapter, and notwithstanding the applicable provisions of chapter 18 of the County Code, sight distance triangles shall be provided as follows:

a. At the intersection of street right-of-way lines, including alleys and the curbline or pavement edge of entrances and exits, and a straight line connecting them at a point 20 feet away from the points of intersection; and

b. At the intersection of a street curbline or pavement edge and the edges of a private driveway to a one- or two-family dwelling and a straight line connecting them at a point ten feet away from the points of intersection unless a greater distance is required to be maintained for traffic safety.

c. Within such sight distance triangles, no fence, wall, hedge, structure or landscape planting which obstructs vision between a height of two feet, six inches and a height of eight feet above the established curb grade shall be permitted.

(4) *Reversed corner lot.* When the side lot line of a lot adjoins the rear lot line of a reversed corner lot or when the side lot line and rear lot line are separated by an alley, a seven-foot-high fence, wall or hedge may be permitted along either of the abutting or adjacent side and rear lot lines, provided adequate sight distance is maintained as required in subparagraph (3) of this subsection.

(5) *Business, office and industrial districts.* A fence, wall or hedge may not exceed the following height:

a. Ten feet in a side or rear yard; and

b. Three feet, six inches in a front yard, except where other provisions of this chapter may permit an alternate height along the side or rear lot line of the property for screening any adjoining R district or any adjoining lot used for dwelling purposes; or

c. The planning commission, pursuant to the review and approval of a landscaping plan, shall permit an alternative height exceeding three feet, six inches, but not exceeding ten feet, and a uniform design in the front yard or along the front lot line, provided the permitted height and design does not adversely affect:

1. The health, safety and/or welfare of persons residing on or working on the premises;

2. The visibility or value of abutting and/or adjacent properties;

3. The adequate supply of light and air to adjoining property;

4. Traffic or pedestrian safety; and

5. Adequate sight distance as provided in subparagraph (3) of this subsection.

d. The height of fences, walls or hedges for other permitted uses in this district shall be regulated by the provisions of subparagraph (7) of this section.

(6) *RTH residential townhouse, R-5, R-5A and R-6 general residence districts.* A fence, wall or hedge may not exceed a height of three feet, six inches in a front yard, six feet in a side yard, or seven feet in a rear yard of a townhouse for sale and/or detached or semidetached dwelling lot except as follows:

a. An alternative height of a fence, wall or hedge in any front yard of a townhouse for sale or detached or semidetached dwelling lot shall be permitted by the planning commission, pursuant to the review and approval of a landscape plan, which provides for a uniform design of fences, walls or hedges to be constructed on each lot within a grouping or block of units in the development; or

b. A fence, wall or hedge may not exceed a height of seven feet in a side or rear yard or along any side or rear lot line, and three feet, six inches in a front yard or along the front lot line of an overall development, except an alternative height exceeding three feet, six inches, but not exceeding seven feet, and of uniform design in a front yard shall be permitted by the planning commission, pursuant to the review and approval of a landscaping plan; and

c. Further provided, that the alternative permitted height and design in subparagraphs a. and b. above does not adversely affect:

1. The health, safety and/or welfare of persons residing on or working on the premises;

2. The visibility or value of abutting and/or adjacent properties;

3. The adequate supply of light and air to adjoining property;

4. Traffic or pedestrian safety; and

5. Adequate sight distance as provided in subparagraph (3) of this subsection.

d. The height of fences, walls or hedges for other permitted uses in this district shall be regulated by the provisions of subparagraph (7) of this section.

(7) *All other zoning districts.* A fence, wall or hedge may not exceed a height of three feet, six inches in a front yard or seven feet in a side or rear yard, except as follows

a. When the side lot line of a lot adjoins a business, office or industrial district, a seven-foot-high fence, wall or hedge may be permitted along the side lot line to within 15 feet of the front lot line, provided adequate sight distance is maintained as required in subparagraph (3) of this subsection; and a ten-foot-high fence, wall or hedge may be permitted in the side or rear yard if the fence, wall or hedge observes the same minimum required yard (setbacks) from the property line as is required for the principal structure in the district in which it is located.

b. The planning commission, pursuant to the review and approval of a landscaping plan, shall permit an alternative height exceeding three feet, six inches, but not exceeding seven feet, in the front yard or along the front lot line, provided the design does not adversely affect:

1. The health, safety and/or welfare of persons residing on or working on the premises;

2. The visibility or value of abutting and/or adjacent properties;

3. The adequate supply of light and air to adjoining property;

4. Traffic or pedestrian safety; and

5. Adequate sight distance as provided in subparagraph (3) of this subsection.

(8) *Maintenance.* Fences, walls or hedges as permitted, regulated and/or required by the provisions of this chapter, shall be continuously and properly maintained in good repair by the owner(s) of the lot.

(m) *Outside storage in R and A districts.* In all R or A districts, household appliances or furniture manufactured and sold for indoor use may not be placed in yards. In addition, building materials may not be stored outside a fully enclosed building unless such materials are being used on the lot for agricultural operations or substantial and continuing construction activities.

(n) *Double frontage lots.* Buildings on lots that extend through from street to street shall provide the required front yards on both streets, but need not provide the required rear yards in case an equivalent open space is provided in lieu thereof.

(o) *Floor areas, how measured.* Floor area shall be based on outside dimensions of walls enclosing usable finished floor space, and will not include unfinished storage space or attached storage buildings or garages.

(p) *Reserved.*

(q) *Controlled density development.*

(1) *Purpose.* The purpose of these controlled density development provisions is to provide alternative zoning regulations for lot area, width and minimum yards in various residential districts otherwise regulated by section 24-94 of this chapter and to prescribe a procedure for subdivision development in accordance with this chapter, chapter 10, article II and chapter 19 of the County Code. These provisions are intended to encourage originality and ingenuity in overall site design to promote:

a. Improved living environments;

b. Preservation of public and private open space to serve recreational needs or to further environmental, scenic or historic preservation purposes;

c. More economical subdivision design;

d. Protection of floodplains;

e. Protection and improvement of water quality, particularly within Chesapeake Bay Preservation Areas;

f. Tree preservation and appropriate landscaping; and

g. To provide suitable land for public schools, parks, recreational areas, highways and other public uses.

(2) *Approval procedure.*

a. In order to utilize the alternative requirements of these provisions, the owner or developer shall submit a concept plan for controlled density development for review of the land's suitability for controlled density development and its compliance with the review criteria and development standards of this subsection. The concept plan must be submitted with the application for a provisional use permit.

b. The concept plan and application shall be prepared to include the following:

1. Sufficient copies of the concept plan as determined by the director of planning.

2. A north arrow, the scale of the plan, the tax parcel number and date of the plan.

3. The location, width and names of existing or platted streets contiguous to and within 300 feet of the proposed subdivision.

4. The proposed location and width of streets in the proposed development.

5. The topography at vertical intervals of at least two feet and the location of existing physical features such as buildings, streams, drainage ditches, floodplains, land types defined as Chesapeake Bay Preservation Areas, and the location of other natural or physical features of the property required by proffered rezoning

conditions or by other provisions of this chapter.

6. The layout, lot lines and approximate dimensions of proposed lots and density calculations.

7. The layout and area of property to be conveyed for public use or set aside by covenant for the common use of residents.

8. Other information when required by the director of planning to facilitate the plan review.

c. The application for conditional subdivision plat approval shall be submitted in accordance with both the provisions of chapter 19 of the County Code and this chapter. The planning commission shall review the application after the provisional use permit has been granted. Upon considering a report by the director of planning evaluating the concept plan pursuant to the purpose, review criteria and development standards of this subsection, and conditions of approval of the provisional use permit, the planning commission may authorize conditional approval of the plat for controlled density development or may modify the plat and impose such conditions deemed appropriate and necessary to ensure the spirit and intent of all requirements of controlled density development and of the provisional use permit are met. Controlled density subdivision plats may only be recorded and building permits approved for developments which were authorized for controlled density development by a provisional use permit or conditional or final subdivision approval on or before April 25, 2000.

(3) *Review criteria.* When acting on the conditional subdivision application for proposed controlled density development, the planning commission must ensure the following:

a. The proposed development shall be in harmony with the approved provisional use permit and with the purpose, goals, objectives, policies and standards of the comprehensive plan, including the environmental classification of the land use plan element.

b. The proposed use of land shall be in compliance with the provisional use permit and all applicable development standards and regulations of this chapter, chapter 10, article II and chapter 19 of the County Code.

c. The proposed development shall be served adequately by essential public facilities and services, such as streets, public water and sewer, police and fire protection, schools, drainage facilities and similar services.

d. Individual building lots, streets, recreation areas and common areas shall be designed and situated so as to minimize alteration of desirable natural site features. Open space intended for the common use and enjoyment of residents shall be designed and located to enhance public safety, convenience and use and shall be easily accessible to residents and pedestrian traffic.

e. The useability of open space intended for common areas or public use shall be determined by the size, shape, topographic and location requirements of the particular uses proposed for the site.

f. Where present and practicable, common areas may include features located within the site such as, but not limited to, floodplains, wetlands, natural drainage areas and streams, lakes, ponds, stands of mature trees, steep slopes, components of resource protection areas and buffers.

g. The proposed development plan shall utilize best management practices during and after construction to protect water quality within the site and in particular Chesapeake Bay Preservation Areas.

h. The proposed development shall not result in the destruction, loss of or damage to natural, scenic or historic features designated by the board of supervisors to be significant resources.

(4) *Development standards.*

a. To be eligible for controlled density development, a tract of land shall contain at least 20 acres if common area is to be maintained by a homeowners' association. There is no minimum acreage requirement if common area will not be maintained by a homeowners' association. In calculating the minimum acreage of the tract, land encompassing floodplains, wetlands, Chesapeake Bay Preservation Areas and lands zoned C-1 conservation district may be included.

b. Building lots and public streets shall not cover more than 80 percent of the total gross area of the tract.

c. A minimum of 20 percent of the total gross area of the tract shall be devoted to common area for the

common use and enjoyment of residents and/or public use areas to be dedicated to the county if accepted by the board of supervisors. Public use areas may include school sites, parks, recreation areas or streets proposed in the county's major thoroughfare plan which are not required for access to or development of the site or for other governmental purposes determined by the board of supervisors.

d. Public water and sewer shall be provided to each lot developed under these provisions. All new public service corporation utilities such as electric power, telephone, cable, television and gas shall be installed underground. Common areas may be used for public utilities but shall not be used for public service corporation easements unless common or shared easements for public service corporations are planned and designed with adequate width for utilities expected to occupy them and when included as part of the approved construction plan for the subdivision. All development activity within the easement(s) shall be coordinated by the public service corporations to minimize land disturbing activities. Subdivision construction plans shall describe how disturbed areas will be protected and restored in accordance with applicable provisions of this subsection, sections 24-106.2 and 24-106.3 of this chapter and chapter 10, article II of the County Code. After conveyance to a homeowners' association, the common area may be used for future public service corporation easements to serve permitted recreational facilities located within the common area subject to the requirements herein and approval of appropriate plans by the directors of planning and public works/county engineer.

e. Development shall satisfy the minimum lot and yard requirements of paragraph (5) of this subsection.

f. Common area, open space and preservation requirements.

1. Except as herein provided, common areas and areas designated for public use shall be provided in one continuous parcel, designed and arranged in order to provide maximum use and accessibility to all residents of the subdivision or by the public if dedicated for public use and for further purposes of this subsection. Any street providing frontage to lots within the subdivision may be used to connect common areas or areas dedicated for public use. Common areas shall be designed with a minimum depth and width of 50 feet and an average depth and width of 200 feet. A minimum of 50 feet of street frontage shall be provided.

2. Common area within a block of land in which lots are located shall have at least one access strip in common area with not less than 50 feet of width and frontage on a street. The board of supervisors and/or planning commission may permit additional access strips not less than 20 feet in width and frontage on a street in accordance with the review criteria of this subsection. The common area access strips are intended for access to the common area, buffers and open space separations between groups of lots fronting along a street.

3. When recreational facilities are not included in the development, the common area shall contain land, other than floodplains, steep slopes, wetlands and components of resource protection areas, suitable for recreational uses such as playgrounds, ballfields and tennis courts unless otherwise regulated by any provision of this chapter. A minimum of five percent of the common area, exclusive of easements, shall be suitable for recreational use but not less than the following:

i. One acre with 150 feet average lot width for R-0, R-0A, R-1 and R-1A one-family residence districts;

ii. One-half acre with 100 feet average lot width for R-2, R-2A, R-3 and R-3A one-family residence districts.

4. Common areas shall be protected and maintained during the development process as required by the applicable provisions of sections 24-106.2 and 24-106.3 of this chapter and the erosion and sediment control ordinance, chapter 10, article II of the County Code. During the development process, common areas shall not be used for storing, filling or dumping of any materials and shall not be denuded, defaced nor otherwise disturbed without the prior approval of the appropriate county department and the director of planning. If disturbed, such areas shall be restored by the developer or owner to the condition existing prior to the disturbance including the removal of dead or damaged trees, stumps and remnants in accordance with an appropriate plan including performance guarantees approved by the director of planning.

5. Common areas where drainage and utility improvements are necessary, or when used for measures to

control and manage stormwater, shall be improved and maintained by the developer or owner. Improper drainage and standing water other than of natural conditions and constituting a nuisance in the opinion of the director of public work/county engineer shall be corrected. All drainage and utility improvements, including appropriate erosion and sediment control measures, shall be completed and inspected prior to transfer of the common area to a homeowners' association. The developer or owner shall certify in writing to the director of public works/county engineer and director of planning that all improvements within the common area have been completed, inspected and are functioning according to approved plans.

6. Common areas shall be maintained by the developer or owner of the subdivision until the developer or owner conveys them to a homeowners' association whose members shall be all of the owners of lots in the subdivision. The common areas shall be held by the homeowners' association for use and enjoyment of its members. In the event the developer or owner conveys the common area to a homeowners' association, deed restrictions and covenants, in form and substance satisfactory to the county attorney of the county, shall provide that any assessments, changes and costs of the maintenance of the common areas shall constitute a pro rata lien upon the individual lots inferior in lien and dignity only to taxes and bona fide duly recorded first deeds of trust on each lot.

7. Areas dedicated to the county for public use, other than streets dedicated by the subdivision plat, shall be conveyed to the county only in a manner and in a form approved by the county attorney.

8. Unless otherwise specifically approved by the board of supervisors, common area held by the homeowners' association shall not be separated from the subdivision lots they serve by a road which is classified on the major thoroughfare plan as a major collector or higher.

(5) *Table of lot and yard regulations.*

Maximum No. of Lots Per Acre (excluding floodplain)		Minimum Lot			Minimum Side Yards		
Maximum No. of Lots Per Acre (excluding floodplain)		Min. Lot Area (sq. ft.)	Min. Lot Width	Min. Front Yard	Least Yard	Sum of Yards	Min. Rear Yard
R-0	0.8	25,000	150	45	15	40	45
R-0A	1.0	21,500	125	45	15	40	45
R-1	1.4	18,000	100	40	12	30	40
R-1A	1.6	13,500	80	40	12	30	40
R-2	2.0	12,000	80	35	10	24	40
R-2A	2.5	10,000	70	35	8	22	35
R-3	3.0	8,000	60	30	8	20	35
R-3A	3.7	7,75	60	30	8	20	30

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(r) *Flag lot regulations.* No flag lots shall be approved after August 10, 1999. Flag lots approved prior to August 10, 1999, shall be developed in accordance with the following regulations:

(1) Flag lots shall front on and be developed only along a public cul-de-sac street.

(2) For the purpose of measuring minimum lot area, the area within the access strip of land shall not be used.

(3) For the purpose of measuring minimum front yard depth (setback), the front yard of a flag lot shall be that portion which abuts the access strip of land. The access strip of land shall not be used to measure the minimum front yard depth (setback). The lot width shall be measured at the front building line.

(4) No more than four flag lots shall be developed along a public cul-de-sac street.

(5) Each flag lot shall abut a public cul-de-sac street a minimum distance of 20 feet.

(6) At least two off-street parking spaces shall be provided on each flag lot.

(s) *Zero lot line development for detached one-family housing in a subdivision of five or more lots subject to the following regulations:*

(1) A side yard equal to the sum of the total side yard in the district in which located shall be provided for each lot.

(2) In no case shall the distance between two principal structures be less than 20 feet.

(3) The side yard for a zero lot line corner lot shall be on the street side.

(4) On any reverse corner lot, the minimum side yard setback shall not be less than 25 feet.

(5) A plat indicating the buildable area for each lot shall be submitted as a part of the final approval application.

(6) A reasonable and practicable easement to permit maintenance of all structures abutting a zero lot line shall be designated on the subdivision plat to be recorded and incorporated into each deed transferring title to the property.

(t) *Floodplain area not to be used in density calculations.* Notwithstanding any other provision of this chapter, bodies of water (lakes, ponds), submerged land (other than wetlands), and land within the special flood hazard area shall not be used in calculations of the number of dwelling units permitted in any residential district, and every lot must satisfy minimum lot size requirements exclusive of such areas.

(u) *Special yard and additional regulations for any lot used for dwelling purposes and having lot area in a special flood hazard area.*

(1) *New dwellings:*

a. Except as provided in subsection 24-34(q), no new dwelling or manufactured home may be located within the special flood hazard area as defined in section 24-3.

b. No new dwelling or manufactured home may be located any closer to a base flood hazard area than the minimum side yard width otherwise required for the lot or ten feet, whichever is greater in horizontal distance.

c. The elevation of the lowest floor, as defined in section 24-106.1(b), for any new dwelling or manufactured home shall be one foot above the base flood elevation if it is located closer to the special flood hazard area than the minimum rear yard depth required for the lot.

(2) *Existing nonconforming dwellings.* Any dwelling or manufactured home legally constructed prior to January 11, 1989, within the special flood hazard area or closer to the special flood hazard area than the minimum rear yard depth required for the lot may be improved, restored or reconstructed as provided in section 24-8.

(v) *Cul-de-sac lot regulations.* Development of cul-de-sac lots shall be in accordance with the following regulations:

(1) The minimum lot width shall be met at the actual front building line (extended to the side lot lines).

(2) At least two off-street parking spaces shall be provided on each cul-de-sac lot.

(3) The actual front building line for a cul-de-sac lot shall not vary by more than ten feet from the actual front building line on adjoining lots.

(4) No more than five cul-de-sac or stem lots shall be permitted on a street.

(5) Side lot lines shall be linear lines extended from the right-of-way of the cul-de-sac to the actual front building line (extended to the side lot lines).

(w) *Stem lot regulations.* Stem lots may be developed only if approved by the planning commission as an exception under subsection 19-4(c). Development of stem lots shall be in accordance with the following regulations:

(1) No more than five stem or cul-de-sac lots shall be permitted on a street.

(2) At least two off-street parking spaces shall be provided on each lot.

(3) No dwelling shall face any portion of the rear or side of any existing or proposed dwelling on an adjacent lot.

(4) The area within the access strip shall not be used to meet minimum lot area requirements.

(5) Stem lots may be permitted at any point along a public cul-de-sac street.

(x) *Religious exercise.* The director of planning may modify any requirement of this chapter upon a showing that the requirements would impose a substantial burden on religious exercise.

(Code 1980, § 22-95; Code 1995, § 24-95; Ord. No. 923, § 1, 6-26-1996; Ord. No. 988, §§ 3—5, 8-10-1999; Ord. No. 1000, § 2, 4-25-2000; Ord. No. 1026, § 5, 3-26-2002; Ord. No. 1061, § 3, 11-25-2003; Ord. No. 1084, § 1, 1-24-2006; Ord. No. 1111, § 11, 8-14-2007; Ord. No. 1113, § 1, 10-9-2007; Ord. No. 1116, § 7, 11-27-2007; Ord. No. 1118, § 2, 11-27-2007; Ord. No. 1126, § 1, 10-14-2008)

ARTICLE XXII. SUPPLEMENTARY REGULATIONS

Sec. 24-96. Off-street parking requirements.

(a) In all districts, off-street parking areas shall be provided in connection with and as an accessory to each and every use on the premises to be served, except that in any B district or M district 50 percent of such parking areas may be located on other B district or M district premises immediately adjacent to the premises to be served and within 400 feet walking distance of the main entrance of the building to be served. Parking in an O-2 district and an R-6 district may be permitted for B district uses when the B district premises to be served is contiguous thereto. In any other district such parking area may be located on other premises by special exception or as otherwise provided in this section.

(1) *Spaces in parking decks.* Parking spaces may be supplied in parking decks subject to the following:

a. The number of parking spaces to be provided shall conform to subsections 24-96(b) and 24-101(e)(5).

b. For office buildings, the maximum number of parking spaces shall be computed by the following formula:

(Gross lot area ;times; 0.80)	-	1,000 sq. ft.
300 sq. ft.		

c. For shopping centers, the maximum number of parking spaces permitted in parking decks and/or surface parking shall be obtained from the graph in section 24-101, entitled "Parking Requirements for Shopping Centers."

d. Yard requirements and ground coverage:

1. Parking decks shall be construed as buildings and must meet yard requirements.

2. The ground coverage of parking decks shall be used in computation for percentage of ground coverage except for shopping centers. The ground coverage of buildings in a shopping center shall not exceed 35

percent of the total site area. In no case shall the ground coverage of the principal building exceed 25 percent of the total site area.

e. Additional spaces. Notwithstanding any other requirements of this chapter, the planning commission under a plan of development may authorize additional parking spaces exceeding those in section 24-96(a)(1). The intent of this provision is to permit additional parking spaces without permitting an increase in floor area of the principal use.

(2) *Mixed use and joint use parking facilities.* In any cases in which mixed uses with different parking requirements occupy the same building or lot or in the case of joint occupancy of a building or lot by more than one use in one or more buildings, the parking spaces required shall equal the sum of the requirements of the various uses computed separately except as follows:

a. The planning commission may authorize a reduction in the number of parking spaces required by this chapter for certain mixed use developments when located on the same lot and accomplished pursuant to section 24-106. To be eligible for consideration, the applicant shall furnish sufficient verifiable evidence that uses sharing the same parking areas do not require the total number of parking spaces which would otherwise be required if computed separately because of such factors as variations in the peak parking demand of the uses, the differences in hours of operation and the complementary nature of the mixture of uses.

b. To be eligible for consideration of a reduction in required parking, a mixed use development shall consist of any combination of two or more of the following use groups:

1. Hotel(s), motel(s) and/or hotel(s) with restaurant, lounge, conference and/or convention facilities located within the same structure or in immediate proximity thereto.

2. Office building(s) containing at least 40,000 square feet of floor area devoted to office use.

3. Retail sales containing at least 20,000 square feet of floor area excluding shopping centers.

4. Restaurants, cocktail lounges, nightclubs and indoor dining rooms when not part of a hotel or motel.

5. Entertainment and recreational facilities such as theaters, nightclubs, physical fitness centers and auditoriums.

6. Public and private institutional uses such as schools, places of worship, libraries, parks, and recreational areas if appropriately zoned.

c. In no case shall the required parking be reduced to less than 70 percent of the total parking spaces otherwise required when computed separately for each use.

d. In shared parking facilities the reduced number of parking spaces shall be located within 400 feet of the entrance of the building to be served.

e. Notwithstanding any other provision of this chapter governing parking requirements, area(s) equal in size to the area which would otherwise be required for grade level parking and/or for a parking deck which will accommodate the total number of parking spaces, including aisles when computed separately for each use, shall be reserved on-site to accommodate additional parking resulting from a change of use or operating hours or any other factors requiring additional parking. The following conditions shall be met:

1. The reserved area(s) shall be designated on approved site plans and designed in a fashion that will accommodate construction of the required additional parking with a minimum of disruption if and when construction is necessary to meet the additional parking demand of the uses to be served.

2. The reserved area(s) shall be properly zoned to permit such use and designed to accommodate the additional parking in accordance with all requirements of this chapter. Such area(s) shall be retained as open space on the lot and landscaped accordingly and shall not be located in any area otherwise required for buffering, screening, landscaping or minimum yard area except as herein provided.

f. Assigned, executive or otherwise reserved parking spaces may be provided and designated only in excess of the herein required minimum shared parking spaces for mixed uses.

g. In the case of mixed uses with common facilities, including reduced shared parking facilities approved

pursuant to this subsection, restrictive covenants and/or cross-access and joint parking agreements shall be submitted to the planning office for review and approval as to form and substance satisfactory to the county attorney and director of planning, respectively. Such approved agreement(s) shall be recorded prior to the issuance of any occupancy permit. The covenants shall, at a minimum, provide for the common access, use and maintenance of the parking facilities, pedestrian walks, landscaping and related facilities. The covenants shall also include an agreement for the provisions of additional parking spaces as herein required.

h. Any subsequent voluntary change in zoning, ownership, land use, occupancy or hours of operation which have a material impact on the parking requirements or characteristics of the lot, as well as any other factor(s) resulting in a material change of total or peak parking demand after a parking reduction has been granted, shall require additional review and approval, and may require amended covenants, cross-access and joint parking agreements and a changed certificate of occupancy permit if deemed necessary as a result of such review and approval.

(3) *Substitute parking spaces.* The use of substitute parking spaces must be approved by the board of supervisors through the issuance of a provisional use permit as provided for in section 24-122.1. The purpose of such an arrangement is to reduce the amount of paved areas and preserve as much natural vegetation as possible through more efficient use of existing parking areas. Substitute parking spaces may be approved by the board of supervisors when specific conditions are satisfied as follows:

a. The use of substitute parking spaces may not be used to increase the density of development that would otherwise be permitted on a site if on-site parking were exclusively used. Applicants must show that the site could be developed in compliance with all zoning requirements with necessary on-site parking but that the use of substitute parking spaces is a more prudent use of land and other resources. In no case may more than 35 percent of the minimum parking spaces required by this section be provided by substitute parking spaces and there shall be no more than 150 substitute parking spaces on a single site of residentially zoned property.

b. Substitute parking spaces must be located on a contiguous property within 400 feet of the main entrance of the building being served unless the applicant presents a satisfactory plan showing how persons using the substitute parking spaces are to be transported to the building.

c. The substitute parking spaces shall be only for the use of the employees of the facilities to be served. An identifiable parking decal shall be conspicuously displayed on each employee's vehicle so that the use of the parking spaces can be monitored for enforcement purposes.

d. Substitute parking space arrangements shall not be approved if the proposal would result in the routing of traffic through a single-family residential area or in the changing of the character of a single-family residential area.

e. A study must be conducted by the applicant that indicates: (1) the current usage of the substitute parking spaces by days of the week and hours of the day; (2) the various activities the spaces serve; and (3) that the number of spaces the applicant proposes to use can be accommodated without conflicting with the needs of the off-site property.

f. If the substitute parking spaces to be used directly abut developed single-family residential property, the abutting property must be screened by a transitional buffer ten as defined in section 24-106.2(e)(3). The plans for the buffer must be submitted with the application for the provisional use permit and the buffer must be in place prior to the use of the substitute parking spaces. The board of supervisors may permit landscaping in lieu of buffering on a site specific basis.

g. The substitute parking spaces must be located in an existing parking lot serving an existing principal use and meeting the requirements of section 24-98.

h. All requests for approval of substitute parking arrangements shall be accompanied by a copy of the agreement between the owners of all the properties involved in the arrangement which sets forth the terms and length of the agreement and which provides for 120 days' advance notice to the county of the termination of the arrangement. In addition, the applicant for the provisional use permit shall execute a

statement acknowledging its responsibility to provide at all times the number of parking spaces required by the County Code and agreeing that the provisional use permit is conditioned upon replacing any lost spaces required by the County Code within 120 days. Any substitute parking spaces located in any residential district or within 100 feet of a residential district and which are to be used for parking for nonresidential district uses may be used only between the hours of 7:00 a.m. and 8:00 p.m. Monday through Friday.

(b) The number of parking spaces to be provided for each use shall be sufficient to provide for all persons residing on, employed on or patronizing the premises, and in no case shall it be less than as follows. In the case of any use not listed, the director of planning shall determine the required number of parking spaces based on standards published by the Institute of Transportation Engineers, documented parking studies of comparable uses, and good planning practices.

Use	Number of Spaces
(1) Dwellings:	
a. One-family	1 for each dwelling unit
b. Two-family	1½ for each dwelling unit
c. Multifamily	2 for each dwelling unit; 1½ for each dwelling unit for multifamily development on property which had an approved plan of development, proffers approved as part of a rezoning case, or previous multifamily development on the property as of November 28, 2000. Attached garages cannot be included in the parking calculations.
d. RTH and condominiums	2¼ for each dwelling unit; 2 for each dwelling unit for multifamily development on property which had an approved plan of development, proffers approved as part of a rezoning case, or previous multifamily development on the property as of November 28, 2000.
(2) Motels, hotels, boardinghouses	1 per bedroom
(3a) Places of worship	1 for each 50 sq. ft. of floor area in the primary worship or assembly area
(3b) Assembly uses, other than places of worship, with fixed seats	1 for each 4 seats
(3c) Assembly uses, other than places of worship, without fixed seats	1 for each 100 sq. ft. of floor area used for assembly
(4) Hospitals, rest homes, nursing homes, sanitoriums	1 for each 2 beds
(5) Auto service stations and public garages	2 for each service bay
(6) Banks	8 for first 1,000 sq. ft. plus 1 for each additional 150 sq. ft. of floor area
(7) Bowling alley	5 for each lane
(8) Nonretail service establishment for handling	1 for each 400 sq. ft. of floor area

of articles or goods	
(9) Furniture, hardware and appliance stores	1 for each 750 sq. ft. of floor area
(10) Golf courses and county clubs	5 for each hole
(11) Restaurants, dine-in or take-out, including tasting rooms and other areas designated for on-premises consumption of alcoholic beverages at a brewery, distillery, or winery	1 for each 100 sq. ft. of floor area
(12) Office or office building, post office, studio	1 per 250 sq. ft. of floor area, min. of 5 spaces
(13) Office, medical	1 per 200 sq. ft. of floor area 10 spaces minimum for clinic
(14) Retail stores and other commercial buildings	1 for each 200 sq. ft. of floor area
(15) Manufacturing and industrial plants, including warehousing and storage	1 for each 2 employees on maximum shift
(16) Small animal hospital, veterinarian clinics and hospitals	4 spaces for each doctor, plus 1 for each additional employee
(17) Bed and breakfast home, short-term rental	One parking space per guestroom in addition to the parking required for the principal dwelling

(c) Each off-street parking space shall be at least 162 square feet in area, exclusive of access drives and aisles, and shall be of such shape and in such location and so improved as to be effectively usable. In any R district, except for single-family dwellings, such location shall be only in a rear yard or in a private garage located in accordance with regulations governing garages except that off-street parking in the side yard shall be permitted when the minimum requirements for the street side of a corner lot are met. In any B and M district, parking may be located anywhere on the premises when such parking area is designed and constructed in accordance with sections 24-98 and 24-106.2 and when such parking areas are delineated by concrete curb, curb and gutter or any pavement marking plan authorized by the county engineer.

In any R-5, R-6 or O district, off-street parking may be anywhere on the lot except that any location in the front or side yard on the street side of a corner lot shall be separated from any existing or proposed street right-of-way by a landscape strip at least 15 feet wide of appropriate planting materials designed in accordance with section 24-106.2 of this chapter.

In any other district, off-street parking may be anywhere on the lot except in the required minimum front yard or in the required minimum side yard on the street side of a corner lot; but any yard provided in addition to the required minimum yard may be used for parking.

(d) All parking space provided in compliance with the requirements herein shall be considered as required open space on the lot upon which it is located, and such space shall not be reduced or encroached upon in any manner, except:

(1) When substitute space is provided elsewhere, as permitted herein; or

(2) When the use for which such space was provided is changed or reduced, in which case the parking requirements for the new or reduced use shall apply.

(e) No area in any A or R district, except on a farm, shall be used for parking any truck or commercial vehicle exceeding 10,000 pounds gross weight, any commercial trailer, or any wrecker, except while loading, unloading, or working at or near the location where it is parked.

(f) No permit shall be issued for the occupancy of any building hereafter erected, located, reconstructed, enlarged, converted or altered, or of any premises of which the use is changed, until the parking spaces required herein have been provided and are ready for use.

(Code 1980, § 22-96; Code 1995, § 24-96; Ord. No. 957, § 7, 8-13-1997; Ord. No. 1008, § 6, 11-28-2000)

Sec. 24-96.1. Reserved.

Editor's note—

Ord. No. 921, § 1, adopted May 22, 1996, repealed § 24-96.1, which pertained to inoperable motor vehicles and derived from Code 1980, § 22-96.1.

Sec. 24-97. Off-street loading requirements.

(a) In all districts, in connection with every building or part thereof hereafter erected, having a gross floor area of 5,000 square feet or more, which is to be occupied by any business, industrial, hotel, hospital, institutional or other use requiring the receipt or delivery of materials or merchandise by vehicles, there shall be provided and maintained on the same premises at least one off-street loading space, plus one additional space for each 20,000 square feet of gross floor area in excess of the first 10,000 square feet.

(b) Each loading space shall be at least ten feet wide, 25 feet long and 15 feet high, and shall be located so that no part of the vehicle is on any public right-of-way. Loading spaces may occupy any part of a required yard except a front yard, or may be contained within the building; provided, however, that no loading space shall be located closer than 50 feet to another lot in any R district unless completely enclosed within the building or by a wall or uniformly painted solid board fence not less than eight feet high. In an M district, loading spaces may occupy any part of a front or street side yard when the loading facilities are set back a minimum of 50 feet and such loading spaces are delineated by a curb or bumper, parallel with the property line to prevent encroachment on the right-of-way, and when curb and gutter, and storm sewer, all to county specifications, are provided.

(Code 1980, § 22-97; Code 1995, § 24-97)

Sec. 24-98. Parking lot regulations.

Every public or private parking lot for six or more vehicles in any district shall be subject to the following regulations:

(a) *Setbacks.* It shall be subject to the provisions of section 24-96(c). On the street side of a corner lot, no side yard of more than ten feet shall be required, except as provided in section 24-96(c).

(b) *Landscaping.* Parking lots and their required minimum yards shall be landscaped in accordance with the standards and requirements of section 24-106.2 of this chapter.

(c) *Lighting.* Any lighting equipment shall be so arranged as to direct the light and glare away from nearby residential property.

(d) *Reserved.*

(e) *Paving.* All public parking lots, and all other parking lots situated within 200 feet of any R district, shall be paved with at least a bituminous penetration pavement meeting county specifications.

(f) *Drainage.* Lots shall not be drained onto or across public sidewalks, or onto adjacent property except into a natural watercourse or a drainage easement.

(g) *Entrances.* There shall be no vehicular entrance or exit within 200 feet, along the same side of the street and in the same block, of the premises of any school, public playground, place of worship, hospital, public library or institution for children or dependents, except where the parking lot is on the same premises. On all corner lots, all vehicular openings shall be set back at least 25 feet from the point of intersection of property lines or from the established right-of-way lines as defined in section 24-95(h). No entrance or exit, whether on a corner lot or not, shall exceed 50 feet in width at the property line, or 40 feet if parking is permitted, nor within 12½ feet of a property line. There shall be a minimum distance between driveways of 25 feet measured along the curbline, unless such driveways are less than five feet apart. When the above entrance or

exit setbacks or dimensions are impossible to conform with, they may be modified by joint approval of the county engineer, chief of police, and director of planning, or their designated agents.
(Code 1980, § 22-98; Code 1995, § 24-98)

Sec. 24-99. Service stations and public garages.

(a) No automobile service station, automobile repair shop or public garage shall have a vehicular entrance or exit within 200 feet, along the same side of a street and in the same block, of the premises of any school, public playground, place of worship, hospital, public library or institution for children or dependents, and no part of any such service station, repair shop, or garages shall be within 100 feet of any of the said public, semipublic, or institutional buildings or properties. On all corner lots, all vehicular entrances and exits and all curb openings shall be set back at least 25 feet from the corner property lines extended or from the established right-of-way lines as defined in section 24-95(h). No entrance or exit, whether on a corner lot or not, shall exceed 50 feet in width at the property line or 40 feet if parking is permitted, nor within 12½ feet of a property line. There shall be a minimum distance between driveways of 25 feet, unless such driveways are less than five feet apart. When the above entrance or exit setbacks or dimensions are impossible to conform with, they may be modified by the joint approval of the county engineer, chief of police, and director of planning, or their designated agents. Curb and gutter shall be required for all service stations.
(b) No automobile service station, automobile repair shop or public garage shall be permitted where any oil draining pit or visible appliance for such purpose, other than filling caps, is located within 12 feet of any street lot line or within 25 feet of any R district, except where such is within a building.
(Code 1980, § 22-99; Code 1995, § 24-99)

Sec. 24-100. Group housing projects.

A permit for the erection of a group housing project, where permitted, may be authorized by the board of appeals, provided such group conforms to all the following conditions and requirements, even through the building locations and the lot, yard and other requirements do not meet in all respects the requirements stipulated for the district in which located:

(a) The gross area of the site shall be at least 20 percent greater than the aggregate of the minimum lot areas otherwise required for the individual units in the group.
(b) Each dwelling in the group shall front either on a street or on a permanent public open space or common yard at least 60 feet wide.
(c) The distances between principal buildings, back to back, shall not be less than the sum of the minimum rear yard depths required in the district in which located, and the distances between buildings in any other direction shall be not less than the sum of the minimum side yard widths required in the district.
(d) The distance between principal buildings and the nearest lot lines, other than a front lot line, shall be not less than the height of the building, nor less than 30 feet for a side lot line or 60 feet for a rear lot line.
(e) Every dwelling shall be within 60 feet of an access driveway at least 20 feet wide leading to a public street, and shall be not more than 200 feet, measured along such driveway, from the public street.
(f) No detached accessory building shall be closer to a principal building than 25 feet.
(g) Except for the provisions hereinabove set forth, all other requirements applicable in the district in which a group housing project is located, including off-street parking, shall apply.
(Code 1980, § 22-100; Code 1995, § 24-100)

Sec. 24-100.1. Temporary family health care structures.

(a) A temporary family health care structure shall comply with all setback requirements that apply to the primary structure on the lot.
(b) The applicant shall connect the temporary family health care structure to all water, sewer, and electric utilities serving the primary residence, and shall comply with applicable requirements of the Virginia Department of Health. The applicant shall obtain all required building, electrical, plumbing, well and septic system permits.
(c) The applicant shall obtain a permit from the director of planning before installing the temporary family health care structure.
(d) The applicant shall provide evidence of compliance with this section on an annual basis as long as the temporary family health care structure remains on the property. Such evidence shall be submitted to the director of planning or his designee, and shall consist of a certification from the mentally or physically impaired person's physician that the person still requires assistance with two or more activities of daily living and sufficient evidence that the applicant satisfies the definition of caregiver in section 24-3.
(e) The director of planning or his designee shall be permitted to inspect the temporary family health care structure at reasonable times convenient to the caregiver, not limited to the annual compliance confirmation.
(f) The director of planning may revoke the permit for any violation of this section.
(g) There shall be no signs advertising or otherwise promoting the existence of the temporary family health care structure either on the exterior of the structure or elsewhere on the property.
(h) The temporary family health care structure shall not be placed on a permanent foundation.
(i) The temporary family health care structure shall be removed within 60 days of the date on which the temporary family health care structure was last occupied by a mentally or physically impaired person receiving services or in need of the caregiver's assistance.
State law reference: Code of Virginia § 15.2-2292.1

Sec. 24-101. Neighborhood and community shopping centers.

A neighborhood or community shopping center may be authorized by the planning commission in districts where such is permitted by this chapter, subject to the following conditions:

(a) The site shall contain, in the aggregate, a lot of at least two but not more than ten acres in the case of a neighborhood center, and in the case of a community center not more than 40 acres.
(b) The location shall correspond substantially with a location for a neighborhood or community business center as shown on the official land use plans of the county.
(c) The uses permitted in a neighborhood center shall be those retail business, commercial and service uses permitted in the B-1 district, and those in a community center shall be the same kinds as permitted in a B-2 district; except that no residential or industrial uses shall be permitted, or any uses other than such as is necessary or desirable to supply with goods or services the needs of the surrounding neighborhood or community, as the case may be.
(d) The planning commission shall determine, on the basis of evidence to be furnished by the applicant:
(1) That there is a reasonable need or justification for the center as shown by land use studies, market surveys or other means which it shall determine.
(2) That the size of the center is substantially in keeping with the need as shown by said evidence.
(3) That there is adequate provision for traffic to and from the center, without congestion, on existing streets or on streets scheduled to be completed by the time the center is to be opened.
(4) That the proponents intend to start construction within one year and to complete it within a reasonable time to be determined by the planning commission in each case.
(e) The applicant shall submit for the planning commission's approval a layout plan of development for the

center which is in keeping with modern planning principles, is of coordinated and harmonious design and will produce an attractive and efficient shopping center, convenient, pleasant and safe to use and which will fit harmoniously into, and will have no adverse effect upon, the adjoining or surrounding development. Such plan, in particular, shall be in accordance with the following regulations:

(1) *Building height.* No building shall exceed 25 feet in height in a neighborhood center. No building shall exceed 110 feet in height in a community center, unless authorized by provisional use permit.

(2) *Yards.* No building shall be less than 50 feet distant from any boundary of the site.

(3) *Landscaping and screening.* The center shall be landscaped, buffered and screened in accordance with section 24-106.2.

(4) *Site coverage.* The ground area covered by all the buildings shall not exceed in the aggregate 25 percent of the total area.

(5) *Parking space.* Notwithstanding any other requirements of this chapter, there shall be provided for customers and employees parking spaces in number as indicated on the accompanying graph. These spaces will be determined by the gross leasable area of the shopping center excluding unfinished storage areas. The planning commission shall, in the review of each shopping center, determine that all parking spaces are effectively usable as to location and layout.

(6) *Loading space.* Notwithstanding any other requirement of this chapter, there shall be provided one off-street loading or unloading space for each 20,000 square feet or fraction thereof of aggregate floor space of all buildings in the center. At least one-third of such spaces shall be sufficient in size and height to accommodate trucks of the tractor-trailer type.

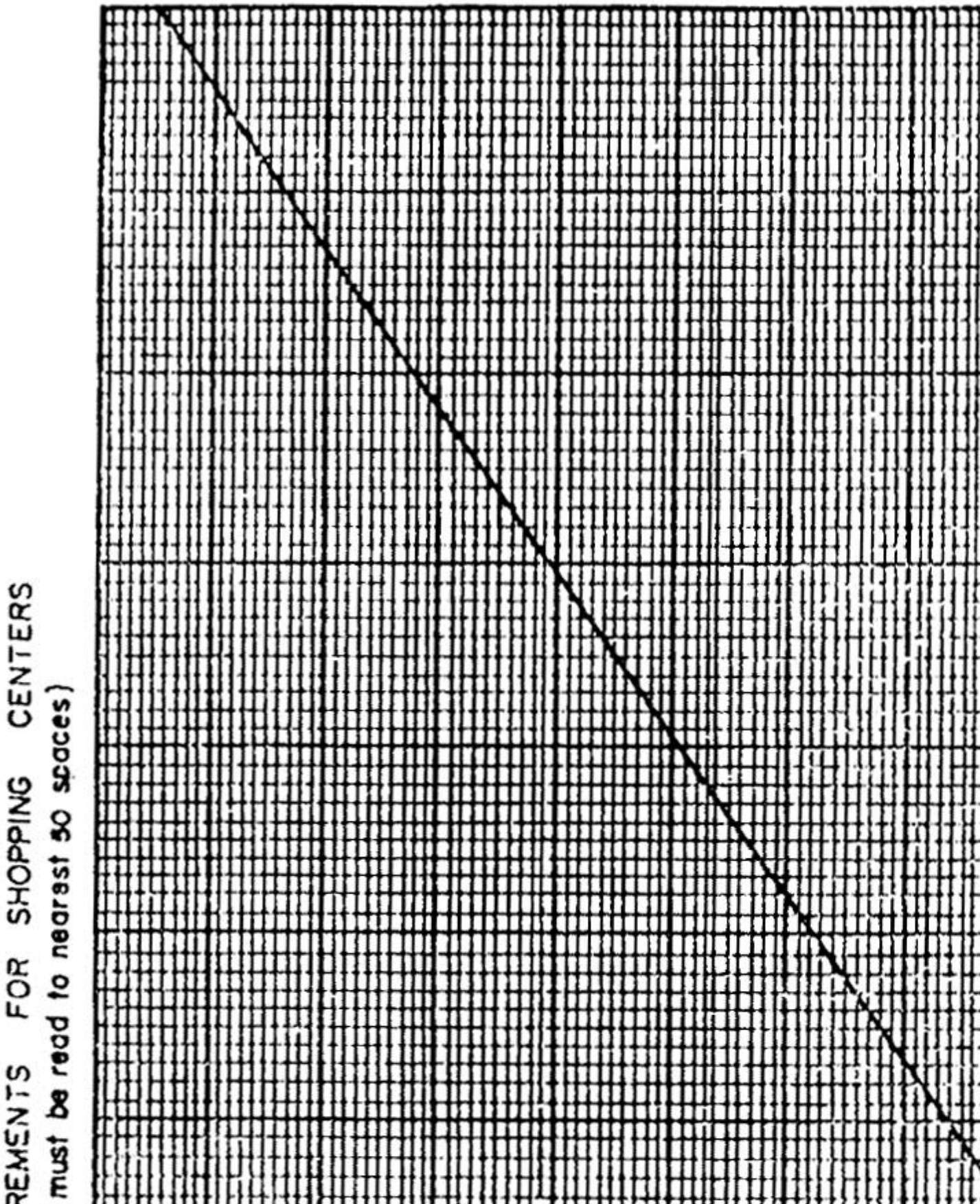
(7) *Entrances and lighting of parking areas.* These shall comply with the requirements of parking lots in section 24-98.

(8) *Signs.* As regulated in section 24-104.1.

(9) *Drainage.* Provision shall be made for proper stormwater drainage. Water shall not be permitted to drain onto or across public sidewalks, or onto adjacent property except into a natural watercourse or a drainage easement.

(f) After review under sections 24-54.1(u), 24-58.1(u), 24-62 and 24-106, the planning commission may approve the layout plan of development if it appears to meet all the foregoing requirements in this section and to be in all respects of a type that will be a credit to the surrounding area, whereupon such center may be built and maintained in conformity with said plan. In the course of development, minor adjustments in the plan may be authorized by the planning commission.

(Code 1980, § 22-101; Code 1995, § 24-101; Ord. No. 1091, § 12, 11-14-2006)


REMENTS FOR SHOPPING CENTERS
must be read to nearest 50 spaces)

Sec. 24-102. - Trailers and trailer parks.

No trailer of any kind shall be parked or stored in any district except as follows:

(1) In an R district, one manufactured home may be parked or stored in an enclosed garage on the same lot with the principal use, provided it shall not be occupied for living or business purposes. The wheels or other transporting devices shall not be removed, except for repairs, nor shall the manufactured home be connected to any utility service or to the ground or another structure in any manner that would prevent its ready removal.

(2) In any district used for residential purposes, one travel, utility and/or boat trailer, as an accessory use, may be parked or stored in the rear, side yard or in a carport or garage on the same lot with the principal use, provided it shall not be occupied for living or business purposes. The wheels or other transporting devices shall not be removed, except for repairs, nor shall the trailer be connected to any utility service or to the ground or other structure in any manner that would prevent its ready removal.

(Code 1980, § 22-102; Code 1995, § 24-102)

Sec. 24-103. Sand and gravel pits.

The county shall enforce all requirements of the Virginia Mineral Mining Law (Code of Virginia, title 45.1, ch. 16, as amended) and its implementing regulations, guidelines and drainage handbook promulgated by the state division of mineral mining. All mineral mining operations shall strictly comply with these requirements which are hereby incorporated by reference into this section.

The following regulations shall apply to all sand, gravel or clay pits, quarries, mines and other operations for the extraction of any materials from the earth or subsoil from which approval by the board of zoning appeals is required by other provisions of this chapter, including the removal of topsoil when such removal of topsoil is conducted in conjunction with the extraction of any materials from the earth or subsoil, except that such regulations shall not apply to excavations for any building, structure or use for which a building permit has been obtained:

(a) The excavations shall be confined to areas distant at least 100 feet from any and all adjoining property lines in any residence, business or agricultural district and distant at least 200 feet from any dwelling or any and all property lines in any platted subdivision, except that excavations may be conducted within such limits provided the written consent of the owners of such adjoining properties is secured.

(b) The excavations shall be confined to areas distant at least 200 feet from the right-of-way lines of any existing or platted street, road or highway, except that where the ground level is higher than the road the board of zoning appeals may permit excavations down to the road level.

(c) Any building containing power-driven or power-producing machinery or equipment shall be distant at least 600 feet from all adjacent property in any residence, business or agricultural district or the right-of-way lines of any existing or platted street, road or highway.

(d) All roadways on and all vehicular entrances and exits from the premises on which such operations are conducted to any public roads shall be located to secure public safety, lessen congestion and facilitate transportation, and shall be so maintained as to eliminate any nuisance from dust to neighboring properties.

(e) All equipment used for the production or transportation of materials shall be constructed, maintained and operated in such a manner as to eliminate as far as practicable noise, vibrations or dust which are injurious or annoying to persons living in the vicinity.

(f) A plan of operation shall be submitted to and approved by the board of zoning appeals which shall provide in all respects for the adequate safeguarding and protection of other nearby interests and the general

public health, safety, convenience, prosperity and welfare, and which shall include a satisfactory plan and program showing, by contour maps and otherwise, how the land is to be restored to a safe, stable and usable condition by regrading, draining, planting or other suitable treatment so that it will resist erosion and conform substantially with adjacent land characteristics.

(g) Whenever the special use permit issued by the board of zoning appeals shall have expired, or whenever the operations shall have ceased for any period exceeding 12 consecutive months, then all plants, buildings, structures (except fences), stockpiles and equipment shall be entirely removed from the premises, and the premises shall be restored as required by subsection (f) above.

(h) A bond or other suitable guarantee shall be furnished prior to undertaking any work under the permit guaranteeing the faithful performance of all of the applicable requirements in this chapter.

(i) The board of zoning appeals may renew a permit, after a public hearing, provided an application therefor is filed within 60 days before its expiration date, in the same manner as for an original permit, provided the applicant is carrying out the requirements of this existing permit in good faith.

(Code 1980, § 22-103; Code 1995, § 24-103)

Sec. 24-104. Reserved.

Sec. 24-104.1. Signs.

(a) *Findings, purpose and intent; interpretation.*

(1) Signs obstruct views, distract motorists, displace alternative uses for land, and pose other problems that call for regulation.

(2) This section regulates the size, color, illumination, movement, materials, location, height, and condition of signs. The purposes of this section are to:

a. Reduce the problems caused by signs;
b. Facilitate the creation of a convenient, attractive, and harmonious community;
c. Protect property values and the character of neighborhoods and historic areas within the county;
d. Promote the safety of pedestrians and traffic; and
e. Encourage economic development.

(3) This section is designed to comply with the United States Supreme Court's ruling in *Reed v. Town of Gilbert* decided June 18, 2015.

(4) If any provision of this section is found by a court of competent jurisdiction to be invalid, the remaining provisions should be given effect to the fullest extent possible consistent with the First Amendment guarantee of free speech.

(5) Wherever this chapter allows a sign with commercial content, noncommercial content is also permitted subject to the same requirements.

(b) *Permit required.*

(1) A sign permit is required prior to the display of any sign except as provided in subsection (c).

(2) An application for a sign permit on provided forms shall be filed with the building official, who shall submit it to the director of planning for review. The applicant shall provide sufficient information to demonstrate that the proposed sign is permitted under the Uniform Statewide Building Code and this chapter.

(3) A nonrefundable fee as set forth in the Uniform Statewide Building Code shall accompany each sign permit application.

(4) If an application complies with all provisions of this chapter, the director of planning shall indicate approval of the application and return it to the building official within 20 business days after receipt. If an application is incomplete, the director of planning or designee shall notify the applicant of the deficiencies within 20 business days after receipt.

(5) If an application does not comply with this chapter, the director of planning or designee shall indicate denial on the application, provide written reasons for the denial, and return it to the building official or designee within 20 business days after receipt.

(6) If a sign is not installed within six months after issuance of a sign permit, the permit shall be void. The director of planning or designee may revoke approval of a sign permit under any of the following circumstances:

a. Information in the application was materially false or misleading;

b. The sign as installed does not conform to the sign permit application; or

c. The sign violates this chapter or the Uniform Statewide Building Code.

(7) For any property subject to a plan of development, a comprehensive sign program may be submitted to the director of planning with one or more sign permit applications. The comprehensive sign program shall establish the number, location, area, height, materials, and illumination of all signs to be placed on the site. The director of planning may approve a comprehensive sign program that conforms to the total area and maximum height limitations of this section.

(c) *Signs not requiring permits.*

A sign permit is not required for:

(1) Any sign placed by a government body, required by law, or permitted by the Virginia Department of Transportation.

(2) Up to three noncommercial flags on any lot. Any commercial flag shall comply with the regulations for detached signs.

(3) The refacing or repair of an existing permitted sign.

(4) On any lot, not more than two non-illuminated signs each not exceeding 1 square foot in area or 4 feet in height.

(5) Non-illuminated signs posted along the property line of any lot, except that (i) no such sign shall exceed 1 square foot in area and (ii) no two such signs shall be posted within 250 feet of each other on the same property line. Notwithstanding the general prohibition in section 24-104.1(d)(1)(b), such signs may be attached to trees.

(6) Window signs that do not exceed 50% of the total area of the window or door.

(7) Temporary signs, as follows:

a. On property where a building permit is active, one sign no more than 3 square feet in area;

b. On property actively marketed for sale or rent, one sign no more than 32 square feet in area and 8 feet in height when the sign abuts a street classified as a controlled access, major arterial, minor arterial, major collector, or major access road; and no more than 3 square feet in area and 4 feet in height when the sign abuts any other street;

c. In any R, A-1, or C-1 district: temporary noncommercial signs not exceeding 16 square feet in aggregate area for each lot may be displayed no more than 90 consecutive days and no more than 120 days in any calendar year; and

d. In any office, business, or industrial district: temporary noncommercial signs may be displayed no more than 90 consecutive days and no more than 120 days in any calendar year. Each sign shall not exceed 32 square feet, and the total aggregate area of signs along any 300-foot segment of street frontage shall not exceed 32 square feet. Detached signs shall not be illuminated and shall not exceed 8 feet in height.

(8) In any office, business, or industrial district: one display of attention-getting devices for a period not exceeding 10 days in each three-month period: January 1 through March 31, April 1 through June 30, July 1 through September 30, or October 1 through December 31, provided that:

a. The display shall not obstruct any public right-of-way, required parking space, or ingress or egress to any building;

b. The display shall not damage required landscaping; and

c. If an otherwise permissible attention-getting device is displayed more than 10 days in any three-month period, in addition to any other remedy, the number of days in excess of 10 shall be counted against the number of days permitted in future three-month periods.

(d) *Prohibited signs.*

The following signs are prohibited:

(1) General prohibitions.

a. Any sign attached to trees, bushes, shrubberies, or other plants or vegetation;

b. Any sign simulating, or which is likely to be confused with, a traffic control sign, any other sign displayed by a public authority, or the lights or markings on an emergency vehicle; and

c. Any sign displayed on a stationary vehicle or trailer that is used for the purpose of a mobile or portable sign, including the parking of a vehicle for a period of more than 24 hours in such a manner that it is within 100 feet of and plainly visible from the public right-of-way.

(2) Prohibitions based on construction.

a. Any sign with parts that rotate or move, or appear to rotate or move;

b. Any sign displaying flashing, scrolling, or intermittent lights or lights of changing degrees of intensity;

c. Searchlights;

d. Any sign consisting primarily of exposed illuminated tubing or strings of lights, except in windows or when used for temporary decorations not to exceed 90 days in any calendar year;

e. Any sign that emits smoke, flame, scent, mist, aerosol, liquid, or gas;

f. Any sign that emits sound; and

g. Strings of pennants or flags except temporary attention-getting devices as provided in section 24-104.1(c)(8).

(3) Prohibitions based on location.

a. Off-premises commercial signs, except outdoor advertising signs allowed by section 24-104.1(l)(7);

b. Any sign placed on public land, including street right-of-way, other than those approved in writing by the county engineer or the Virginia Department of Transportation, required by law without such approval, or permitted under Code of Virginia § 24.2-310 E, as amended. Any unauthorized sign is subject to immediate removal and disposal by any authorized official. Removal of the sign by an authorized official does not preclude prosecution of the person responsible for the sign;

c. Any sign attached to the roof of a building (other than the lower plane of a mansard roof), extending above the ridge of a sloped roof, or attached to a parapet wall and extending above the top of such wall; and

d. Any sign that prevents a driver from having an unobstructed view of an intersection or seeing conflicting vehicles or pedestrians in the roadway.

(e) *Measurements of sign area and height.*

(1) For a detached sign, the sign area shall include all of the sign including the background of the display. The supports, uprights, or structure on which a detached sign is supported shall not be included in determining the sign area unless they form an integral part of the display.

(2) For an attached sign, the sign area shall include all of the sign and that portion of the wall or fence that forms the background of the display.

(3) For a sign in the shape of a regular polygon or circle, the area shall be calculated by the mathematical formula for area of that polygon or circle. For a sign not in the shape of a regular polygon or circle, the sign area shall be calculated based on a maximum of six abutting or overlapping rectangles that enclose the sign.

(4) For a sign with two parallel faces not more than 24 inches apart, or two faces attached in a V-shape with an interior angle not exceeding 90 degrees, only one side shall be included in the calculation of sign area. If one face is larger than the other, the larger face shall be used.

(5) For a sign consisting of three vertical faces attached in the shape of a triangle, the largest two faces shall be included in the calculation of sign area.
(6) For an attached sign that projects four inches or more from the wall to which it is attached, the sign area shall also include the area of the visible sides of the sign, calculated as a rectangle enclosing each entire side view.
(7) For a cylindrical sign, the sign area shall be calculated by multiplying one-half of its circumference by its height.
(8) Where the allowed sign area is based on the length of a building, the building length shall be the longest dimension parallel to one wall. For a building divided into multiple tenant spaces, the length of the building shall be the sum of the lengths of the longest exterior wall of each tenant space.
(9) The height of a sign shall be the vertical distance from the highest point of the sign to either the street grade or the average lot grade at the front setback line, whichever elevation is greater.

(f) *Maintenance and removal.*

(1) All signs shall be constructed and maintained in compliance with the Uniform Statewide Building Code and in a neat and clean condition.
(2) The building official may order the immediate removal or repair of any sign which he determines presents an immediate threat to the safety of the public because it has become insecure, in danger of falling, or otherwise unsafe. If such action is necessary to render a sign safe, the cost of such action shall be at the expense of the owner or lessee of the premises.
(3) Any sign that becomes a safety hazard or that is not kept in a reasonably good state of repair shall be put in a safe and good state of repair after written notice by the building official to the property owner or permit holder.
(4) When the business advertised on a sign has ceased operating, the owner of the property shall remove the sign or replace the sign face with a blank face within 60 days of the cessation of business operations until such time as a new use has begun operating on the property.
(5) Any sign that constitutes a nuisance may be abated by the county under the provisions of Code of Virginia §§ 15.2-900, 15.2-906, or 15.2-1115.

(g) *General requirements.*

(1) Detached signs shall be set back from any street right-of-way at least 5 feet.
(2) Any attached sign in a business or industrial district located within 150 feet of an R district on the same side of the same street shall be attached flat against a building wall that does not face the adjacent R district.
(3) External lighting of signs shall consist of full cut-off or directionally shielded lighting fixtures that are aimed and controlled so that the directed light shall be substantially confined to the sign. The beam width shall not be wider than that needed to illuminate the sign.
(4) Illumination from any sign shall not exceed 0.5 foot candle above ambient lighting conditions at any property line, and shall not shine directly into oncoming traffic or directly into a dwelling.
(5) For any sign in the B-1, B-2, or B-3 business districts or the M-1, M-2, or M-3 industrial districts, except for outdoor advertising signs subject to section 24-104.1(l)(7), the image or message shall not change more often than once every 10 seconds. For any sign in any other zoning district, the image or message shall not change more often than once every 5 minutes. The images, messages, and transitions between them shall not include or simulate motion, video, or animation.

(h) *Nonconforming signs.*

(1) Signs lawfully existing on April 25, 2017, that do not conform to the provisions of this section shall be deemed nonconforming but may remain, subject to the qualifications in this subsection. Notwithstanding the foregoing, any outdoor advertising sign (i) allowed by section 24-104.1(l)(7), (ii) not prohibited by section 24-104.1(d), and (iii) meeting the requirements of section 24-104.1(g) shall be considered a conforming sign for purposes of this section.

(2) The burden of establishing nonconforming status of a sign and of the physical characteristics and location of such sign shall be that of the owner of the property. Upon notice from the director of planning, a property owner shall submit verification that a sign was lawfully existing at the time of erection. Failure to provide such verification shall be cause for an order to remove the sign or bring the sign into compliance with this section.

(3) A nonconforming sign may not be enlarged and any feature of a nonconforming sign, such as illumination, may not be increased. This paragraph is not intended to prohibit upgrades in the efficiency of lighting of any sign, or the addition of solar panels to an outdoor advertising sign subject to section 24-104.1(l)(7).

(4) Nothing in this section shall be deemed to prevent maintenance or repair of a nonconforming sign.

(5) A nonconforming sign may not be moved unless such change in location will make the sign more nearly conform to the provisions of this section.

(6) A nonconforming sign that is destroyed or damaged by any casualty to an extent not exceeding 50% of its area may be restored within two years after such destruction or damage but shall not be enlarged in any manner. If a nonconforming sign is destroyed or damaged to an extent exceeding 50% of its area, it shall not be reconstructed but may be replaced with a sign that complies with this section.

(7) A nonconforming sign that is changed to become conforming or is replaced by a conforming sign shall no longer be deemed nonconforming, and thereafter such sign shall be maintained in accordance with the provisions of this section.

(8) A nonconforming sign structure shall be subject to the removal provisions of this section. In addition, a nonconforming sign structure shall be removed if the use to which it is accessory has not been in operation for a period of two years or more. Following the expiration of the two-year period any abandoned nonconforming sign shall be removed by the owner of the property on which the sign is located, if notified by the county to do so. If, following such two-year period, the county has made a reasonable attempt to notify the property owner, the county through its own agents or employees may enter the property upon which the sign is located and remove any such sign whenever the owner has refused to do so. The cost of such removal shall be chargeable to the owner of the property.

(i) *One-family residence, R-5A, agricultural, and conservation districts*. A sign permit may be issued for the following signs in the R-0, R-0A, R-1, R-1A, R-2, R-2A, R-3, R-3A, R-4, and R-4A one-family residence districts, the R-5A general residence district, the A-1 agricultural district, and the C-1 conservation district.

(1) At each entrance to a section of an approved and recorded subdivision: one detached sign not exceeding 25 square feet in area or 6 feet in height, or two signs attached to a wall or fence on opposite sides of the entrance, not exceeding 30 square feet in aggregate area. Such signs may be located in the right-of-way if approved by the county engineer.

(2) Accessory to a nonresidential use other than an assembly use or county facility: one attached or detached sign not exceeding 20 square feet in area. Detached signs shall not exceed 8 feet in height.

(3) Accessory to an assembly use or county facility:

a. No more than three attached or detached signs, not exceeding 50 square feet each or 82 square feet in aggregate area. Detached signs shall not exceed 8 feet in height.

b. For each parking lot serving two or more buildings: one detached sign per building, not exceeding 3 square feet in area or 5 feet in height.

(j) *Other residence districts*. A sign permit may be issued for the following signs in the R-5 and R-6 general residence districts, the RTH residential townhouse district, and the RMP district.

(1) Accessory to a residential use for which a plan of development is required, including a townhouse project or multifamily development:

a. At each entrance to a phase or section as shown on the approved plan of development or recorded subdivision plat: one sign not exceeding 32 square feet in area or 8 feet in height, or two signs attached to a wall or fence on opposite sides of the entrance, not exceeding 36 square feet in aggregate area. Such signs may be located in the right-of-way if approved by the county engineer.

b. For each parking lot serving two or more buildings: one detached sign per building, not exceeding 3 square feet in area or 5 feet in height.

(2) Accessory to a nonresidential use other than an assembly use or county facility: one attached or detached sign not exceeding 20 square feet in aggregate area. Detached signs shall not exceed 8 feet in height.

(3) Accessory to an assembly use or county facility:

a. No more than three attached or detached signs, not exceeding 50 square feet each or 82 square feet in aggregate area. Detached signs shall not exceed 8 feet in height.

b. For each parking lot serving two or more buildings: one detached sign per building, not exceeding 3 square feet in area or 5 feet in height.

(k) *Office and office/service districts*. A sign permit may be issued for the following signs in the O-1, O-2, and O-3 office districts, and the O/S and O/S2 office service districts.

(1) For each lot: one detached sign if the lot has an entrance on one public street, or two detached signs if the lot has entrances on two or more public streets. Each sign shall not exceed 32 square feet in area or 15 feet in height.

(2) For each building: attached signs not exceeding 32 square feet in aggregate area for each 25,000 square feet of finished floor area or part thereof. One detached sign not exceeding 12 square feet in area or 5 feet in height may be substituted for 12 square feet of attached sign area.

(3) For each parking lot serving two or more buildings: one detached sign per building, not exceeding 3 square feet in area or 5 feet in height.

(4) For each phase or section in the approved plan of development: one attached or detached sign not exceeding 20 square feet in area. Detached signs shall not exceed 10 feet in height. Such signs may be located in the right-of-way if approved by the county engineer.

(5) For a coordinated development of 20 acres or more:

a. For each entrance from a major arterial, minor arterial, or major collector road: one detached sign not exceeding 75 square feet in area, or two signs not exceeding 75 square feet in aggregate area when attached to a wall or fence on opposite sides of an entrance. Each sign shall not exceed 15 feet in height and shall not be located within 75 feet of any other detached sign. Such signs may be located in the right-of-way if approved by the county engineer.

b. For each 20 acres or part thereof: one detached sign not exceeding 36 square feet in area or 6 feet in height, provided such signs shall not be located within 75 feet of any other detached sign. Such signs may be located in the right-of-way if approved by the county engineer.

(l) *Business districts*. A sign permit may be issued for the following signs in the B-1, B-2, and B-3 business districts. In the B-1 district, no sign shall be illuminated between 12:00 midnight and 6:00 a.m.

(1) Attached signs not exceeding the following aggregate allowance of sign area for each linear foot of building length: in the B-1 district, 1.5 square feet; in the B-2 district, 3 square feet; in the B-3 district, 4 square feet.

(2) Detached signs: one of the following may be allowed on a parcel as applicable, but not both:

a. Accessory to one business with independent street access and parking: one detached sign may be located along each public street frontage. Such signs shall not exceed 32 square feet in area each or 8 feet in height and shall be located at least 75 feet from any other detached sign.

b. Accessory to a group of two or more businesses with coordinated street access and parking: one detached sign for each point of access to a public street, provided that any two signs on the same public street shall be located at least 500 feet apart, and any such sign shall be located at least 75 feet from any other detached sign. Such signs shall not exceed 150 square feet in area each or 25 feet in height, except that for a coordinated development of 40 acres or more, one detached sign may be up to 250 square feet in area and 30 feet in height.

(3) For each parking lot serving two or more buildings: one detached sign per building, not exceeding 3 square feet in area or 5 feet in height.

(4) For a coordinated development of 20 acres or more: one detached sign not exceeding 36 square feet in area or 6 feet in height for each 20 acres or part thereof. Such signs shall not be located within 75 feet of any other detached sign. Such signs may be located in the right-of-way if approved by the county engineer.

(5) For a coordinated development of 40 acres or more: for each parcel improved with a building of 60,000 square feet or more of finished floor area, one monument sign not exceeding 35 square feet in area or 5 feet in height.

(6) Accessory to a drive-through window: no more than two detached signs for each position where orders are placed or customers are served, one not exceeding 48 square feet in area and one not exceeding 24 square feet in area. Such signs shall not exceed 8 feet in height.

(7) In the B-3 district, outdoor advertising signs as provided below.

a. No permit will be issued for a new outdoor advertising sign in addition to those lawfully in existence on May 27, 1998, except as follows:

1. *Replacement*. A lawful outdoor advertising sign for which a permit has been issued may be replaced with a new outdoor advertising sign at the same location provided the new sign shall not (i) exceed 500 square feet in area, (ii) exceed 40 feet in height if abutting an interstate highway or 25 feet in height if not abutting an interstate highway, and (iii) project over any property line or any right-of-way line (public or private).

2. *Relocation*. A lawful outdoor advertising sign for which a permit has been issued may be relocated to, or replaced with a new outdoor advertising sign at, a new site on the same side of the same street provided that (i) the new location shall be on the same lot as the original sign or on a different lot and within 500 feet of the original sign, measured parallel to the front property line, (ii) the new location shall be at least 1,000 feet from any other outdoor advertising sign on the same side of the same street, (iii) the new location shall be at least 500 feet from any residential district fronting on the same side of the same street, or from any school, county park, or place of worship, (iv) the relocated or replacement sign shall not exceed 500 square feet in area, (v) the relocated or replacement sign shall not exceed 40 feet in height if abutting an interstate highway, or 25 feet in height if not abutting an interstate highway, and (vi) the relocated or replacement sign shall not project over any property line or any right-of-way line (public or private). For purposes of this provision, "original sign" shall mean the sign as it existed on May 27, 1998.

b. A lawful outdoor advertising sign for which a permit has been issued may be continued, maintained, refaced, or repaired at its existing location, size, and height.

c. Artistic embellishments may be added to a lawful outdoor advertising sign structure for which a permit has been issued, if such embellishments do not exceed 10 percent of the area of the sign face and such embellishments do not extend more than 5 feet from such sign structure.

(m) *Industrial districts*. In the M-1, M-2, and M-3 industrial districts and the PMD Planned Industrial District, signs shall be allowed for any use allowed in the B-3 business district, subject to the regulations for the B-3 district in subsection (l). A sign permit may be issued for the following signs for any use first allowed in the industrial districts.

(1) Attached signs not exceeding 4.5 square feet of sign area for each linear foot of building length.

(2) Detached signs: one for each point of access to a public street, provided that any two signs on the same public street shall be located at least 500 feet apart. Each sign shall not exceed 150 square feet in area or 25 feet in height and shall be located at least 75 feet from any other detached sign.

(3) For each parking lot serving two or more buildings: one detached sign per building, not exceeding 3 square feet in area or 5 feet in height.

(4) For a coordinated development of 20 acres or more: one detached sign not exceeding 50 square feet in area or 6 feet in height for each 20 acres or part thereof. Such signs shall not be located within 75 feet of any other detached sign. Such signs may be located in the right-of-way if approved by the county engineer.

(5) Outdoor advertising signs shall be allowed subject to section 24-104.1(l)(7).

Sec. 24-105. Reserved.

Sec. 24-106. Plan of development (POD), administrative and schematic site plans.

(a) *Purposes.*

(1) To ensure compliance with the applicable requirements of this chapter prior to the issuance of a building permit or beginning development.

(2) To state the specific additional requirements applicable to the development of uses under this section.

(3) To prescribe the standards for preparation and submission of plans of development and for the design and construction of required improvements.

(4) To provide for compliance with approved plans for notifying adjoining owners of a submission of a plan of development.

(5) To promote traffic safety.

(6) To protect water quality through review of development in Chesapeake Bay Preservation Areas.

(b) *Uses and development requiring plan of development (POD) review and approval by the planning commission.*

(1) All uses referenced to this section.

(2) Multifamily development.

(3) Any development when parking spaces are to be used by more than one establishment.

(4) Any development adjacent to or with entrances or exits to or from a four-lane street.

(5) Residential townhouses for sale (RTH), motels, hospitals and medical facilities, banking facilities and savings and loan institutions, office buildings containing more than 5,000 square feet of floor area, automobile service stations, drive-in restaurants, airports, fairgrounds and amusement parks.

(6) All development exceeding 2,500 square feet of land disturbance. This requirement does not include the following development which shall be reviewed and approved as specified below:

a. Development requiring conditional use permits or variances reviewed by the board of zoning appeals;

b. Subdivisions reviewed by the planning commission and director of planning in accordance with chapter 19 of the County Code;

c. Development requiring provisional use permits reviewed by the board of supervisors;

d. Development reviewed in the administrative or schematic site plan approval process provided for in this section.

(c) *Temporary plan of development (POD).*

(1) A temporary plan of development (POD) may be approved for any development or land use listed in subsection 24-106(b) which will last no longer than 12 months and which shall only use temporary structures. The drainage, erosion and sediment control practices, parking, screening, fencing, services and utility requirements of this chapter may be modified in the temporary plan of development (POD), provided the county planning office, department of public works and department of public utilities concur.

(2) Prior to the approval of such temporary plan of development (POD), the planning commission may require a bond with surety approved by the county attorney to guarantee that all structures erected under the plan of development (POD) will be removed at the expiration of the period for which the permit was issued.

(d) *Required information.* Every plan of development (POD) shall contain the following information as well as other information required by the director of planning on the application form:

(1) Location of tract by an insert map at a scale of not less than one inch equals 2,000 feet, indicating the scale, the north arrow and such information as the names and numbers of adjoining roads, streams and bodies of water, railroads, subdivisions, towns and magisterial districts or other landmarks sufficient to clearly identify

the location of the property.

(2) A boundary survey of the tract by courses and distances.

(3) All existing and proposed streets and easements, their names, numbers and widths; existing and proposed utilities; watercourses and their names; owners, zoning and present use of adjoining tracts.

(4) Location, type and size of vehicular entrances to the site.

(5) The location, type, size and height of fencing, retaining walls, landscaping and buffers required by sections 24-106.2 and 24-106.3, proffers of conditional rezoning or other provisions of this chapter applicable to the specific use or zoning district.

(6) All off-street parking, loading spaces and walkways, indicating type of surfacing, size, angle of stalls, width of aisles and a specific schedule showing the number of parking spaces provided and the number required in accordance with this chapter.

(7) Number of floors, floor area, height and location of each building and proposed general use for each building. If a multifamily residential building, the number, size and type of dwelling units.

(8) The location of all existing and proposed public water and sanitary sewer facilities, including all pipe sizes, types and grades; connections to the county or other utility system; profiles, inverts and elevations of utility and drainage facilities crossings; and existing or proposed utility easements, including public service corporation easements. The location of existing and proposed private water and sewage treatment facilities including wells, septic tanks and drainfields shall be indicated.

(9) Provisions for the adequate control of natural drainage and stormwater in accordance with the county department of public works design standards and specifications including the location, sizes, types and grades of ditches, catchbasins, pipes, all connections to existing drainage systems and any existing or proposed easements. The plan shall also include provisions for the adequate control of erosion and sedimentation, as required by chapter 10, article II of the County Code.

(10) Existing topography with a maximum of two-foot contour intervals. Where existing ground is on a slope of less than two percent, either one-foot contours or spot elevations where necessary but not more than 50 feet apart in both directions.

(11) Proposed finished grading by contours supplemented where necessary by spot elevations.

(12) All horizontal dimensions shown on the site plan shall be in feet and decimals of a foot to the nearest 0.01 of a foot; and all bearings in degrees, minutes and seconds to the nearest ten seconds.

(13) The location of all Chesapeake Bay Preservation Areas located on the subject site.

(14) Proposed locations, sizes, heights and type of screen for on-site-generated refuse and/or recyclable materials and/or containers.

(15) Beginning September 1, 2000, four points tied to the Geodetic Control Network with coordinates in the Virginia State Plan Coordinate System. All features shown on the plan must be drawn to scale based upon the four points.

(16) The exact location and material of all permanent reference monuments, including any monument of the Geodetic Control Network located on the property.

(17) The delineation of the buildable areas allowed on each lot.

(18) Traffic study providing information required for review under section 15.2-2222.1 of the Code of Virginia.

(19) Mapped dam break inundation zones.

Every temporary plan of development (POD) submitted in accordance with the provisions of this section shall contain the following information:

(1) Boundary survey of the entire tract by courses and distances.

(2) Area, zoning and present record owner of the lot.

(3) Owner, zone and present use of all contiguous property.

(4) Insert map showing the general location of the tract.

(5) Location, size, height and use of each building.

(6) Existing and proposed topography.

(7) Location, type and size of proposed vehicular entrances to the site.

(8) All water, storm sewers and sanitary sewerage facilities.

(9) Location and size of parking area.

(10) Location, type and height of buffers required by sections 24-106.2 and 24-106.3, proffers of conditional rezoning or other provisions of this chapter applicable to the specific use or zoning district.

(11) Provisions for the adequate control of erosion and sedimentation as required by chapter 10, article II of the County Code.

(12) The location of all Chesapeake Bay Preservation Areas located on the subject site.

(13) Beginning September 1, 2000, four points tied to the Geodetic Control Network with coordinates in the Virginia State Plane Coordinate System. All features shown on the plan must be drawn to scale based upon the four points.

(14) The exact location and material of all permanent reference monuments, including any monument of the geodetic control network located on the property.

(15) The delineation of the buildable areas allowed on each lot.

(e) *Procedure for preparation.* A plan of development (POD) may be prepared in one or more sheets to show clearly the information required by this article and to facilitate the review and approval of the plan. If prepared in more than one sheet, match lines shall clearly indicate where the several sheets join. Every plan of development (POD) shall show the name and address of the owner and/or developer, magisterial district, county, state, north point, date and scale of drawing and number of sheets. The plan of development (POD) shall be prepared to a scale of one inch equals 50 feet or larger; the sheet or sheets shall be 23 inches by 36 inches, or any multiple thereof. The director of planning shall determine the number of clearly legible, blue or black line copies of a plan of development (POD) to be submitted which shall be accompanied by the plan of development (POD) fee and application for processing and approval.

(f) *Written notices of hearing and record thereof.* The planning commission shall, at least eight days prior to its scheduled public hearing, notify all owners of the property for which approval of a plan of development (POD) is being requested and owners of all abutting property and property immediately across the street from the property which is the subject of the request. The secretary shall give additional notice to persons, groups or other property owners as required by county or planning commission policy and/or as he may, in his discretion, deem appropriate and advisable in order to comply with the intent and spirit of this requirement. For purpose of meeting this requirement, notices may be sent by first class mail. However, the secretary of the planning commission shall make affidavit that such mailings have been made and such affidavit shall be filed with the application and other papers. A list of property owners and others notified shall be available in the planning office for public inspection by any interested persons at least eight days prior to the public hearing. If the hearing is continued for any reason, notices shall be given for each subsequent hearing in accordance with the requirements of this section.

(g) *Procedure for processing.* The director of planning is responsible for checking the plan of development (POD) for completeness and obtaining review by appropriate officials. For purposes of this section, the plan shall be deemed submitted when it contains all the information required by this chapter. The director of planning shall send the POD to each state agency required to review it under state law within ten business days of submission. The planning commission or the board of supervisors shall hold a public hearing and act on the POD within 60 days of submission or, if state agency review is required, within 45 days of receipt of approvals from all reviewing agencies unless the applicant requests an extension of time.

The planning commission or board of supervisors shall identify all deficiencies in the plan in writing by reference to specific duly adopted ordinances, regulations, or policies and shall identify modifications or

corrections that will permit approval of the plan.

In the review of a resubmitted plan for real property used for commercial or industrial uses that has been previously disapproved, the following requirements in this subsection shall also apply. The planning commission or board of supervisors shall only consider deficiencies it identified in its previous review that have not been corrected and deficiencies that arise as a result of the corrections made to address previously identified deficiencies unless there are changes, errors or omissions in the applicant's plat filings after the initial submission of the plan. In addition, the plan shall be deemed approved if the planning commission or board of supervisors fails to approve or disapprove a resubmitted plan within 45 days of resubmission.

Notwithstanding the approval or deemed approval of a proposed plan by the planning commission or board of supervisors, any deficiency that if left uncorrected would violate local, state or federal law, regulations, mandatory department of transportation engineering and safety requirements, or other mandatory engineering and safety requirements shall not be treated as approved.

Should any resubmission include a material revision of infrastructure or physical improvements from the earlier submission or if a material revision in the resubmission creates a new required review by the Virginia Department of Transportation or other state agency, the planning commission or board of supervisors may consider deficiencies appearing in the resubmission because of such material revision or physical improvements.

The provisions of this subsection for commercial and industrial uses shall not apply to the review and approval of construction plans.

(h) *Required improvements.* In furtherance of the purposes of this section and to ensure public safety and general welfare, the county departments, divisions and agencies charged with the responsibility for the review and approval of plans of development (POD) shall require such of the following improvements as fall within their respective assignments:

(1) Designation of pedestrian walkways so that patrons may walk on the same from store to store, or building to building, within the site and to adjacent sites. This is not intended to require concrete walkways solely within the parking area.

(2) Construction of vehicular travel lanes or driveways not less than 22 feet in width which will permit vehicular travel on the site and to and from adjacent parking areas and adjacent property.

(3) Connection wherever possible of all walkways, travel lanes and driveways with similar facilities in adjacent developments.

(4) Screening, fences, walls, curb and gutter as are required by the provisions of this chapter, other ordinances of the county or by the regulations of the state department of highways.

(5) Easements or rights-of-way for all facilities to be publicly maintained. Such easement shall be clearly defined for the purpose intended.

(6) Curb and gutter for travel lanes or driveways that provide vehicular travel to and from adjacent parking areas or adjacent property for the purpose of separating same from parking areas and walkways.

(7) Adequate no parking signs along such travel lanes or driveways to prohibit parking on such.

(8) Adequate drainage system for the disposition of stormwater and natural waters.

(9) Temporary and permanent erosion and sediment control measures.

(i) *Agreement, bond and fees.* Prior to approval of the plan of development (POD), there shall be executed by the owner or developer an agreement to construct any required physical improvements which are located within public rights-of-way or easements or are connected to any public facilities, and the planning commission may require a bond with surety for the estimated cost of the required physical improvements as determined by the appropriate county agencies. The aforesaid agreement and bond shall be in a form approved by the county attorney and shall be provided to ensure completion of all work covered thereby within the time to be determined by the planning commission. The time for completion may be extended by the planning commission upon written application by the owner or developer, signed by all parties

(including sureties) to the original agreement. The adequacy, conditions and acceptability of any bond hereunder shall be determined by the board of county supervisors or any official or officials of the county as may be designated by resolution of the board. In any case where any such official or officials have rejected any such agreement or bond, the owner or developer shall have the right to have such determination made by the board of county supervisors, provided that the owner or developer has paid to the county a fee for the examination and approval of the plan of development (POD) and inspection of all required improvements shown on such plans.

Fees for plans of development (POD) shall be determined by the board of county supervisors which by ordinance may change from time to time the fees for the examination and approval of plans of development (POD) and the inspection of all required improvements included in such plans.

(j) *Approval and extension.* Approved plans of development shall be valid for the periods provided in section 15.2-2261 of the Code of Virginia, as amended. However, any approved plan of development valid and outstanding as of January 1, 2017, shall remain valid until July 1, 2020. Any other plan or permit associated with such plan of development shall likewise be extended until July 1, 2020. The extension of validity provided for approved plans of development outstanding as of January 1, 2017, shall not be effective unless any performance bonds and agreements or other financial guarantees of completion of public improvements in or associated with the proposed development are continued in force.

(k) *Revisions.* Any plan of development (POD) may be revised in the same manner as originally approved.

(l) *Building permit.* No permit shall be issued for any structure in any area covered by the plan of development (POD) that is required under the provisions of this section except in conformity to such plan of development (POD) which has been duly approved.

(m) *Inspection and supervision during installation.*

(1) Unless specifically provided in this section, the construction standards for all off-site improvements and on-site improvements required by this article shall conform to the county design and construction standards.

(2) Inspections during the installation of the off-site improvements and required on-site improvements shall be made by the department responsible for such improvements as required to certify compliance with the approved plan of development (POD) and applicable county standards.

(3) The owner shall notify the director of planning 24 hours prior to the beginning of all street or storm sewer work shown to be constructed on the plan of development (POD).

(4) The owner shall have one set of approved plans, profiles and specifications available at the site at all times when work is being performed. A designated, responsible employee shall be available for contact by county inspectors.

(5) Upon satisfactory completion of all installation of the required improvements, the owner shall receive an approval from the director of planning, the county engineer and the director of public utilities on the improvements upon the application for such approval. Such approval will authorize the release of any bond which may have been furnished for the guarantee of satisfactory installation of such improvements or parts thereof. Inspection is to be made within a reasonable time of the request, and the bond released as quickly as circumstances will permit.

(6) The installation of improvements as required in this section shall in no case serve to bind the county to accept such improvements for the maintenance, repair or operation thereof, but such acceptance shall be subject to the existing regulations concerning the acceptance of each type of improvement.

(n) *Occupancy certificate.* A final occupancy permit may be issued for any appropriately completed building or part of building located in a part of the total area of an approved plan of development (POD), provided:

(1) The other on-site construction and improvements included in the approved plan of development (POD) for the section have been completed and have been inspected and accepted by the director of planning, the director of public works, the director of public utilities, the county health officer or their agents.

(2) The off-site improvements related to and necessary to service the section have been completed and

inspected and accepted by the director of planning, the director of public works, the director of public utilities or their agents, or the developer has provided surety acceptable to the bonding committee of the county.

(o) *Violations and penalties.* Any person, whether as owner, lessee, principal, agent, employee or otherwise, who violates any of the provisions of this section or permits any such violation or fails to comply with any of the requirements hereof or who erects any building or uses any building or any land prior to the approval of an occupancy certificate by the director of planning shall be guilty of a misdemeanor and upon conviction thereof shall be subject to punishment as provided by section 24-110. Each day such violation continues shall constitute a separate offense.

Any building erected or improvements constructed contrary to any of the provisions of this section or any use of any building or land which is conducted, operated or maintained contrary to any provision of this section shall be and the same is hereby declared to be unlawful. The director of planning may initiate an injunction, mandamus or any other appropriate action to prevent, enjoin, abate or remove such erection or use in violation of any provision of this article. Such action may also be instituted by any property owner who may be particularly damaged by any violation of any provision of this article.

Upon his becoming aware of any violation of this article, the director of planning shall serve notice of such violation on the person committing or permitting the same, and if such violation has not ceased within such reasonable time as the director of planning has specified, he shall institute such action as may be necessary to terminate the violation. The remedies provided for in this section are cumulative and not exclusive and shall be in addition to any other remedies provided by law.

(p) *Reserved.*

(q) *Administrative site plans.*

(1) The following uses and development may be filed for administrative site plan approval:

a. Revisions, modifications and additions to previously approved, valid plans of development (POD) which are substantially in accordance with the previously approved plan of development (POD).

b. Future building additions indicated on valid plans previously reviewed by the planning commission or board of supervisors.

c. Landscaping, signage, lighting and similar plans not requiring planning commission approval.

(2) Administrative site plans shall be submitted to the director of planning with the information required in subsection (d) of this section and the application form. The director of planning shall be responsible for the processing and obtaining all agency review and approval of the plans. The review shall be completed within 30 calendar days from receipt of the completed application and plan unless the applicant requests or consents to an extension beyond such time period. If approval cannot be granted for the administrative site plan, the director of planning shall advise the applicant to file a plan of development (POD). The application shall be placed on the first meeting agenda of the planning commission after notice is given as required by subsection (f) of this section.

(3) Revisions, modifications and additions to administrative site plans shall be submitted and approved in the same manner as previously approved pursuant to this subsection.

(4) Administrative site plan approvals shall expire one year from the original date of the plan of development (POD) approval or administrative site plan approval unless a building permit has been approved or substantial site improvements are installed or being diligently pursued to completion.

(r) *Schematic site plans.* Uses and development requiring schematic site plan approval:

(1) Schematic site plans prepared by a professional engineer, surveyor or landscape architect must be submitted for review and approval for any use or development of 2,500 square feet or more of land disturbance except when a plan of development (POD), administrative site plan or other review as set forth in section 24-106(b)(6) is required by this chapter. The plans shall be submitted to the building official with a county building permit application form and the information required in paragraphs (2) and (3) of this

subsection.

(2) Request for schematic site plan review and approval shall be accompanied by the applicant's certification that he will perform the measures included on the plan and sufficient copies of the plan as required by the director of planning. The building permit application shall be accompanied by a request for schematic site plan review and approval and the applicant's signature on the building permit application certifies that the applicant will perform the measures included on the schematic site plan. For any such use or development not requiring a building permit, the schematic site plan shall be submitted directly to the planning office with an application form. Review shall be completed within 30 days unless the applicant agrees to or requests an extension of time.

(3) Every plan shall include the information required by sections 10-30 and 10-33 of chapter 10, article II of the County Code and the following information:

a. Boundary of entire lot by metes and bounds.

b. Building restriction lines to include Chesapeake Bay Preservation Areas, existing required and proposed utility easement(s), minimum yards and buffers or other improvements required by proffered conditions of rezoning.

c. All existing and/or proposed improvements, including wells, primary and secondary drainfields and reserved areas.

d. Certification by the engineer, surveyor or landscape architect indicating whether the lot is within Chesapeake Bay Preservation Areas.

(4) An approved plan shall become null and void if no significant work is done or development is made on the site within 12 months after final approval. There shall be no clearing or grading of any site without approval of the schematic site plan.

(Code 1980, § 22-106; Code 1995, § 24-106; Ord. No. 998, § 2, 2-22-2000; Ord. No. 1058, § 2, 11-12-2003; Ord. No. 1138, § 14, 11-10-2009)

Sec. 24-106.1. Development and land disturbing activities within the special flood hazard area.

(a) *Purposes.*

(1) To prevent development and land disturbing activities from increasing flood or drainage hazards.

(2) To protect new buildings and major improvements to buildings from flood damage.

(3) To protect human life and health from the hazards of flooding.

(4) To lessen the burden on taxpayers for future flood and drainage control projects, repairs to flood-damaged public facilities and utilities and flood rescue and relief operations.

(5) To make federally subsidized flood insurance available for property within the county.

(b) *Definitions.* As used in this section, the following words and phrases shall have the meanings respectively ascribed to them by this subsection:

County comprehensive drainage study map. The most recent map approved by and maintained by the county engineer designating the 100-year floodplain in the county.

Damaged or destroyed building. A damaged or destroyed building or structure is one for which the cost of restoring the building or structure to its pre-damaged condition would equal or exceed 50 percent of the market value of the building or structure before the damage occurred.

Developer. Any person who is responsible for development as defined in this section.

Development. Any manmade change to improved or unimproved real estate, including, but not limited to, buildings, manufactured homes, or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

Floodway. The channel of a river or other watercourse and the adjacent land areas shown on the most recent Flood Insurance Study or Federal Emergency Management Agency Flood Insurance Rate Map that must be reserved from encroachment in order to discharge a base flood without cumulatively increasing the water surface elevation of the flood by more than one foot.

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 nonelevation design requirements of this section or other applicable codes and ordinances.

Recreational vehicle. A vehicle which is (a) built on a single chassis, (b) 400 square feet or less when measured at the largest horizontal projection, (c) designed to be self-propelled or permanently towable by a light duty truck, and (d) designed primarily as temporary living quarters for recreational, travel, camping or seasonal use.

Substantial improvement. Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the start of construction of the improvement. The term includes structures that have incurred damage of any origin for which the cost of restoring the structure to its predamage condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. The term does not include work to correct existing violations of state or local requirements to ensure safe living conditions or alterations that do not change the official designation of historic structures.

(c) *Permit – Required; application.* No developer may commence development within a special flood hazard area without first applying for and obtaining a permit from the county engineer. All applications for permits from the county engineer and all building permits for development in the special flood hazard area shall state the elevation of the lowest floor for all structures to be elevated or the elevation to which the structure will be floodproofed. Before issuing a permit for development in the special flood hazard area, the county engineer shall determine that the developer has obtained all necessary state and federal permits.

(d) *Permit – Criteria for issuance.* The county engineer may not issue a permit for development within the special flood hazard area unless the county engineer finds that each of the following criteria, when applicable, is met:

(1) The development will not (i) cause a rise in the base flood elevation or (ii) reduce the flood-carrying capacity of any watercourse, drainage ditch, or other drainage facility or system. This requirement may be satisfied by the developer's providing compensating channels, provided the plans for each such compensating area are first approved by the county engineer.

(2) For new buildings or structures, the elevation of the lowest floor (including basement) shall be a minimum of one foot above the base flood elevation.

(3) For substantial improvements to existing buildings or structures, the elevation of the lowest floor (including basement) shall be a minimum of one foot above the base flood elevation.

(4) If the development involves construction of a dam or other structure for the purpose of impounding water, the permit shall be issued only if the county engineer finds that the effect upon the base flood elevation above the dam will not endanger human life or property. The county engineer must also find that the dam or structure will be designed and constructed in accordance with the requirements of the Virginia Dam Safety Act, sections 10.1-604 et seq. of the Code of Virginia, as amended, regulations promulgated pursuant thereto, and any additional requirements of the county engineer to minimize hazards below the dam resulting from dam failure.

(5) If electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities are

to be installed, they shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

(6) For all new construction and substantial improvements, fully enclosed areas below the lowest floor that are usable solely for parking, building access or storage that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must be certified by a registered professional engineer or architect.

(7) New construction complies with the specific requirements of the Uniform Statewide Building Code and its incorporated standards for construction in special flood hazard areas. All new construction and substantial improvements shall (a) be designed (or modified) and adequately anchored to prevent flotation, collapse and lateral movement of the structure resulting from hydrostatic and hydrodynamic loads, including the effects of buoyancy, and (b) be conducted by methods and practices that minimize flood damages.

(8) The developer has obtained all permits required by federal and state law.

(9) There are no encroachments, including fill, new construction, substantial improvements or other development within the floodway unless (a) hydrologic and hydraulic analysis performed in accordance with standard engineering practices show the encroachment will not result in any increase in flood levels in the county during a base flood and (b) the encroachment is approved by the Federal Emergency Management Agency.

(10) New and replacement water supply systems are designed to minimize or eliminate infiltration of floodwaters into the systems.

(11) New and replacement sanitary sewage systems are designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters. Onsite waste disposal systems are located to avoid impairment to them or contamination during flooding.

(e) *Repair, replacement or reconstruction of damaged or destroyed buildings.* No repair, replacement or reconstruction of a damaged or destroyed building or structure may occur without complying with the requirements of this section applicable to new buildings or structures.

(f) *Plans required.* All applications for approval of plans of development shall include base flood elevation data in a form acceptable to the county engineer. If the property is in a special flood hazard area, the proposed development must provide adequate drainage and locate and construct all public utilities and facilities to minimize or eliminate flood damage.

(g) *Alteration or relocation of watercourse; notification.* Prior to approving any alteration or relocation of a watercourse within the base flood elevation shown on the most recent Federal Emergency Management Agency Flood Insurance Rate Map, the county engineer shall notify the Virginia Department of Conservation and Recreation and the Federal Insurance Administration and, if an adjacent city or county borders on the affected watercourse, the county engineer shall also notify such county or city. The county engineer shall not approve such alteration or relocation unless the flood-carrying capacity of the watercourse, as altered or relocated, is maintained.

(h) *Variance.* No variance shall be granted for any development within the special flood hazard area that will cause:

(1) Any increase in the flood levels during a base flood;

(2) Additional threats to public safety;

(3) Extraordinary public expense;

(4) Nuisances;

(5) Fraud or victimization of the public; or

(6) Conflicts with other ordinances.

Variances shall only be issued after the board of zoning appeals has determined that the variance will be the

minimum relief necessary to alleviate the hardship. A record of all variance actions, including justification for their issuance, shall be maintained and any variances which are issued shall be noted in the biennial report submitted to the Federal Insurance Administrator. The board shall notify the applicant in writing that a variance to construct a structure below the base flood elevation (a) increases the risk to life and property and (b) will result in increased rates for flood insurance.

(i) *Recreational vehicles.* Recreational vehicles placed within the special flood hazard area must either:

(1) Be on the site less than 180 consecutive days and be fully licensed and ready for highway use; or

(2) Meet permit requirements for placement and the elevation and anchoring requirements for manufactured homes, as set forth in the Uniform Statewide Building Code and its incorporated standards, as amended.

A recreational vehicle is ready for highway use if it is on wheels or a jacking system, is attached to the site only by quick disconnect-type utilities and security devices, and has no permanently attached additions.

(j) *Recreational uses.* Outdoor recreational uses, such as parks, tennis courts, and boat launching areas located within the special flood hazard area may not increase the base flood elevation and may not include the erection of a permanent structure unless the structure is approved by the Federal Emergency Management Agency.

(Code 1980, § 22-106.1; Code 1995, § 24-106.1; Ord. No. 1116, § 8, 11-27-2007)

Sec. 24-106.2. Landscaping, tree cover, screen and buffer requirements, transitional buffering and design standards.

(a) *Purpose.* The purpose and objective of this section is to facilitate the creation of a convenient, attractive and harmonious community; to conserve and protect natural resources, including air and water quality; to enhance property values; to preserve the unique character of an area; and to encourage the appropriate use of land. In order to promote, restore and protect water quality and further the purposes of the Chesapeake Bay Preservation Area Designation and Management Regulations and performance criteria, this section is to be applied in conjunction with the county's subdivision, zoning, erosion and sediment control and building code ordinances as they apply to the development for subdivision of land within the county. Authority for this section is found in Code of Virginia, §§ 10.1-2108, 15.2-14.2 and 15.2-1200 et seq., as amended. More specifically, this section is intended to ameliorate the impact of more intense or incompatible uses by requiring a screen or buffer between such uses where they border less intense uses. Additionally, this section is intended to require the landscaping of certain parking lots in order to reduce the harmful effects of wind and air turbulence, heat, the glare of motor vehicle lights, to diminish stormwater drainage problems, to prevent soil erosion, to provide shade and to enhance the appearance of parking lots. Additionally, this section requires the preservation and planting of trees on sites to provide a specified percentage of tree cover at ten years' maturity.

(b) *Compliance with the requirements of section 24-106.2.* Compliance with the requirements of section 24-106.2 shall not be required for:

(1) Applications for plans of development, building permits or conditional subdivision approvals which met or exceeded the requirements in effect at the time of filing and were filed before November 15, 1991; or

(2) Applications for amendment of a plan of development, building permit or conditional subdivision approval which was granted or approved before November 15, 1991, if the amendment would not increase building or parking lot size and is necessary to improve public safety and health.

Prior approval of master plans or schematic concept plans by the director of planning or the planning commission shall not relieve an owner or developer from compliance with the requirements of section 24-106.2 for development plans filed after November 15, 1991.

(c) *General standards.* The following standards shall apply to the preservation, installation and permanent retention of all landscaping, tree cover, screens and buffers required by the provisions of this chapter:

(1) *Approval required.* The planting and maintenance of all trees and shrubs shall be in accordance with an

approved tree protection plan and approved landscape plan when required.

(2) *Tree cover.* All trees required to meet the tree cover provisions of this section shall meet the following minimum size standards:

a. Large and medium deciduous trees: A minimum caliper of at least 2½ inches at the time of planting.

b. Small deciduous trees: A minimum height of six feet at the time of planting and measured from the ground elevation after planting.

c. Evergreen trees: A minimum height of six feet at the time of planting and measured from the ground elevation after planting.

(3) *Tree preservation.* Preservation of existing trees and shrubs shall be maximized wherever practicable. Except when otherwise necessary to provide access or when exempted by this section, any tree six inches or greater in caliper located within the setback from a public right-of-way shall be retained. Tree removal may be approved where site design modification is not feasible. Any healthy existing tree or shrub may be included for credit towards the requirements of this section. If any preserved tree or shrub that has been credited dies within three years of construction, trees or shrubs shall be planted to meet the minimum tree cover canopy density.

(4) *Maintenance.*

a. The owner shall be responsible for maintenance, repair and replacement of landscaping materials, buffering and screening that is required by any provision of this chapter. Replacement landscaping must be in accordance with minimum standards of this chapter.

b. All plant material shall be tended and maintained in a healthy growing condition, replaced when necessary and kept free of refuse and debris. All diseased and/or dead plant materials, except leaves and other normal forest litter, shall be promptly removed and replaced during the normal planting season and in all cases within a year.

c. Fences, walls and screens, including gates and doors, shall be maintained in good repair by the owner.

(d) *Tree protection plan.* In addition to plans required by the appropriate application, an application for any land disturbing activity greater than 2,500 square feet and/or any land development approval shall include a tree protection plan. This plan must be approved by the director of planning before any other land development activity is approved.

(1) A tree protection plan which meets tree cover requirements of section 24-106.2 must be submitted for the following applications:

a. Conditional and final subdivision plans and required construction plans for such subdivisions.

b. Plans of development.

c. Erosion and sediment control plans.

d. Conditional, special and provisional use permits.

e. Building permits for one-family residence lots which contain Chesapeake Bay Preservation Areas.

f. Certificates of use and occupancy.

(2) A tree protection plan shall include the following information:

a. Identification of tree protection zone boundaries.

1. Limits of land disturbance, clearing, grading and trenching.

2. Tree protection zones.

3. Specimen, memorial and heritage trees and stands of trees.

4. Areas of revegetation.

5. Limits of wetlands, tributary streams and 100-year floodplains (base flood hazard area).

6. Limits of Chesapeake Bay Resource Protection Areas.

7. All existing and proposed easements including utility and drainage easements.

8. Tree cover calculations excluding one-family dwelling lots.

9. The location of all buffers required by proffered zoning conditions or the County Code, including resource protection area buffers.

b. Detailed drawings of tree protection measures.

1. Protective tree fencing.

2. Reserved.

3. Transplanting specifications.

4. Tree wells and aeration systems.

5. Staking specifications.

6. Other applicable drawings.

c. Procedures and schedules for the implementation, installation and maintenance of tree protection measures. The procedures and schedule must require that the tree protection measures shall be installed prior to any land disturbing activity.

d. Identification of all zoning proffers relating to buffers, landscaping, screening, mounds, erosion and sediment control and water quality maintenance or protection.

(3) The plan shall be reviewed by the director of planning for conformance with applicable proffered conditions and the provisions of this chapter, and the director of planning shall either approve or return the plan for revisions. Reasons for disapproval shall be annotated on the plan or otherwise stated in writing. Approval and issuance of the land development permit shall be contingent upon approval of an adequate tree protection plan. The county landscape manual sets forth the various administrative procedures and guidelines to meet the intent and requirements of this section.

(e) *Landscape plan and planting requirements.*

(1) *General requirements.*

a. In addition to a tree protection plan and any plans required by the appropriate application, an application for any land disturbing activity that exceeds 2,500 square feet or any land development approval shall include a landscape plan.

b. Such plans shall be drawn to a suitable scale, including dimensions and distances, to delineate all existing and proposed property and right-of-way lines, existing and proposed buildings, easements, parking spaces or other vehicle use areas, access aisles, driveways, dumpsters and trash receptacles and other features. Such plans shall also clearly identify all landscape matters regulated by proffered zoning conditions. The location, size and description of all existing and proposed landscaping materials and tree cover necessary to meet the requirements of this chapter shall be identified in a manner adequate to indicate compliance.

c. The landscaping measures and tree cover required by this section shall be shown on such plan and shall be completed and/or installed or planted according to the approved plan and specifications prior to the issuance of any permanent certificate of use and occupancy or other final approval. Such approval shall be after appropriate inspection and certification by the director of planning that the provisions of this section and other provisions of this chapter have been met and that the installation and/or construction of all required landscaping and/or other required improvements is accomplished or otherwise guaranteed.

(2) *Tree cover requirements.*

a. Except as exempted below, all developments requiring approval of a site and/or construction plan shall provide minimum tree cover at ten years' maturity as set forth below. Because the intent of this chapter is to enhance environmental protection, aesthetics and property values of developed land, the approved plans shall provide for a reasonable distribution of trees throughout the site and shall reflect the topography and configuration of the site and the location of existing and/or proposed improvements, and shall be in conformance with good horticultural practices.

Zoning districts	*Percent Tree Cover*
Business and industrial	10
Office, O/S office service, residential manufactured home park and general residence and residential townhouse when used for two or more family dwellings	15
Agricultural, excluding one-family dwellings, conservation and institutional	20

b. The tree cover requirement shall be calculated and shown on the landscape plans. The method of calculating the required tree cover shall be contained in the county landscape manual.

c. Tree preservation credit.

1. Existing trees which are to be preserved may be utilized to meet all or part of the tree cover requirements if these existing trees are identified on the approved tree protection plan.

2. The credit provided for freestanding trees or clusters of trees will be 1.25 multiplied by the area defined by the boundaries of the existing dripline of a freestanding tree or group of trees as surveyed in the field and delineated on the tree protection plan. A credit of up to 2.0 may be granted by the director of planning for trees of outstanding size and quality.

d. Tree planting credit.

1. Trees planted in parking lot interior landscaping, parking lot peripheral landscaping, transitional screening or buffer areas, landscaped open space, revegetation, tree supplementation, tree replacement and other trees that are planted on the site may qualify for tree cover credit.

2. The tree cover calculations for planted trees shall be based upon the projected ten years' maturity for each tree. Other trees and larger tree sizes may be given tree cover credit with submission of supporting tree cover data.

e. Permitted deviations.

1. The director of planning may approve a plan which deviates from the requirements of this section when necessary:

i. To allow for the reasonable development of farmland or other areas devoid of woody materials.

ii. To allow for clearing and grading required to achieve positive, proper drainage away from residential structures.

iii. To allow for the reasonable development of dedicated school sites, playing fields and other nonwooded recreation areas.

iv. To allow for the preservation of wetlands.

v. To avoid unreasonable hardship to the owner.

2. When permitting deviations from the strict requirements of this section, the director of planning may impose conditions to accomplish the intent of this section.

(3) *Transitional buffer requirements.*

a. General requirements.

1. Transitional buffers shall be provided as required on the matrix chart which is part of this chapter.

In individual cases, the director of planning or the planning commission may approve modifications of the minimum transitional buffer requirements contained in the matrix if the director of planning or the planning commission:

i. Determines that the owner or developer has proposed modifications which meet the spirit and intent of this section; and

ii. Imposes any additional conditions or requirements necessary to meet the spirit and intent of this section.

2. Transitional buffers shall be provided when the zoning district and use indicated in the left column of the matrix is contiguous to or across the street from the zoning district and use indicated across the top of the matrix. Permitted alternatives to reduce the width of required transitional buffers are identified by letter below the numerical buffer designation on the matrix chart.

3. Where the lot and/or structure is to contain more than one use or category of uses as listed in the matrix, the matrix category requiring the largest buffer shall apply; provided, however, that the director of planning may apply the requirements of the matrix for the other use or uses because of physical conditions or the arrangement of the uses on the property.

4. The uses in the matrix are listed in abbreviated form. Similar uses included in the district regulations shall be subject to the same matrix requirements.

5. Where a proposed or existing use on the abutting property is not listed in the matrix, the director of planning shall determine the appropriate district and apply the matrix's requirements for that district.

6. Transitional buffers shall be required at the outer boundaries of a lot and shall be provided except where driveways or other openings are permitted. Transitional buffer areas are not required between uses that are to be developed under an approved overall development plan or phased development plan when the plan provides for phases of future development between which transitional buffers are not required.

7. A transitional buffer may be provided within the required minimum yard and shall be governed by the following standards. Where the configuration of the site, the location of existing and proposed buildings and/or structures, the location of overhead utility lines, trees or other physical limitations prevent adherence to these standards, the director of planning may permit substitution of equivalent alternative plantings consistent with this section.

8. Existing mature vegetation located within required buffers shall be maintained by the owner unless removal is approved by the director of planning or exempted by this section. Such vegetation must to be supplemented if necessary to met this section's requirements.

b. Transitional buffer categories and specifications.

1. There shall be four different transitional buffer categories. These categories are abbreviated on the matrix and are defined below. The following specifications for transitional buffers set forth the number of plants required per 100 linear feet. To determine the total number of plants required, the length of each side of the property shall be divided by 100 and multiplied by the number of plants indicated in the transitional buffer required as follows:

i. Transitional buffer ten shall consist of an unbroken strip or open space a minimum of ten feet wide and planted with:

1) Two large deciduous or evergreen trees with an ultimate height of 50 feet or greater and one small deciduous or evergreen tree with an ultimate height of 20 feet or greater and 25 shrubs for every 100 linear feet or portion thereof.

2) A wall or fence of approved design and materials located in a landscaped planting strip may reduce the width of the buffer. Permitted buffer alternative screens are identified on the matrix chart.

ii. Transitional buffer 25 shall consist of an unbroken strip of open space a minimum of 25 feet wide and planted with:

1) Four large deciduous or evergreen trees with an ultimate height of 50 feet or greater plus two small evergreen or deciduous trees with an ultimate height of 20 feet or greater and 16 shrubs with an ultimate height of ten feet or greater for every 100 linear feet or portion thereof.

2) A screen, wall or fence of approved design and materials may reduce the width of the buffer area by as much as twice the height of the screen, wall or fence. Permitted buffer alternative screens are identified on the matrix chart.

iii. Transitional buffer 35 shall consist of an unbroken strip of space a minimum of 35 feet wide and planted with:

1) Five large deciduous or evergreen trees with an ultimate height of 50 feet or greater plus 2½ small deciduous or evergreen trees with an ultimate height of 20 feet and 19 shrubs with an ultimate height of ten feet for every 100 linear feet.

2) A screen, wall or fence of approved design and materials may reduce the width of the buffer area by as

much as twice the height of the screen, wall or fence. Permitted buffer alternative screens are identified on the matrix chart.

iv. Transitional buffer 50 shall consist of an unbroken strip of space, a minimum of 50 feet wide, planted with:

1) Seven large deciduous or evergreen trees with an ultimate height of 50 feet or greater plus four small deciduous or evergreen trees with an ultimate height of 20 feet or greater and 24 shrubs with an ultimate height of ten feet for every 100 linear feet.

2) A screen, wall or fence of approved design and materials may reduce the width of the buffer area by as much as twice the height of the screen, wall or fence. Permitted buffer alternative screens are identified on the matrix chart.

c. Transitional buffer alternatives; screens.

1. In determining equivalent transitional buffer alternatives, the planning commission and the director of planning shall be guided by the following standards:

i. Screens shall be located adjacent to the use or activity which requires buffers and shall be situated where they will most adequately perform their intended function as determined by the director of planning. Any necessary bracing, supports or posts shall be on side of the screen facing the use which must provide the screen.

ii. When the side of a building or a special screen is to be used or the land between the building or screen and the property lines has been specifically designed to minimize adverse impacts through a combination of architectural and landscaping techniques, such alternative may be used if the matrix allows a screen alternative and the director of planning finds it will meet the intent of these requirements.

iii. Where unusual topography or certain specific problems such as glare, lights or noise are present, the use of an earth mound, masonry wall or more specialized fence material in combination with any of the screen types may be approved by the director of planning if consistent with the purposes of this section.

iv. The transitional buffer screen alternatives are set forth below. Use of these alternatives may be permitted if the director of planning finds that use of the proposed screen alternative will be consistent with the purposes of this section.

The transitional buffering width and planting requirements may be reduced where alternatives are listed on the matrix chart. Construction of a brick or solid, opaque architectural wall of approved material and design may reduce the buffer width by two times the height of the permitted alternative.

1) Screen A shall consist of a six-foot-high wall of brick or architectural block of approved design and materials when placed within a landscaped planting strip at least five feet wide.

2) Screen B shall consist of a six-foot-high opaque wood or otherwise architecturally solid fence of approved design and materials when placed within a landscaped planting strip at least five feet wide.

3) Screen C shall consist of an evergreen planting with an ultimate height a minimum of 42 to 48 inches and planted height of 36 inches.

4) Screen D shall consist of a six-foot-high wall of brick or architectural block of approved design and materials.

5) Screen E shall consist of a six-foot-high opaque wood or otherwise architecturally solid fence of approved design and materials.

6) Screen F shall consist of a eight-foot-high wall of brick or architectural block of approved design and materials.

7) Screen G shall consist of a ten-foot-high wall of brick or architectural block of approved design and materials.

(4) *Parking lot landscaping required.*

a. Parking lot peripheral landscaping. If any parking lot contains six or more spaces and transitional

buffering is not required, peripheral parking lot landscaping shall be required as follows:

1. Where the property line abuts land other than the right-of-way of any street:

i. A landscape strip six feet in width shall be located between the parking lot and the abutting property lines, except in driveways or other openings where impractical. Where such strip would adversely separate functional parking areas and reduce efficiency and vehicular circulation, an equivalent area may be provided in landscape islands.

ii. At least two trees for each 100 linear feet shall be planted in the landscape strip. At least one tree shall be planted in every landscape strip.

2. Where the property line abuts the right-of-way of a street:

i. A landscape strip ten feet in width shall be located between the parking lot and the property line. The landscape strip may include a sidewalk or trail. Where easements preclude such landscape strip adjacent to the right-of-way, it shall either be situated adjacent to the easement if practicable or an equivalent area shall be provided as close as practicable to the right-of-way or easement.

ii. At least 2½ trees for each 100 linear feet shall be planted in the landscape strip. At least one tree shall be planted in every landscape strip.

b. Parking lot interior landscaping:

1. All parking lots of six or more spaces shall be provided with interior landscape areas containing not less than five percent of the total area of the parking spaces. Such landscaping shall be in addition to any planting or landscaping within six feet of a building, parking lot peripheral landscaping and transitional buffering required by this section.

2. The landscape areas shall be reasonably dispersed throughout the parking lot.

3. No parking area shall include a line of more than 19 spaces uninterrupted by a landscape area at least nine feet in width and containing at least 162 square feet. The interior dimensions of any planting area shall be sufficient to protect all landscape materials planted therein.

4. Areas for vehicle storage or nonpublic parking areas, such as vehicle storage lots and automotive display lots, shall be exempt from these requirements if the area is screened as otherwise required by this chapter in accordance with an approved plan.

(5) *Administration and approvals, revisions and appeals.*

a. The director of planning shall be responsible for the administration, approval and enforcement of tree protection plans, buffer and landscape plans as specified in this section. The review and approval of such plans shall be completed within 30 calendar days from receipt of the completed application and plan unless the applicant requests or consents to an extension beyond such time period.

b. Revisions, modifications and/or additions to approved plans shall be submitted, reviewed and approved in the same manner as previously approved.

c. Appeals from final decisions of the director of planning shall be to the planning commission with notification to property owners pursuant to subsection 24-106(f) of this chapter.

d. Repealed.

(Code 1980, § 22-106.2; Code 1995, § 24-106.2; Ord. No. 980, § 4, 9-23-1998)

Sec. 24-106.3. Chesapeake Bay preservation.

(a) *Purpose.* The purpose of this section is to:

(1) Protect Chesapeake Bay Preservation Areas which if improperly developed may result in a substantial adverse impact to the waters of the Chesapeake Bay and its tributaries;

(2) Reduce nonpoint source pollution to state waters;

(3) Promote and restore the high quality of state waters in order to provide for the health, safety and welfare of the present and future residents of the county and the Commonwealth of Virginia; and

(4) Establish standards and criteria to prevent a net increase in nonpoint source pollution from new development and development on previously developed land where the runoff was treated by a water quality protection best management practice (BMP), achieve a ten percent reduction in nonpoint source pollution from development on previously developed land where the runoff was not treated by one or more BMPs, and achieve a 40 percent reduction in nonpoint source pollution from agricultural and silvicultural uses.

Statutory authority for this section is provided by the Code of Virginia, §§ 10.1-2100 et seq. and 15.2-2283.

(b) *Areas of applicability.* This section governs the identification of Chesapeake Bay Preservation Areas in the county and applies to all land identified under its provisions as resource protection areas (RPAs) and resource management areas (RMAs). These areas collectively referred to as Chesapeake Bay Preservation Areas shall be as defined in this chapter. The planning office shall maintain maps of all Chesapeake Bay Preservation Areas, the extent of which are identified from available mapping resources, but such maps are for illustrative purposes only and do not definitively identify all Chesapeake Bay Preservation Areas. In the event of a conflict between the terms of this section and the maps, the provisions of this section shall govern.

(1) In their natural condition, RPAs provide for the removal, reduction or assimilation of sediments, nutrients and potentially harmful or toxic substances in runoff entering the bay and its tributaries, and minimize the adverse effects of human activities on state waters and aquatic resources. The RPA shall consist of:

a. Tidal wetlands.

b. Nontidal wetlands connected by surface flow and contiguous to tidal wetlands or water bodies with perennial flow.

c. Tidal shores.

d. Such other lands which the board of supervisors may designate by ordinance to provide the benefits set forth in subsection (b)(1) above and which are necessary to protect the quality of state waters; and

e. A vegetated buffer area no less than 100 feet in width located adjacent to and landward of the components listed in subsections a. through d. above, and along both sides of any water body with perennial flow. The full buffer area shall be designated as the landward component of the RPA notwithstanding the presence of permitted uses, encroachments, and permitted vegetation clearing in compliance with subsections (f) and (g) of this section.

Designation of the components listed in subsections (b)(1)a through d shall not be subject to modification unless based on reliable, site-specific information as provided for in subsection (c)(3) of this section.

The director of public works/county engineer shall determine whether water bodies have perennial flow by the use of a scientifically valid system of in-field indicators of perennial flow. Site-specific determinations shall be made or confirmed by the director of public works/county engineer pursuant to subsection (c)(3) of this section.

(2) A RMA shall be provided contiguous to the entire inland boundary of the RPA. Where mapping indicates the presence of the following land types contiguous to RPAs, the following shall be classified as an RMA:

a. All areas specifically designated as RMAs by ordinance by the board of supervisors because of their potential effect on water quality.

b. Base flood hazard areas (100-year floodplains)

c. Highly erodible soils, including steep slopes.

d. Highly permeable soils.

e. Nontidal wetlands not included in RPAs; and

f. Where the land contiguous to RPAs is not an RMA as defined above, the 100-foot area contiguous to the RPA.

(c) *Identification of Chesapeake Bay Preservation Areas.*

(1) The director of planning shall develop maps delineating Chesapeake Bay Preservation Areas. These maps are only intended as general guides to the location of Chesapeake Bay Preservation Areas in the county and are not conclusive evidence of inclusion or exclusion. Owners may demonstrate that their property is not within a Chesapeake Bay Preservation Area, even if mapped, by submission of an environmental site assessment containing the elements listed in section 10-33 of the County Code.

(2) Questions concerning boundaries of Chesapeake Bay Preservation Areas shall be resolved by the director of public works/county engineer based upon submission of an environmental site assessment.

(3) As part of the plan of development review process pursuant to section 24-106 of this chapter or during the review of a water quality impact assessment pursuant to section 10-39(b) of the County Code, the director of public works/county engineer shall ensure or confirm that (1) a reliable, site-specific evaluation is conducted to determine whether water bodies on or adjacent to the development site have perennial flow and (2) RPA boundaries on the site are adjusted, as necessary, based on this evaluation of the site. The director of public works/county engineer may conduct the site evaluation or require the applicant to conduct the evaluation and submit the required information for review.

(4) After approval of land development in Chesapeake Bay Preservation Areas is granted, prior to any land disturbing activity, all wetlands shall be conspicuously flagged or otherwise identified and not disturbed unless authorized by law.

(d) *Permitted development in RPAs.* There shall be no development in RPAs unless permitted by the zoning district(s) of the lot and unless development is limited to:

(1) New or expanded water-dependent facilities which satisfy the following conditions:

a. The use does not conflict with the comprehensive plan; and

b. The facility complies with the performance criteria set forth in subsection (g) of this section; and

c. Any non-water-dependent components are located outside of RPAs; and

d. Access will be provided with the minimum disturbance necessary. Where possible, a single point of access will be provided.

(2) Redevelopment on isolated redevelopment sites, but only if there is (a) no increase in the amount of impervious cover within the RPA, (b) no further encroachment within the RPA, and (c) compliance with the applicable erosion and sediment control criteria set forth in the Erosion and Sediment Control Law and the Virginia Stormwater Management Act and their attendant regulations, the erosion and sediment control requirements in chapter 10 of the County Code, and all applicable stormwater management requirements of state and federal agencies.

(3) Roads and driveways not exempted by subsection (k) of this section may be constructed within or across RPAs provided the following conditions are met:

a. The director of public works/county engineer makes a finding that there are no reasonable alternatives for the proposed alignment within or across the RPA.

b. The proposed alignment, design and construction is optimized consistent with other applicable requirements to minimize (i) encroachment in the RPA and (ii) adverse effects on water quality.

c. The design and construction is in accordance with the applicable criteria of this section, including submission of a water quality impact assessment; and,

d. The plan for the road or driveway is reviewed and approved during the site plan, subdivision, or plan of development land development approval process.

(4) Flood control and stormwater management facilities that drain or treat water from multiple development projects or from a significant portion of a watershed may be allowed in RPAs, provided that such facilities are allowed and constructed in accordance with the Virginia Stormwater Management Act and its attendant regulations and that:

a. The director of public works/county engineer has conclusively established that location of the facility within the RPA is the optimum location and has given approval before construction;

b. The size of the facility is the minimum necessary to provide necessary flood control, stormwater treatment, or both;

c. The facility is consistent with a comprehensive stormwater management plan that has been developed and approved with 9VAC25-870-92 of the Virginia Stormwater Management Program regulations;

d. All applicable permits for construction in state or federal water have been obtained from the appropriate state and federal agencies;

e. Maintenance agreements have been executed to allow the county to perform routine maintenance on such facilities to ensure that they continue to function as they were designed. It is not the intent of this subdivision to allow a best management practice that collects and treats runoff from only an individual lot or some portion of the lot to be located within a RPA.

(5) New uses established pursuant to section 24-106.3(f)(2)(b).

(6) For any proposed land disturbance in RPAs, a water quality impact assessment in accordance with section 10-39(b) of the County Code shall be submitted for approval by the director of public works/county engineer.

(e) *Permitted development in RMAs.* Any development permitted and regulated by the zoning district(s) of the lot shall be allowed in RMAs subject to the performance criteria of subsection (g) of this section.

(f) *Buffer requirements in RPAs.*

(1) The 100-foot wide buffer area shall be the landward component of the RPA. Notwithstanding permitted uses, encroachments, and vegetation clearing as set forth in this section and in accordance with the provisions of article II of chapter 10 of the County Code, the 100-foot wide buffer area shall not be reduced in width. To minimize the adverse effects of human activities on the other components of the RPA, state waters, and aquatic life, a 100-foot wide buffer area of vegetation that is effective in retarding runoff, preventing erosion, and filtering nonpoint source pollution from runoff shall be retained if present or established where it does not exist.

a. The 100-foot wide buffer area shall be deemed to achieve a 75 percent reduction of sediments and a 40 percent reduction of nutrients.

b. Where land uses such as agriculture or silviculture within the area of the buffer cease and the lands are proposed to be converted to other uses, the full 100-foot wide buffer shall be reestablished. In reestablishing the buffer, management measures shall be undertaken to provide woody vegetation that accomplishes the buffer functions set forth in this section.

(2) The buffer shall be maintained as follows:

a. In order to maintain the functional value of the buffer, indigenous vegetation may be removed with the approval of the director of public works/county engineer only to provide for reasonable sight lines, access paths, general woodlot management and BMPs, including those that prevent upland erosion and concentrated flows of stormwater, as follows:

1. Trees may be pruned or removed as necessary to provide for sight lines and vistas; provided, that where removed, they shall be replaced with other vegetation that is equally effective in retarding runoff, preventing erosion and filtering nonpoint source pollution from runoff.

2. Any path shall be constructed and surfaced so as to effectively control erosion.

3. Dead, diseased or dying trees or shrubbery and noxious weeds (such as Johnson grass, kudzu, and multiflora rose) may be removed and thinning of trees may be allowed pursuant to sound horticultural practices adopted by the county.

4. For shoreline erosion control projects, trees and woody vegetation may be removed, necessary control techniques employed and appropriate vegetation established to protect or stabilize the shoreline in accordance with the best available technical advice and applicable permit conditions or requirements.

b. When the requirements of this section for a buffer would result in the loss of a buildable area on a lot recorded prior to October 1, 1989, encroachments into the buffer area may be allowed by the director of public works/county engineer in accordance with the following criteria:

1. Encroachments into the buffer area shall be the minimum necessary to achieve a reasonable buildable area for a principal structure and necessary utilities.

2. Where practicable, a vegetated area that will maximize water quality protection, mitigate the effects of the buffer encroachment, and is equal to the area of encroachment into the buffer area shall be established elsewhere on the lot.

3. The encroachment may not extend into the seaward 50 feet of the buffer area.

c. When the requirements of this section for a buffer would result in the loss of a buildable area on a lot recorded between October 1, 1989, and March 1, 2002, encroachments into the buffer area may be allowed by the director of public works/county engineer in accordance with the following criteria:

1. The lot or parcel was created as a result of a legal process conducted in conformity with chapter 19 of the County Code;

2. Conditions or mitigation measures imposed through a previously approved exception are met;

3. If the use of a BMP was previously required, the BMP has been evaluated to determine if it continues to function effectively and, if necessary, the BMP shall be reestablished or repaired and maintained as required;

4. Encroachments into the buffer area shall be the minimum necessary to achieve a reasonable buildable area for a principal structure and necessary utilities;

5. Where practicable, a vegetated area that will maximize water quality protection, mitigate the effects of the buffer encroachment, and is equal to the area of encroachment into the buffer area shall be established elsewhere on the lot; and

6. The encroachment may not extend into the seaward 50 feet of the buffer area.

d. On agricultural lands the agricultural buffer shall be managed to prevent concentrated flows of surface water from breaching the buffer and noxious weeds from invading the buffer area. Agricultural activities may encroach into the buffer as follows:

1. Agricultural activities may encroach into the landward 50 feet of the 100-foot wide buffer area when at least one agricultural BMP which, in the opinion of the Henricopolis Soil and Water Conservation District Board, addresses the more predominant water quality issues on the adjacent land (erosion control or nutrient management) is being implemented on the adjacent land, provided that the combination of the undisturbed buffer area and the BMP achieves water quality protection, pollutant removal, and water resource conservation at least the equivalent of the 100-foot wide buffer area. If nutrient management is identified as the predominant water quality issue, a nutrient management plan, including soil tests, must be developed consistent with the "Virginia Nutrient Management Training and Certification Regulations" (4 VAC 5-15 et seq.) administered by the Virginia Department of Conservation and Recreation.

2. Agricultural activities may encroach into the landward 75 feet of the 100-foot wide buffer area when agricultural BMPs which address erosion control, nutrient management, and pest chemical control, are being implemented on the adjacent land. The erosion control practices must prevent erosion from exceeding the soil loss tolerance level, referred to as "T," as defined in the "National Soil Survey Handbook" of November 1996 in the "Field Office Technical Guide" of the U.S. Department of Agriculture Natural Resource Conservation Service. A nutrient management plan, including soil tests, must be developed consistent with the "Virginia Nutrient Management Training and Certification Regulations" (4 VAC 5-15 et seq.) administered by the Virginia Department of Conservation and Recreation. In conjunction with the remaining buffer area, this collection of BMPs shall be presumed to achieve water quality protection at least the equivalent of that provided by the 100-foot wide buffer area.

3. The buffer need not be designated adjacent to agricultural drainage ditches if the adjacent agricultural land has in place at least one BMP considered by the Henricopolis Soil and Water Conservation District

Board to address the more predominant water quality issue on the adjacent land (erosion control or nutrient management).

4. If the director of public works/county engineer identifies specific problems with agricultural activities which are causing pollution of a nearby water body with perennial flow or which violate performance standards for the vegetated buffer area, the director of public works/county engineer, in conjunction with the Henricopolis Soil and Water Conservation District, shall recommend a compliance schedule and require the landowner to correct the problems. This schedule shall expedite environmental protection while taking into account seasonal and other temporal considerations to maximize the probability of successful implementation of the corrective measures.

5. When the owner has refused assistance from the Henricopolis Soil and Water Conservation District in complying with or documenting compliance with the agricultural requirements of this section, the district shall report the noncompliance to the director of public works/county engineer. The director of public works/county engineer shall recommend a compliance schedule and require the owner to correct the problems within 18 months of the initial notification of the deficiencies to the owner. This schedule shall expedite environmental protection while taking into account seasonal and other temporal considerations to maximize the probability of successful implementation of the corrective measures.

6. A water quality impact assessment shall be required for any proposed development within the RPA consistent with this section and for any other development in CBPAs that may warrant such assessment because of the unique characteristics of the site or intensity of the proposed use or development.

a. The purpose of the water quality impact assessment is to identify the impacts of proposed development on water quality and lands in the RPAs consistent with the goals and objectives of the Chesapeake Bay Preservation Act, this chapter and this section for mitigation of those impacts. The specific content and procedures for the water quality impact assessment have been established in section 10-39(b).

b. The water quality impact assessment shall be of sufficient specificity to demonstrate compliance with the criteria of this section.

(g) *Chesapeake Bay Preservation Area development standards and general performance criteria.* Any use, development or redevelopment of land in Chesapeake Bay Preservation Areas shall also satisfy the following criteria:

(1) No more land shall be disturbed than is necessary to provide for the proposed use or development.

a. Ingress and egress during construction shall be limited to one access point unless otherwise approved by the director of public works/county engineer.

b. The limits of clearing and/or grading shall be marked on all site plans submitted for approval. These limits should be the smallest necessary for development, and the construction footprint may not violate the setbacks established in the zoning ordinance for the zoning district.

(2) Indigenous vegetation shall be preserved to the maximum extent practicable consistent with the proposed use and development. Such vegetation and new or replacement vegetation shall be reviewed and approved in accordance with section 24-106.2 of this chapter.

(3) Land development shall minimize impervious cover consistent with the proposed use or development.

(4) All development of 2,500 square feet or more of land disturbance shall obtain approval in accordance with section 24-106 of this chapter and section 10-34 of the County Code.

(5) Any land disturbing activity of 2,500 square feet or more (including construction of all one-family dwellings, septic tanks and drainfields) shall comply with article II of chapter 10 of the County Code. Enforcement for noncompliance with the erosion and sediment control requirements shall be conducted under the provisions of the Erosion and Sediment Control Law and attendant regulations.

(6) The director of public works/county engineer shall require evidence that all wetlands permits required by law are obtained prior to authorizing grading and other on-site activities to begin.

(7) For new construction, any on-site sewage treatment system not requiring a VPDES permit shall have a

reserved sewage disposal site with a capacity at least equal to the primary sewage disposal site on the same lot in accordance with the requirements of section 23-60 of the County Code. Owners of all on-site sewage treatment systems that do not require a VPDES permit shall, at least once every five years, either pump out their septic tanks and submit documentation thereof, or submit documentation, certified by an operator or on-site soil evaluator licensed or certified under chapter 23 of Title 54.1 of the Code of Virginia as being qualified to operate, maintain, or design on-site sewage systems, that the septic system has been inspected within the last five years, is functioning properly, and the tank does not need to have the effluent pumped out of it. All documentation shall be submitted to the director of public works. Building shall be prohibited on the area of all sewage disposal sites.

(8) Land upon which agricultural activities are being conducted, including, but not limited to, crop production, pasture and dairy and feed lot operations, and land otherwise defined as agricultural land by the County shall have a soil and water quality conservation assessment that evaluates the effectiveness of existing practices pertaining to soil erosion and sediment control, nutrient management, and management of pesticides. Where necessary, there shall be a plan that outlines additional practices needed to ensure that water quality protection is being accomplished consistent with this section and the following provisions of subsection 8 of 9VAC25-830-130:

a. Recommendations for additional conservation practices need address only those conservation issues applicable to the tract or field being assessed. Any soil and water quality conservation practices that are recommended as a result of such an assessment and are subsequently implemented with financial assistance from federal or state cost-share programs must be designed, consistent with cost-share practice standards effective in January 1999 in the "Field Office Technical Guide" of the U.S. Department of Agriculture Natural Resource Conservation Service or the June 2000 edition of the "Virginia Agricultural BMP Manual" of the Virginia Department of Conservation and Recreation, respectively. Unless otherwise specified in this section, general standards pertaining to the various agricultural conservation practices being assessed shall be as follows:

(1) For erosion and sediment control recommendations, the goal shall be, where feasible, to prevent erosion from exceeding the soil loss tolerance level, referred to as "T," as defined in the "National Soil Survey Handbook" of November 1996 in the "Field Office Technical Guide" of the U.S. Department of Agriculture Natural Resource Conservation Service. However, in no case shall erosion exceed the soil loss consistent with an Alternative Conservation System, referred to as an "ACS", as defined in the "Field Office Technical Guide" of the U.S. Department of Agriculture Natural Resource Conservation Service.

(2) For nutrient management, whenever nutrient management plans are developed, the operator or landowner must provide soil test information, consistent with the Virginia Nutrient Management Training and Certification Regulations (4VAC50-85).

(3) For pest chemical control, referrals shall be made to the local cooperative extension agent or an Integrated Pest Management Specialist of the Virginia Cooperative Extension Service. Recommendations shall include copies of applicable information from the "Virginia Pest Management Guide" or other Extension materials related to pest control.

b. A higher priority shall be placed on conducting assessments of agricultural fields and tracts adjacent to Resource Protection Areas. However, if the landowner or operator of such a tract also has Resource Management Area fields or tracts in his operation, the assessment for that landowner or operator may be conducted for all fields or tracts in the operation. When such an expanded assessment is completed, priority must return to Resource Protection Area fields and tracts.

(c) The findings and recommendations of such assessments and any resulting soil and water quality conservation plans will be submitted to the Henricopolis Soil and Water Conservation District Board, which will be the plan-approving authority.

(9) Any man-made change to the land surface that potentially changes its runoff characteristics, including clearing, grading, or excavation, shall comply with the requirements of 9VAC25-870-51 and 9VAC25-870-103

unless the activity is exempted by Code of Virginia § 62.1-44.15:34(C).

(h) *Review and approval procedure.* Except as herein provided, the review and approval procedures for uses and development impacting on Chesapeake Bay Preservation Areas shall be as provided in this chapter, article II of chapter 10 Stormwater Management, chapter 19 (Subdivisions) and chapter 23 (Water and Sewer).

(i) *Restrictions.*

(1) Except as permitted and regulated by this section and as further regulated by article II of chapter 10 of the County Code, all land disturbing activities, development and clearing of live vegetation in Chesapeake Bay Preservation Areas and the associated buffer is prohibited.

(2) Where the provisions of this section are more restrictive or in conflict with any other provisions of this chapter, or other chapters of the County Code, or where the provisions of this section impose a greater requirement or higher standard than state or federal law, the provisions of this section shall govern.

(j) *Administration and enforcement.* The director of public works/county engineer shall be responsible for the administration and enforcement of the water quality provisions of this section and for the initial review, approval or disapproval of exemptions and waivers. Decisions of the director of public works/county engineer may be appealed by the applicant to the county manager within 15 working days of the decision being appealed. The county manager's decision shall be the final decision of the county.

(k) *Exemptions.* The following uses and development as regulated by this subsection shall be exempt from the provisions of this section but shall be subject to the other provisions of this chapter:

(1) Construction, installation, operation and maintenance of electric, fiber optic, natural gas and telephone transmission lines, railroads and public roads and their appurtenant structures in accordance with regulations promulgated pursuant to the Erosion and Sediment Control Law (Code of Virginia, § 62.1-44.15:51 et seq., as amended) and the Stormwater Management Act (Code of Virginia, § 62.1-44.15:24 et seq., as amended) and an erosion and sediment control plan and a stormwater management plan approved by the Virginia Department of Environmental Quality.

Public roads shall be designed, approved and constructed to prevent or otherwise minimize encroachment in the RPA and adverse effects on water quality. For purposes of this subsection, "public road" means a publicly owned road designed and constructed in accordance with water quality protection criteria at least as stringent as requirements applicable to the Virginia Department of Transportation (VDOT), including regulations promulgated pursuant to Code of Virginia, §§ 62.1-44.15:51 and 62.1-44.15:2 et seq., as amended. This definition includes those roads where VDOT exercises direct supervision over the design or construction activities, or both, and cases where secondary roads are constructed or maintained, or both, by the county in accordance with county standards. Appurtenant structures include, but are not limited to, bridges, culverts, guardrails, drainage facilities, lighting, traffic control devices, fences, and berms.

(2) Construction, installation and maintenance of water, sewer, natural gas, and underground telecommunications and cable television lines owned or permitted, or both, by the county provided:

a. To the degree possible, the location of such utilities should be outside RPAs.

b. No more land shall be disturbed than is necessary to provide for the proposed utility installation.

c. All such construction, installation and maintenance of the utilities and facilities shall be in compliance with all applicable state and federal permits and designed and conducted in a manner that protects water quality.

d. Any land disturbance of 2,500 square feet or more shall comply with the applicable erosion and sediment control requirements of chapter 10 of the County Code.

(3) Water wells, passive recreation facilities, such as boardwalks, trails and pathways, and historic preservation activities and archaeological activities, provided any such activity disturbing 2,500 square feet or more of land shall comply with the applicable erosion and sediment control requirements of chapter 10 of the County Code and approval is obtained from the director of public works/county engineer.

(4) Silvicultural activities, provided such activities adhere to water quality protection procedures prescribed

by the Virginia Department of Forestry in the Fifth edition (March 2011) of "Forestry Best Management Practices for Water Quality Technical Manual."

(l) *Exceptions.*

(1) ***Exceptions to subsections (d) and (f).*** A request for an exception to the requirements of subsections (d) and (f) of this section shall be made in writing to the planning commission. The request shall include a sketch or site plan providing the name of the applicant, a legal description of the property, a sketch location of all proposed improvements, the boundary of RPAs and RMAs, and the location of existing private water supply and existing or proposed on-site sewage systems and primary and reserve sewage drainfields. The request shall also identify the impacts of the proposed exception on water quality on lands within the RPA through a water quality impact assessment which complies with the provisions defined in article II of chapter 10 of the County Code. An environmental site assessment as described in section 10-33 and a water quality impact assessment as described in section 10-39 of chapter 10 of the County Code must be submitted.

2. The planning commission shall notify the affected public of such exception requests and shall consider these requests in a public hearing in accordance with Code of Virginia, § 15.2-2204.

3. The planning commission shall review the request for an exception and the water quality impact assessment and may grant the exception with such conditions and safeguards as it deems necessary only if the planning commission finds:

a. Granting the exception will not confer upon the applicant any special privilege denied to similarly situated property owners;

b. The exception request is not based on conditions or circumstances that are self-created or self-imposed, and the request does not arise from conditions or circumstances either permitted or nonconforming that are related to adjacent parcels;

c. The exception request is the minimum necessary to afford relief;

d. The exception request is in harmony with the purpose and intent of the zoning ordinance and is not of substantial detriment to water quality; and

e. Reasonable and appropriate conditions which will prevent the exception request from causing a degradation of water quality are imposed.

If the planning commission cannot make the required findings or refuses to grant the exception, the planning commission shall return the request for an exception and the water quality impact assessment to the applicant.

(2) ***Exceptions to other subsections.*** A request for an exception to provisions of this section other than subsections (d) and (f) shall be made in writing to the director of public works/county engineer with a sketch or site plan containing the name of the applicant, the legal description of the property, a sketch of the proposed improvement, the boundaries of the RPAs and RMAs, and the location of the existing private water supply and existing and proposed on-site sewage facilities and primary and reserve sewage drainfields. An environmental site assessment as described in section 10-33 and a water quality impact assessment as described in section 10-39 of chapter 10 of the County Code must be submitted. The director of public works/county engineer shall forward a copy of all exception requests submitted to him to the director of planning.

The director of public works/county engineer shall evaluate requests for exceptions on a case-by-case basis. Except for exceptions to subsection (g), the director of public works/county engineer may grant the exception request provided that exceptions to the requirements are the minimum necessary to afford relief and reasonable and appropriate conditions are imposed upon the exception to achieve the purpose and intent of this section.

For requests for an exception to subsection (g), the director of public works/county engineer shall review the request for an exception and the water quality impact assessment and may grant the exception with necessary conditions and safeguards if the director of public works/county engineer finds:

a. Granting the exception will not confer upon the applicant any special privilege denied to similarly situated property owners;

b. The exception request is not based on conditions or circumstances that are self-created or self-imposed, and the request does not arise from conditions or circumstances either permitted or nonconforming that are related to adjacent parcels;

c. The exception request is the minimum necessary to afford relief;

d. The exception request is in harmony with the purpose and intent of the zoning ordinance and is not of substantial detriment to water quality; and

e. Reasonable and appropriate conditions which will prevent the exception request from causing a degradation of water quality are imposed.

(3) ***Exceptions for transitional cases.*** Exceptions to the requirements of this section shall be granted in the following transitional cases, if the requirements of this subsection are satisfied and the director of public works/county engineer determines there is compliance with the requirements of this section to the maximum extent practicable:

(a) Conditional subdivision approval granted to the owner or developer by the planning commission before November 15, 1991, provided application for final subdivision approval is made by November 15, 1992, and such application is complete and satisfies all requirements of the County Code in effect at the time of the application.

(b) Final subdivision approval granted to the owner or developer by the director of planning or planning commission before November 15, 1991.

(c) Approval of subdivision construction plans, utility plans, road construction plans or capital improvement construction plans of the owner or developer by the director of public utilities or the director of public works before November 15, 1991.

(d) Approval of site plans, including grading and erosion and sediment control plans, of the owner or developer by the director of public utilities, the director of public works/county engineer or the director of planning before November 15, 1991.

(e) Approval of a plan of development (POD) by the board of supervisors or the planning commission before November 15, 1991.

(f) Granting of a conditional use permit to the owner or developer by the planning commission or the board of zoning appeals before November 15, 1991.

(g) Granting of a provisional use permit to the owner or developer by the board of supervisors before November 15, 1991.

(h) Approval of proffered rezoning by the board of supervisors before November 15, 1991, where full compliance with this section would conflict with the proffered conditions accepted by the board of supervisors.

(i) Granting of a variance by the board of zoning appeals before November 15, 1991, provided application for all necessary permits is made by November 15, 1992.

(j) Approval of a septic tank permit by the county department of health before November 15, 1991.

(k) Filing on or before September 12, 1991, for any of the approvals listed in (a) through (j) above, provided that the application was complete and satisfied all requirements of the County Code in effect at the time of filing, subsequent approval is based upon the application filed and approval is obtained by March 12, 1992.

(l) Filing for a building permit prior to November 15, 1991, provided that the application contains all the information required by the County Code in effect at the time of filing and construction is commenced within 12 months of approval and is diligently pursued to completion.

(4) ***Uses as of November 15, 1991.*** Existing uses rendered nonconforming on November 15, 1991, and uses vested by law as of November 15, 1991, shall not be subject to the requirements of this section in accordance

with state law. In addition, this section shall not be applied so as to constitute an unconstitutional taking of property.

(m) *Nonconforming uses and noncomplying structures in RPAs.* The director of public works/county engineer may waive or modify the requirements of this section for remodeling, additions or alterations to principal structures on legal nonconforming lots that were legally in existence in RPAs on November 15, 1991, provided that:

(1) There will be no net increase in nonpoint source pollutant loads;

(2) Any development or land disturbance of 2,500 square feet or more complies with the erosion and sediment control requirements of chapter 10 of the County Code;

(3) Additions shall be built outside RPAs where possible;

(4) This provision shall not apply to accessory structures; and

(5) Waiver requests must include a sketch or site plan with the name of the applicant, the legal description of the property, a sketch of the proposed improvement, the boundaries of the RPAs and RMAs, and the location of the existing private water supply and existing and proposed on-site sewage facilities and primary and reserve sewage drainfields. An environmental site assessment as defined in section 10-33 and a water quality impact assessment as defined in section 10-28 of chapter 10 of the County Code must be submitted.

(6) An application for the expansion of a nonconforming structure may be approved by the director of public works/county engineer provided that the following findings are made:

(a) The request for the waiver is the minimum necessary to afford relief;

(b) Granting the waiver will not confer upon the applicant any privilege that is denied to property owners in similar situations;

(c) The waiver is in harmony with the purpose and intent of this section and does not result in water quality degradation;

(d) The waiver is not based on conditions or circumstances that are self-created or self-imposed; and

(e) Reasonable and appropriate conditions are imposed, as warranted, that will prevent the waiver from causing a degradation of water quality.

(7) A nonconforming use development waiver shall become null and void 12 months from the date it is issued if substantial work has not commenced.

(8) This section shall not prohibit the reconstruction of preexisting structures within Chesapeake Bay Preservation Areas because of casualty loss.

(Code 1980, § 22-106.3; Code 1995, § 24-106.3; Ord. No. 1058, § 3, 11-12-2003)

Sec. 24-106.4. Development in dam break inundation zone.

(a) The owner of each impounding structure in the county shall prepare a map of the dam break inundation zone for the impounding structure and submit the map to the director of planning and the Virginia Department of Conservation and Recreation.

(b) For any development containing three or more residential units or any business or industrial use other than agricultural production proposed within the boundaries of a mapped dam break inundation zone, the director of planning shall (i) review the dam break inundation zone map, (ii) notify the dam owner, and (iii) within ten days forward a request to the Virginia Department of Conservation and Recreation to make a determination of the potential impacts of the proposed development on the spillway design flood standards required of the dam. Upon receipt of the determination of the Virginia Department of Conservation and Recreation or if the county has not received comments within 45 days of the Department's receipt of the county's request, the director of planning shall complete the county's review of the development.

(c) If the Virginia Department of Conservation and Recreation determines that the proposed development is wholly or partially within a dam break inundation zone and would change the spillway design flood

standards of an impounding structure, the developer must submit an engineering study meeting state standards to the Virginia Department of Conservation and Recreation prior to final approval of the proposed development. Following the completion of the engineering study, and prior to any development within the dam break inundation zone, the developer shall change the proposed development so that it does not alter the spillway design flood standards of the impounding structure or shall pay 50 percent of the contract-ready costs for necessary upgrades to an impounding structure attributable to the development, together with administrative fees required by state law. The payment shall be made to the Virginia Dam Safety, Flood Prevention and Protection Assistance Fund as provided by state law.

(d) Dam break inundation zone maps are only required for dams that meet the requirements for an impounding structure. The requirements of this subsection shall not apply to any development proposed downstream of a dam for which a dam break inundation zone map is not on file with the county at the time of the official submission of a development plan to the county. However, the director of planning may map the dam break inundation zone and recover the costs of such mapping from the owner of an impounding structure for which a dam break inundation zone map is not on file with the county and a map has not been prepared by the impounding structure's owner.

(e) Following completion of the proposed development in a dam break inundation zone, the developer shall provide the dam owner and the director of planning with information necessary for the dam owner to update the dam break inundation zone map to reflect the new development.

(Ord. No. 1138, § 16(24-106.4), 11-10-2009)

ARTICLE XXIII. ADMINISTRATION AND ENFORCEMENT

***Cross reference—** Planning commission generally, § 2-19 et seq.

Sec. 24-107. Director of planning responsible for enforcement.

This chapter shall be enforced by the director of planning and such deputies as may be appointed by him, who shall have the full cooperation of all other county officials in the enforcement of this chapter. The building inspector, upon receipt of any application for a permit to construct, alter or use any building or premises, shall before granting such permit submit the same to the director of planning, who shall certify that the proposed construction, alteration or use of the building or premises is or is not in violation of the provisions of this chapter. All applications for building permits shall be accompanied by plans showing the actual shape and dimensions of the lot to be built upon, the exact sizes and locations of the buildings and accessory buildings then existing and the lines within which the proposed building or structure shall be erected or altered, the existing and intended use of each building or part of a building, the number of families or housekeeping units the building is designed to accommodate and such other information with regard to the lot and the neighboring lots as may be necessary to determine and provide for the enforcement of this chapter.

(Code 1980, § 22-107; Code 1995, § 24-107)

Sec. 24-108. Building permit required.

Any person who proposes to construct or alter any building, or make use of a lot, building or structure of any kind, shall file with the building inspector his application therefor, which application shall furnish such information to the building inspector as may be necessary to enable him to pass on such application intelligently. The building inspector shall submit such application to the director of planning, who shall certify whether the proposed use is or is not in conflict with this chapter. If such proposed use is in conflict with this chapter, the building inspector shall refuse to issue such building permit.

(Code 1980, § 22-108; Code 1995, § 24-108)

Sec. 24-109. Duties of director, board of zoning appeals and board of supervisors relative to chapter.

It is the intention of this chapter that all questions arising in connection with the enforcement of this chapter shall be presented first to the director of planning; that such questions shall be presented to the board of zoning appeals only on appeal from the decision of the director of planning; and that from the decision of the board of zoning appeals recourse to the courts shall be had as provided by law. It is further the intention of this chapter that the duties of the board of supervisors of the county in connection with this chapter shall not include the hearing and passing upon disputed questions that may arise in connection with the enforcement thereof, but that the procedure for determining such questions shall be as hereinbefore set out in this section; and that the duties of the board of supervisors in connection with this chapter shall be only the duty of considering and passing upon any proposed amendment or repeal of this chapter, as provided by law, and as hereinbefore mentioned in this chapter.

(Code 1980, § 22-109; Code 1995, § 24-109)

Sec. 24-110. Violations and penalties.

Any person who violates any of the provisions of this chapter shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not more than $1,000.00. If the violation is uncorrected at the time of conviction, the court shall order the violator to abate or remedy the violation in compliance with the zoning ordinance, within a time period established by the court. Failure to remove or abate a zoning violation within the specified time period shall constitute a separate misdemeanor offense punishable by a fine of not more than $1,000.00; any such failure during a succeeding 10-day period shall constitute a separate misdemeanor offense punishable by a fine of not more than $1,500.00; and any such failure during any succeeding 10-day period shall constitute a separate misdemeanor offense for each 10-day period punishable by a fine of not more than $2,000.00.

As provided in Code of Virginia, § 15.2-2286(A)(4), a notice of violation involving temporary or seasonal commercial uses, parking of commercial trucks in residential zoning districts, or similar shortterm, recurring violations may be appealed within ten days. If no appeal has been filed within ten days, the notice shall be deemed final and unappealable.

(Code 1980, § 22-110; Code 1995, § 24-110; Ord. No. 954, § 1, 7-23-1997; Ord. No. 1005, § 1, 10-10-2000)

Sec. 24-111. Further powers of director.

In addition to the requirements and penalties specified above, the director of planning may, and it shall be his duty to, invoke any other lawful procedure available to the county, such as injunction, abatement or otherwise, as may be necessary to prevent, restrain, correct or abate any violation of this chapter.

(Code 1980, § 22-111; Code 1995, § 24-111)

Sec. 24-112. Right of entry for inspection.

The director of planning or any authorized deputies thereof, upon proper identification, shall have the right to enter upon any land or into any building, at any reasonable hour, for the purpose of making an inspection or acquiring information to determine whether or not the property and the use thereof conforms to the requirements of this chapter.

(Code 1980, § 22-112; Code 1995, § 24-112)

ARTICLE XXIV. BOARD OF ZONING APPEALS

Sec. 24-113. Composition.

There shall be a board of zoning appeals (hereinafter called the board) which shall consist of five members, each to be appointed by the circuit court of the county for terms of five years. Vacancies shall be filled by the circuit court for the unexpired portion of the term. Each member shall receive such compensation as the board of supervisors may authorize.

(Code 1980, § 22-113; Code 1995, § 24-113)

Sec. 24-114. Organization.

The board shall elect one of its members as chair and one as vice chair. The chair, or in the chair's absence the vice chair, shall preside at all meetings of the board. The board shall appoint a secretary whose duty it shall be to keep the minutes and other records of the actions and deliberations of the board and perform such other ministerial duties as the board shall direct. The secretary shall be a salaried county employee and shall perform the duties of secretary of the board in addition to his other regular duties.

(Code 1980, § 22-114; Code 1995, § 24-114)

Sec. 24-115. Procedure of board.

The board may make, alter and rescind rules and forms for its procedures consistent with this chapter and the general laws of the Commonwealth. The chair, or in the chair's absence the vice chair, may administer oaths and compel the attendance of witnesses. All meetings of the board shall be open to the public unless a closed meeting is authorized by the Virginia Freedom of Information Act. The board shall keep minutes of its proceedings and other official actions showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, which shall be filed in the office of the board and shall be public records.

(Code 1980, § 22-115; Code 1995, § 24-115)

Sec. 24-116. Powers.

The board shall have the following powers and duties:

(a) ***Appeal from determination of administrative officer.*** To hear and decide appeals from any order, requirement, decision, or determination made by an administrative officer in the administration or enforcement of the provisions of this chapter. The decision on such appeal shall be based on the board's judgment of whether the administrative officer was correct. The determination of the administrative officer shall be presumed to be correct. At a hearing on an appeal, the administrative officer shall explain the basis for his determination after which the appellant has the burden of proof to rebut such presumption of correctness by a preponderance of the evidence. The board shall consider any applicable ordinances, laws, and regulations in making its decision.

(b) ***Appeal from decision of director of planning.*** To hear and decide appeals from a decision of the director of planning.

(c) ***Variance.*** To grant upon appeal or original application in specific cases a variance, provided that the spirit of this chapter shall be observed and substantial justice done, as follows: provided that the burden of proof shall be on the applicant to prove by a preponderance of the evidence that his application meets the standard for a variance as defined in section 24-3 and the criteria set forth in this section.

A variance shall be granted if the evidence shows that (1) the strict application of the terms of the ordinance would unreasonably restrict the utilization of the property or (2) 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 or (3) the granting of the variance would alleviate a hardship by granting a reasonable modification to a property or improvements thereon requested by, or on behalf of, a person with disability, and all of the following criteria are met:

(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 the variance does not result in a use that is not otherwise permitted on such property or a change in the zoning classification of the property; and
(v) the relief or remedy sought by the variance application is not available through a conditional use permit at the time of the filing of the variance application.

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 ensure that the conditions imposed are being and will continue to be complied with. Notwithstanding any other provision of law, the property upon which a property owner has been granted a variance shall be treated as conforming for all purposes under state law and local ordinance; however, the structure permitted by the variance may not be expanded unless the expansion is within an area of the site or part of the structure for which no variance is required under the ordinance. Where the expansion is proposed within an area of the site or part of the structure for which a variance is required, the approval of an additional variance shall be required.

The board may provide that any variance granted to provide a reasonable modification to a property or improvements thereon requested by, or on behalf of, a person with a disability shall expire when the person benefited by it is no longer in need of the modification to such property or improvements provided by the variance, subject to the provisions of state and federal fair housing laws, or the Americans with Disabilities Act of 1990, as applicable.

(d) ***Conditional use permit.*** To hear and decide applications for conditional use permits authorized by this chapter, including those uses listed below. The board may impose such conditions relating to the use for which a conditional use permit is granted as it may deem necessary in the public interest, including limiting the duration of a permit, and it may require a guarantee or bond to ensure that the conditions imposed are being and will continue to be complied with.
Any conditional use permit may be authorized and issued for either a limited or an indefinite period of time. Construction or operation shall be commenced within two years of the date of issuance of a conditional use permit or it shall become void. In addition to permitting the conditional uses authorized elsewhere in this chapter, the board shall have the power to permit the following:
(1) Temporary uses and structures not otherwise permitted in the district in which located provided that such uses and structures do not involve the erection of substantial buildings. The permit shall be limited to one 24-month period, and it shall not be extended or renewed.

(2) Buildings and uses owned and operated by a public agency or public utility company except communication towers as regulated by section 24-95(a)(3).

(3) Sanitary landfills, refuse disposal areas, and sewage treatment plants.

(e) ***Revocation of conditional use permit.*** To revoke a conditional use permit previously granted by the board if the board determines that there has not been compliance with the terms and conditions of the permit.

(f) ***Interpretation of district map.*** To hear and decide applications for interpretation of the district map to carry out the intent and purpose of this chapter where there is any uncertainty as to the location of a district boundary. The board shall not have the power to substantially change the location of district boundaries established by ordinance.

(Code 1980, § 22-116; Code 1995, § 24-116; Ord. No. 1138, § 16, 11-10-2009)

State law reference—Powers of board of appeals, Code of Virginia, § 15.2-2309.

Sec. 24-117. Procedure on applications and appeals.

(a) ***Applications.*** Any application to the board for a variance or conditional use permit may be made by any property owner, tenant, government official, department, board or bureau. Such application shall be made to the director of planning in accordance with rules adopted by the board. The director of planning shall transmit the application to the secretary of the board who shall place the matter on the board's agenda. The secretary of the board shall also transmit a copy of the application to the planning commission, which may send a recommendation to the board or appear as a party at the hearing. The board shall not consider substantially the same application within one year.

(b) ***Appeals.*** An appeal to the board may be taken by any person aggrieved or by any county officer, department, board or bureau affected by any decision of the director of planning or from any order, requirement, decision, or determination made by any other administrative officer in the administration or enforcement of this chapter. Such appeal shall be taken within 30 days after the entry of the decision appealed from by filing with the director of planning, and with the board, a notice of appeal specifying the grounds thereof. The director of planning shall forthwith transmit to the secretary of the board all the papers constituting the record upon which the action appealed from was taken. An appeal stays all proceedings in the furtherance of the action appealed from, unless the director of planning 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. If there is such a certification, proceedings shall not be stayed except by a restraining order granted by the board or by a court of record on application and on notice to the director of planning and for good cause shown.

(c) ***Procedure.*** The board shall not exercise any of its powers enumerated in section 24-116 except after notice and hearing as required by Code of Virginia, § 15.2-2204. However, when giving any required notice to the owners, their agents, or the occupants of abutting property and property immediately across the street or road from the property affected, the board may give such notice by first-class mail rather than by registered or certified mail. The board shall fix a reasonable time for the hearing of the application or appeal and make a decision within 90 days of the filing of the application or appeal. At the hearing, any party may appear in person or by agent or by attorney. In exercising its powers, the board may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from. The concurring vote of three members of the board shall be necessary to reverse any order, requirement, decision or determination of an administrative officer or to decide in favor of the applicant on any matter upon which it is required to pass under this chapter or to effect any variance from the chapter.

(Code 1980, § 22-117; Code 1995, § 24-117)

Sec. 24-118. Appeals from board of zoning appeals.

An appeal from a decision of the board may be taken as provided by law.

(Code 1980, § 22-118; Code 1995, § 24-118)

ARTICLE XXV. DISCLOSURE OF OWNERSHIP OR PARTIES-IN-INTEREST

Sec. 24-119. Generally.

The board of supervisors, the planning commission and the board of zoning appeals may require from an applicant a complete disclosure of ownership or parties in interest of real estate affected, for which a plan of development, a use permit, a zoning amendment or a variance from the regulations of the chapter is requested; provided, that this disclosure requirement shall not be construed to require the disclosure of the names of stockholders, officers and directors of a corporation whose stock is traded on a national or local stock exchange and having more than 500 shareholders.

(Code 1980, § 22-119; Code 1995, § 24-119)

ARTICLE XXVI. DISTRICT CHANGES AND OTHER AMENDMENTS

Sec. 24-120. Powers of board of supervisors; procedure generally.

(a) The board of supervisors, from time to time, may by ordinance amend, supplement, change or repeal any of the regulations herein established, district boundaries or classifications of properties as shown on the zoning maps. Any such amendment may be initiated by resolution of the board of supervisors, or by motion of the planning commission, or by petition of the owner, contract purchaser with the owner's written consent, or the owner's agent therefor, of the property which is the subject of the proposed zoning map amendment.

(b) All motions, resolutions or petitions for amendment to the zoning chapter and/or maps shall be acted upon and a decision made within such reasonable time as may be necessary, which shall not exceed 12 months unless in the case of a proposed zoning map amendment the applicant requests or consents to action beyond such period or unless the applicant withdraws his petition for amendment to the zoning map in accordance with this section.

(c) No such proposed change or amendment shall be enacted by the board of supervisors until it has been referred to the planning commission for its recommendation. The planning commission shall not recommend, nor the board of supervisors adopt, any proposed change or amendment until each has held a public hearing pursuant to public notice as required by Code of Virginia, § 15.2-2204, as amended. Failure of the commission to report 100 days after the first meeting of the commission after the proposed change or amendment has been referred to the commission shall be deemed approval, unless the proposed change or amendment has been withdrawn by the applicant prior to the expiration of such time period. In the event of and upon such withdrawal, processing of the proposed change or amendment shall cease without further action as otherwise would be required by this section. The applicant's request for withdrawal shall be in writing, shall be effective upon receipt by the planning office, and shall be included in the case file.

(Code 1980, § 22-120; Code 1995, § 24-120; Ord. No. 1004, § 1, 9-26-2000)

Sec. 24-121. Conditional zoning or zone approval.

(a) *Purpose of conditional zoning.* The purpose of conditional zoning is to provide a method for permitting the reasonable and orderly development and use of land in those situations in which peculiar specific

circumstances indicate that the existing zoning chapter district regulations are not adequate. In such instances, reasonable conditions voluntarily proffered by the owner of the subject property to which such conditions are applicable for the protection of the community (which conditions are not generally applicable to other land similarly zoned), when considered with existing zoning chapter district regulations, should cause the requested rezoning to be compatible with existing zoning and uses in the area.

(b) *Approval of conditions as part of a rezoning amendment to zoning map.* The owner of the property which is the subject of a rezoning request shall, if he elects to obtain conditional zoning, voluntarily proffer in writing such conditions as he deems appropriate at the time of filing an application to rezone the property or by such later date as the commission shall establish in its rules and regulations, but in any event before the commission makes its recommendation to the board of supervisors.

In the event that additions thereto or modifications thereof are desired by the owner of the property which is the subject of the rezoning request, the same shall be made in writing not less than 21 days prior to the time at which the commission makes recommendation to the board of supervisors unless the commission:

(1) Specifically waives such time period; or

(2) Specifically establishes such greater or lesser time period as it deems reasonable.

The board of supervisors may consider additional proffers, deletions and/or amendments to all such conditions, provided same have been voluntarily proffered in writing by the owner of the property which is the subject of the rezoning request prior to the public hearing at which the board of supervisors renders its decision thereon.

(c) *Permitted conditions as part of an amendment to zoning map.*

(1) The board of supervisors may approve reasonable conditions as part of an amendment to the zoning map; provided, that the following criteria are met:

a. The rezoning itself gives rise to the need for the conditions;

b. Such conditions have a reasonable relation to the rezoning;

c. All such conditions are in conformity with the county's comprehensive plan;

d. If proffered conditions include the dedication of real property or the payment of cash, the proffered conditions must provide for the disposition of such property or cash in the event the property or cash is not used for the purpose for which proffered; and

e. The provisions of this chapter shall not be used for the purpose of discrimination in housing.

(2) In the event proffered conditions include the dedication of real property or the payment of cash, such property shall not transfer and such payment of cash shall not be made until the facilities for which such property is dedicated or cash is tendered are included in the county's capital improvement program.

(d) *Records of conditional zoning.*

(1) The zoning map shall show by an appropriate symbol the existence of conditions attached to the zoning on the map.

(2) The director of planning shall maintain a conditional zoning index, which index shall be available in the planning office for public inspection during regular office hours. The index shall provide ready access to the chapter creating such conditions in accordance with the article and shall clearly list all conditions applicable to each.

(e) *Enforcement and guarantees.* In order to ensure the intent and purpose of conditional zoning approved in accordance with this article, the director of planning or his agents shall be vested with all necessary authority on behalf of the board of supervisors to administer and enforce conditions attached to a rezoning or amendment or a zoning map including:

(1) Ordering, in writing, compliance with such conditions.

(2) Bringing of appropriate legal action or proceeding to ensure compliance.

(3) Requiring a guarantee or contract or both for construction of physical improvements required by

condition(s).

(4) Denial of zoning certification with regard to the issuance of any required use, occupancy or building permit.

(f) *Review of director of planning's decision.* Any person who is aggrieved by the director of planning's decision or actions under subsection (e) of this section regarding enforcement or guarantees as provided for in subsection (e) of this section may petition the board of supervisors for review of such decision(s). Such petition shall be filed as follows:

(1) The petition shall be filed with the director of planning and the clerk of the board of supervisors within 30 days from the date of decision for which review is sought and at least 30 days prior to a regularly scheduled meeting of the board of supervisors designated for hearing of zoning matters.

(2) The petition shall specify the grounds upon which the petitioner is aggrieved.

The director of planning shall forward the petition and the justification of any such decision(s) to the board of supervisors and to the aggrieved person no less than ten days prior to the next regularly scheduled meeting designated for hearing of zoning matters. Written notice of such meeting shall be given to all parties as required by Code of Virginia, § 15.2-2204, as amended.

(g) *Amendments and variations of conditions.* All amendments and/or variations of adopted conditions shall be made in accordance with provisions of section 24-120 and other applicable law.

(h) *Existing conditional zoning.* Any proffers having been approved with a conditional zoning request legally existing at the effective date of any amendment to chapter 24 shall be considered to be in full force and effect and binding upon the parcel of land conditionally zoned; provided, however, that such proffers shall not be construed to permit a more intense use of the property than is otherwise permitted by the general regulations applicable to the district.

(i) *Office district amendment; provision for previously proffered conditions and restrictive covenants.* The provisions of the comprehensive office district ordinance amendment (hereinafter referred to as the amendment) shall become effective as of the date of its adoption by the board of supervisors, except that, with respect to all parcels zoned R-5 conditional and R-6 conditional as of the effective date of the amendment and all parcels presently zoned R-5 or R-6 which are subject to restrictive covenants recorded in the clerk's office prior to December 17, 1981, which covenants contain provisions which would void the covenants in the event of a change in uses permitted in the applicable provisions of the zoning chapter, such parcels shall continue to be governed by the applicable provisions of the R-5 and R-6 general residence districts and the provisions of paragraph (j) until such time subsequent to the adoption of the amendment as the board of supervisors adopts ordinances rezoning the parcels in question; provided, however, that any person asserting such right to have his property governed by the provisions of the R-5 and R-6 general residence districts and the provisions of paragraph (j) shall first submit evidence in form and in substance satisfactory to the director of planning to establish such person's rights to rely thereon.

Notwithstanding the foregoing provisions, any owner of property zoned R-5 conditional or R-6 conditional prior to the effective date of the amendment may apply or consent to have said property governed under the office district provisions and the same conditions approved by the board of supervisors as a part of the R-5 conditional or R-6 conditional zoning; provided, that the property owner voluntarily re-proffers, in writing, said conditions to the board of supervisors prior to the recommendations of the planning commission on the amendment.

(j) *Exceptions to paragraph (i).* Where a parcel(s) of land meets the requirements of paragraph (i) above, the following uses may be permitted unless otherwise restricted by the documents filed:

(1) *Parcels zoned R-5 or R-5C.*

a. *Principal uses permitted.*

1. Any principal uses permitted and as regulated in section 24-28 and section 24-30.1.

2. Motels, when located on a U.S.-numbered highway and not including any B or M district use, except as

permitted in this subsection. In a motel having 100 or more guestrooms or suites, a dining room or restaurant and convention facilities may be included as an incidental accessory use, provided the restaurant is made an integral part of the main building.

b. *Conditional uses permitted by special exception.*

1. Any conditional uses permitted and as regulated in section 24-29.

2. Clubs, fraternities, lodges and similar meeting places of nonprofit organizations, except those conducted as a gainful business, provided such buildings are located at least 30 feet from any other lots in any R district.

3. Office buildings for administrative offices or the offices of professional persons such as doctors, dentists, lawyers, engineers or architects, and offices devoted exclusively to business and management; provided, that the handling of merchandise on the premises shall not be permitted.

4. General hospitals, sanitoriums, rest homes and charitable institutions for human care; provided, that any such use shall have a minimum lot area of five acres.

c. *Accessory uses permitted.*

1. Any accessory uses permitted in section 24-30.

2. Signs as regulated in section 24-104.1(j).

(2) *Parcels zoned R-6 or R-6C.*

a. *Principal uses permitted.*

1. Any principal use permitted and as regulated in sections 24-35, subsection (j)(1)a. and section 24-37.1.

2. Business or professional office buildings.

3. Clubs, fraternities, lodges and similar meeting places.

4. Banks and savings and loan institutions.

5. General hospitals, sanitoriums, rest homes and charitable institutions for human care; provided, that any such use shall have a minimum of five acres.

b. *Conditional uses permitted by special exception.*

1. Barbershop, beauty shop, coffeeshop, cafeteria, health club, jewelry store or watch repair, lunchroom or restaurant, ethical pharmacy, newspaper and magazine stand, optometrist, souvenir and tobacco shop or valet shop in an office building, provided there shall be no entrances direct from the street or parking lot to these businesses, no signs or other evidence indicating the existence of such businesses visible from the outside of the building, and provided that such uses are secondary to the primary use of the building for professional and general office purposes.

2. Radio and television broadcasting stations.

3. Funeral chapels and related facilities, including one cremation unit to serve funerals conducted by the operator of the funeral chapel and to be used for the cremation of dead human bodies. The cremation unit shall be equipped with safeguards to eliminate all smoke, odor and other emissions.

c. *Accessory uses permitted.*

1. All accessory uses permitted in section 24-37.

2. Signs as regulated in section 24-104.1(j).

(3) *Table of regulations.*

	Maximum Height		Minimum Lot Area		Minimum		Minimum Side Yard		Minimum
District and Use		Feet	Total (sq.	Per Family (sq. ft.)	Lot Width (feet)	Front	Least Yard (feet)		Rear Yard (ft.)

			ft.)			Yard Depth (ft.)			
R-5 or R-5C districts									
Bed and breakfast homes									
1 or 1½ stories		25	7,500	7,500	60	45	8		35
2 or 2½ stories		35	7,500	7,500	60	45	10		40
Motels		45	4 acres	1,500 per bedroom	200	50	40		50
Hospitals and sanitoriums									
1 or 2½ stories		35	5 acres		200	50	30		50
3 to 8 stories (a)			5 acres		200	75	75		75

Other permitted uses									
1 to 3 stories (a)			16,000		100	35(c)	20(c)		35(c)
R-6 or R-6C districts									
Bed and breakfast homes									
1 or 1½ stories		25	7,500	7,500	60	45	8		35
2 or 2½ stories		35	7,500	7,500	60	45	10		40
Hotel, motel, motor lodge, motor hotel	Same as R-5 or R-5C districts above								
Hospital and sanitoriums									
1 to 8 stories			5 acres		200	50	30		50
Funeral chapels									
1 to 3 stories			5 acres		200	50	30(b)		50
Other permitted uses									
1 to 8 stories			1		100(c	3	20(c)		30(c)

			6,000		)	5(c)			
(a) Buildings up to eight stories in height may be permitted by special exception.									
(b) Parking in minimum side yards is prohibited except adjoining B or M districts.									
(c) Except adjoining any R district, in which case the setback shall be increased by one foot for every two the building height exceeds 45 feet.									

(4) *Parking.*

a. *Off-street parking requirements.*

1. Parking as permitted and regulated in section 24-96, except subsections (b)(12) and (c).

2. Office building: six for first 1,000 square feet plus one for each additional 300 square feet of floor area.

3. Each off-street parking space shall be at least 162 square feet in area, exclusive of access drives and aisles, and shall be of such shape and in such location and so improved as to be effectively useable. In any R district, except for single-family dwellings, such location shall be only in a rear yard or in a private garage located in accordance with the regulations governing garages; except that off-street parking in the side yard shall be permitted and the minimum requirements in section 24-94 are observed on the street side of a corner lot. In any B or M district, parking may be located anywhere on the premises when such parking area is delineated by a curb or bumper, and when curb and gutter, and storm sewer, all to county specifications, are provided. In any R-5 or R-6 district, such location may be anywhere except in the required minimum side yard on the street side of a corner lot; provided, that any location in the front yard shall be to the rear or inside of a landscaped area (shrubbery, etc., to be approved by the planning commission) not less than 15 feet in depth.

(Code 1980, § 22-121; Code 1995, § 24-121; Ord. No. 957, § 9, 8-13-1997)

State law reference—Conditional zoning, policy and purpose, Code of Virginia, § 15.2-2296.

Sec. 24-122. Time limit on repeat petitions.

After the board of supervisors has taken official action either granting or denying a petition for any change in zoning or any change of zoning conditions, no other petitions for substantially the same change(s) shall again be considered in less than 12 months from the date of such official action. No petition for substantially the same change(s) and which is withdrawn pursuant to section 24-120 shall again be considered in less than 12 months from the date of official withdrawal.

(Code 1980, § 22-122; Code 1995, § 24-122)

Sec. 24-122.1. Provisional uses; general guides and standards.

(a) *Purpose.* The provisional use procedure provides for certain uses which cannot be well adjusted to their environment in particular locations with full protection offered to surrounding properties by rigid application of the district regulations. These uses either have unusual characteristics or have characteristics different from those of their immediate surroundings or are generally essential and desirable for the general convenience and welfare but because of the nature of the use, the importance of relationship to the land use plan and possible impact, not only on neighboring properties but on a large section of the county, require the exercise of good planning judgment on location and site plan.

(b) *General guides and standards.* A provisional use should be approved only if it is found that: the location is appropriate and not in conflict with the intent of the land use plan; the public health, safety, morals and

general welfare will not be adversely affected; adequate utilities and off-street parking facilities will be provided; necessary safeguards will be provided for the protection of surrounding property, persons and neighborhood values; and the requirements of this section are satisfied. In approving a provisional use permit, the board of supervisors may impose reasonable conditions to accomplish the objectives of this section with respect to use, screening, lighting, hours of operation, noise control, maintenance, operation or other requirements. The procedures in section 24-120(c) of this chapter shall be used for consideration of the provisional use permit.

A provisional use permit may be approved for either a limited or indefinite period of time. A provisional use permit shall be subject to revocation at any time by the board of supervisors for failure of the permit holder to comply with the applicable stated conditions or if the use granted is found to have a deleterious effect on the surrounding area. Prior to revocation of the permit, the board of supervisors shall hold a public hearing after written notice to the permit holder and notice in accordance with Code of Virginia, § 15.2-2204, as amended. The board may refer the matter to the planning commission for a recommendation before the board makes its decision.

The director of planning may consider a request for transfer of a provisional use permit to a new owner/operator pursuant to the following conditions:

(1) The request is made by the new owner/operator in writing providing the name and mailing address of the owner/operator, agents, trade name of the business, business location and mailing address.

(2) The use or service is the same or substantially the same use or service authorized by the board of supervisors.

(3) The owner/operator has acknowledged the conditions of the original permit and has agreed in writing to comply with all conditions.

(4) The director of planning has consulted with appropriate governmental agencies, officials, boards and commissions, if deemed necessary in the opinion of the director, to determine if circumstances substantially affecting the public health, safety or welfare have changed or if adverse affects on the surrounding neighborhood are anticipated.

Unless otherwise specified as a condition of approval, the height limits, minimum yard spaces, lot area and sign requirements shall be the same as for other uses in the district in which the proposed provisional use is located.

(c) *Existing provisional uses.* Any use listed as requiring approval as a provisional use and legally existing on April 14, 1982, shall be considered to be in conformance with the requirements of this section; provided, that any future change or addition to the use shall require provisional use approval.

(Code 1980, § 22-122.1; Code 1995, § 24-122.1)