

Prince George County Zoning Ordinance



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Chapter 90 ZONING*

*Cross references: Buildings and building regulations, ch. 10; swimming pools, § 10-81 et seq.; community development, ch. 22; environment, ch. 38; manufactured homes and trailers, ch. 50; planning, ch. 62; subdivisions, ch. 70.

State law references: Codification of zoning ordinance, Code of Virginia, § 15.2-1433; zoning, Code of Virginia, § 15.2-2280 et seq.

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ARTICLE I. IN GENERAL

Sec. 90-1. 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:

Abattoir means a commercial slaughterhouse.

Accessory use or structure means a subordinate use or structure customarily incidental to and located upon the same lot occupied by the main use or building.

Acreage means a parcel of land, regardless of area, described by metes and bounds, which is not a numbered lot on any recorded subdivision plat.

Administrator means the official charged with the enforcement of this chapter. He may be any appointed or elected official who is by formal resolution designated to the position by the board of supervisors and shall serve as administrator at the pleasure of the board of supervisors.

Agriculture means the tilling of the soil, the raising of crops, horticulture, forestry and gardening, including the keeping of animals and fowl and any agricultural industry or business, such as fruit packing plants, dairies or similar uses.

Airport means an area of land or water which is used, or intended for public use, for the landing and takeoff of aircraft, and any appurtenant areas which are used or intended for use for airport buildings or other airport facilities or rights-of-way, easements and together with all airport buildings and facilities located thereon.

Alteration means any change in the total floor area, use, adaptability or external appearance of an existing structure.

Animal boarding place means any structure or any land or any combination of either used, designed, or arranged for the boarding, breeding or care of dogs, cats, pets, fowl, ponies, horses or other domestic animals for profit, but exclusive of animals used for agricultural purposes.

Animal unit is a measurement defined as a single slaughter or feeder cattle or its equivalent of: 2.5 swine, each weighing over 55 pounds; 0.5 horse; ten sheep or lambs; 0.67 mature dairy cattle; 55 turkeys; or 100 laying hens or broilers.

Apartment house means a building used or intended to be used as the residence of three or more families living independently of each other.

Automobile graveyard means 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 economically practical to make operative, are placed, located or found.

Base flood/100-year-flood means a flood that, on the average, is likely to occur once every 100 years (i.e., that has a one-percent chance of occurring each year, although the flood may occur in any year).

Base flood elevation (BFE) means the one-hundred-year water surface elevation designated by the Federal Emergency Management Agency.

Basement means a story having part but not more than one-half of its height below grade. A basement shall be counted as a story for the purpose of height regulations if it is used for business purposes or for dwelling purposes by other than a janitor employed on the premises.

Best management practice means a practice or combination of practices as detailed in the Commonwealth of Virginia's Soil Erosion and Sediment Control Handbook determined by the county to be the most effective, practicable means of preventing or reducing the amount of pollution generated by nonpermit sources to a level compatible with water quality goals.

Bingo hall means a facility used primarily for the conduct of bingo games, open to the public and not in a subsidiary nature to another use. Note: A special exception shall not be required if operated within any public/semipublic building such as an emergency rescue squad or fire station, church or public school.

Boardinghouse means a building where, for compensation, lodging and meals are provided for at least five and up to 14 persons.

Buffer area means an area of natural or established vegetation managed to protect other components of a resource protection area and state waters from significant degradation due to land disturbance.

Building means any structure having a roof supported by columns or walls for the housing or enclosure of persons, animals or chattels.

Building, accessory, means a subordinate structure customarily incidental to and located upon the same lot occupied by the main structure. No such accessory structure shall be used for housekeeping purposes.

Building, height of, means the vertical distance measured from the level of the curb or the established curb grade opposite the middle of the front of the structure to the highest point of the roof if a flat roof; to the deck line of a mansard roof; or to the mean height level between the eaves and ridge of a gable, hip or gambrel roof. For buildings set back from the street line, the height shall be measured from the average elevation of the ground surface along the front of the building.

Building, main, means the principal structure or one of the principal buildings on a lot or the building or one of the principal buildings housing the principal use on the lot.

Cellar means a story having more than one-half of its height below grade and which may not be occupied for dwelling purposes.

Child care center means any place, however designated, operated for the purpose of providing care, protection and guidance to six or more children not related to the center operator. Child care centers are further classified as follows:

(1) *Commercial child care center* means a facility, other than a family day care home, operated for the purpose of providing care, protection, or guidance to children separated from their parents or guardian during any part of the 24-hour day, excluding:

- a. A public or private school, unless the commissioner of social services determines that such school is operating a child care facility outside the scope of regular classes.
- b. A religious-exempt child care center as classified by the state department of social services, and operated on the premises of a church or religious institution.
- c. A facility required to be licensed as a summer camp by the department of social services.
- d. A Sunday School conducted by a religious institution or a facility operated by a religious or nonprofit organization, where children are cared for during short periods of time while persons responsible for such children are attending religious services or activities.

(2) *Home occupation child care* means providing care for up to nine children in residential R-E, R-1, R-2, R-3 and A-1 general agricultural zoned areas as a home occupation use. In addition, for residential dwellings in existence before 1965 on B-1 zoned property, home occupation child care is allowed as a special exception use.

(3) *State-licensed child care center* means providing care for ten or more children in the A-1 general agricultural or B-1 general business zoned area as a special exception use.

Commission means the planning commission of the county.

Dairy means a commercial establishment for the manufacture and sale of dairy products.

Dancing school means any place, however designated, operated for the purpose of providing instruction in the art of dancing to two or more children under 19 years of age during any part of the day between the hours of 9:00 a.m. and 9:00 p.m., exclusive of Sundays and holidays.

Development means any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavating or drilling operations or storage of equipment or materials.

District means districts as referred to in Code of Virginia, § 15.2-2280.

Dump heap means any area of 100 square feet or more lying within 1,000 feet of a state highway, a residence, a dairy barn or food handling establishment where trash, garbage or other waste or scrap material is dumped or deposited without being covered by a sanitary fill.

Dwelling means any structure which is designed for use for residential purposes, except hotels, boardinghouses, lodginghouses, tourist cabins, apartments and automobile trailers.

Dwelling, attached, means one of not less than three nor more than ten attached dwelling units forming a continuous structure, each being separated by common or party walls of masonry construction void of fenestration or means of ingress or egress from the basement to the roof, with individual exterior entrances at grade, and with not more than three of such abutting dwelling units having the same front yard setback.

Dwelling, multiple-family, means a structure arranged or designed to be occupied by more than one family.

Dwelling, single-family, means a structure 19 or more feet in width arranged or designed to be occupied by one family, the structure having only one dwelling unit.

Dwelling, two-family, means a structure arranged or designed to be occupied by two families, the structure having only two dwellings units.

Dwelling unit means one or more rooms in a dwelling designed for living or sleeping purposes, having at least one kitchen.

Family means one or more persons occupying a premises and living in a single dwelling unit, as distinguished from an unrelated group occupying a boardinghouse, lodginghouse, tourist home or motel.

Family day care home means a dwelling unit in which the provider resides that is used to provide care, protection, and guidance to one through 12 children, exclusive of the provider's own children and children who reside in the home, when at least one child receives care for compensation. A family day care home (small) may provide care for one to five individual children during any part of the 24-hour day, may be governed by a voluntary license issued by the state department of social services, and shall be termed "home occupation child care" for purposes of regulation under this chapter. A family day care home (large) may provide care for one to 12 individual children during any part of the 24-hour day and shall be governed by a license issued by the state department of social services, consistent with the provisions of Code of Virginia, § 15.2-2292.

Farm operation means one or more parcels of land, either contiguous or separate, aggregating not less than 25 acres under constructive single ownership or management upon which the activity of agriculture is pursued in the production of natural fibers and food for human or animal consumption, exclusive of forestry.

Floodplain means any land area susceptible to being inundated by water from any source.

Frontage means the minimum width of a lot measured from one side lot line to the other along a straight line on which no point shall be farther away from the street upon which the lot fronts than the building setback line as defined and required by this chapter.

Garage, private, means an accessory building designed or used for the storage of not more than three automobiles owned and used by the occupants of the building to which it is accessory. On a lot occupied by a multiple-unit dwelling, the private garage may be designed and used for the storage of 1 1/2 times as many automobiles as there are dwelling units.

Garage, public, means a building or portion thereof, other than a private garage, designed or used for servicing, repairing, equipping, renting, selling or storing motor vehicles.

General store, country, means a single store, the ground floor area of which is 4,000 square feet or less and which offers for sale primarily bread, milk, cheese, canned and bottled foods and drinks, tobacco products, candy, papers and magazines and general hardware articles. Gasoline may also be offered for sale but only as a secondary activity of a country general store.

Golf course means any golf course, publicly or privately owned, on which the game of golf is played, including accessory uses and buildings customary thereto, but excluding golf driving ranges.

Golf driving range means a limited area on which golf players do not walk, but onto which they drive golf balls from a central driving tee.

Governing body means the board of supervisors of the county.

Guestroom means a room which is intended, arranged or designed to be occupied or which is occupied by one or more guests paying direct or indirect compensation therefor, in which no provision is made for cooking. Dormitories are excluded.

Historical area means the area defined on the zoning map in which the provisions apply for protection of an historical heritage.

Home for the aged means any place, however designated, operated or maintained, for the maintenance or care of four or more aged, infirm, chronically ill or incapacitated persons, except:

- (1) A facility or portion of a facility licensed by the state board of health or the state hospital board; and
- (2) The home or residence of an individual who cares for or maintains only persons related to him by blood or marriage.

Home garden means a garden in a residential district for the production of vegetables, fruits and flowers generally for use or consumption by the occupants of the premises.

Home occupation means an occupation carried on by the occupant of a dwelling as a secondary use in connection with which no one is employed other than members of the family residing on the premises, with the exception of such employees as may be provided for through approval of a special exception. No display of goods nor outside storage of materials and equipment is permitted except as provided for by special exception. No use or activity will be permitted which would change the outside appearance or character of the home or lot, except as provided for by special exception. Within this category the following four types of home occupations shall exist:

- (1) *Office* means limited to the use of a portion of the home, limited except as provided for by special exception to the main dwelling, not exceeding 15 percent of the floor area, in conjunction with the occupation. No more than two taxicabs, nor one light truck or other vehicle and one trailer of no more than 20 feet in length, used in association with any landscaping or contracting services office, may be parked or stored on the premises. Catering or food preparation by residents shall be regarded as a home office use, provided that no food items are sold directly to customers from the premises or for consumption on the premises.

(2) *Home professional and trade offices* means offices within residences or accessory structures on residential properties where clients or customers are received within the home, such to be permitted by special exception only. This category shall include dental offices, doctors' offices, law offices, or architectural offices where clients or patients are received and services or medical/dental care is rendered; and personal service uses such as barber and beautician services and sewing and upholstery services. Conditions of a special use exception shall address, at a minimum:

- a. The provision of offstreet parking;
- b. The number of nonresident employees permitted;
- c. Signage permitted; and
- d. Hours of operation.

(3) *Cottage industry*, in addition to those uses permitted under subsections (1) and (2) of this definition, means a home occupation which shall permit the preparation of food products for sale; the rental of rooms not to exceed four, including bed and board; arts and crafts; construction of wood, leather goods, saddles, clothing and other similar products; and lawn care and landscaping businesses with outside storage or the storage or parking of more than one vehicle and one trailer used in association with the business.

(4) *Home occupation child care* means provision of care, for compensation, within a dwelling for one to five children unrelated by blood, marriage, or adoption to residents of that dwelling, within any part of the 24-hour day. See also *Family day care home (small)*. No person may care for more than four children under the age of two years, whether related or unrelated to the provider, unless licensed by the state department of social services.

Home occupation sign means a sign not exceeding four square feet in area directing attention to a product, commodity or service available on the premises. Such product, commodity or service shall clearly be a secondary use of the dwelling.

Hospital means an institution rendering medical, surgical, obstetrical or convalescent care, including nursing homes, homes for the aged and sanatoriums, but in all cases excluding institutions primarily for mental or feeble-minded patients, epileptics, alcoholics or drug addicts. Certain nursing homes and homes for the aged may be home occupations if they comply with the definition in this section.

Hospital, special care, means an institution rendering care primarily for mental or feeble-minded patients, epileptics, alcoholics or drug addicts.

Hotel means a building designed or occupied as the more or less temporary abiding place for 14 or more individuals who are lodged for compensation with or without meals in which provision is generally not made for cooking in individual rooms or suites.

Junkyard means the use of any area of land lying within 100 feet of a state highway or the use of more than 200 square feet of land area in any location for an establishment or place of business which is maintained, operated, or used for storing, keeping, buying, or selling junk, or for the maintenance or operation of an automobile graveyard, and the term includes garbage dumps and sanitary fills.

Kindergarten, private, means a school which is primarily educational in nature, meets the needs of a child of five years and operates at least five hours, but not more than 6 1/2 hours per day.

Livestock means domestic animals normally raised on a farm such as horses, cows, swine, goats, sheep, etc.

Livestock market means a commercial establishment wherein livestock is collected for sale and auctioned off.

Lot means a parcel of land occupied or to be occupied by a main structure or group of main structures and accessory structures, together with such yards, open spaces, lot width and lot areas as are required by this chapter, having frontage upon a street, either shown on a plat of record or considered as a unit of property and described by metes and bounds.

Lot, corner, means a lot abutting on two or more streets at their intersection. Of the two sides of a corner lot, the front shall be deemed to be the shortest of the two sides fronting on streets.

Lot, depth of, means the average horizontal distance between the front and rear lot lines.

Lot, double-frontage, means an interior lot having frontage on two streets.

Lot, interior, means any lot other than a corner lot.

Lot of record means a lot which has been recorded in the clerk's office of the circuit court.

Lot, width of, means the average horizontal distance between side lot lines.

Manufacture and *manufacturing* mean the processing or converting of raw, unfinished materials or products or either of them into articles or substances of different character or for use for a different purpose.

Mobile home means a single-family dwelling designed for transportation, after fabrication, on streets and highways on its own wheels or on flatbed or other trailers arriving at the site where it is to be occupied as a dwelling complete and ready for occupancy, except for minor and incidental unpacking and assembly operations, location on jacks or permanent foundations, connection to utilities and the like.

Mobile home park or subdivision means any area of ten acres or more designed to accommodate 25 or more mobile homes intended for residential use where residence is in mobile homes exclusively.

Nonconforming activity means the otherwise legal use of a building or structure or of a tract of land that does not conform to the use regulations of this chapter for the district in which it is located, either at the effective date of this chapter* or as a result of subsequent amendments to this chapter.

***Editor's note:** The zoning ordinance was adopted on May 27, 1965.

Nonconforming lot means an otherwise legally platted lot that does not conform to the minimum area or width requirements of this chapter for the district in which it is located either at the effective date of this chapter* or as a result of subsequent amendments to this chapter.

***Editor's note:** The zoning ordinance was adopted on May 27, 1965.

Nonconforming structure means an otherwise legal building or structure that does not conform with the lot area, yard height, lot coverage or other area regulations of this chapter or is designed or intended for a use that does not conform to the use regulations of this chapter for the district in which it is located either at the effective date of this chapter* or as a result of subsequent amendments to this chapter.

***Editor's note:** The zoning ordinance was adopted on May 27, 1965.

Nontidal wetlands 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 does support, a prevalence of vegetation typically adapted for life in saturated soil conditions, as defined by the U.S. Environmental Protection Agency pursuant to section 404 of the Federal Clean Water Act, in CFR 328.3b, dated November 1, 1986.

Nursery school means a school which is primarily educational in nature, meets the needs of a child between the ages of three and five years and operates not more than four hours per day.

Offstreet parking area means space provided for vehicular parking outside the dedicated street right-of-way.

Outdoor flea market means an occasional or periodic market held in an open area where one or more individuals offers goods for sale to the public. The term "outdoor flea market" does not include sales held by charitable or nonprofit organizations not more than four times a year, farmer's market, or yard sales.

Pen means a small enclosure for the concentrated confinement and housing of animals or poultry; a place for feeding and fattening animals or a coop. Enclosed pasture or range with an area in excess of 100 feet for each hog or small animal or 200 square feet for each larger animal shall not be regarded as a pen.

Poultry means domestic fowl normally raised on a farm such as chickens, ducks, geese, turkeys, etc.

Private landing areas means an area for landing aircraft which has been constructed by a person for private use and which is not open to the general public.

Public water and sewer systems means a water or sewer system owned and operated by a municipality or county or owned and operated by a private individual or a corporation approved by the board of supervisors and properly licensed by the state corporation commission subject to special regulations as set forth in this chapter.

Recreational vehicle means a vehicle which is:

- (1) Built on a single chassis;
- (2) Four hundred square feet or less when measured at the largest horizontal projection;
- (3) Designed to be self-propelled or permanently towable by a light duty truck; and
- (4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational camping, travel, or seasonal use.

Required open space means any space required in any front, side or rear yard.

Restaurant means any building in which, for compensation, food or beverages are dispensed for consumption on the premises, including, among other establishments, cafes, tearooms, confectionery shops or refreshment stands.

Retail stores and shops means buildings for display and sale of merchandise at retail or for the rendering of personal services, but specifically exclusive of coal, wood and lumber yards, such as a drugstore, newsstand, foodstore, candy shop, milk dispensary, dry goods and notions store, antique store and gift shop, hardware store, household appliance store, furniture store, florist, optician, music and radio store, tailor shop, barbershop and beauty shop.

Riding stable means any structure or any land or any combination of either used, designed or arranged for the maintenance of horses, mules, ponies or donkeys for hire either with or without instruction or a riding area, but exclusive of horses or mules used for agricultural purposes.

Sawmill means a portable sawmill located on a private property for the processing of timber cut only from that property or from property immediately contiguous and adjacent thereto.

Setback means the minimum distance by which any building or structure shall be separated from the front lot line.

Sign means any display of any letters, words, numerals, figures, devices, emblems, pictures or any parts or combinations thereof by any means whereby such are made visible for the purpose of making anything known, whether such display is made on, attached to or is a part of a structure, surface or any other thing, including but not limited to the ground, any rock, tree or other natural object, which display is visible beyond the boundaries of the parcel of land on which the display is made. A display of less than one square foot in area is excluded from this definition. The term "sign" is further defined as follows:

(1) *Business* means a sign which directs attention to a product or commodity available on the premises. Such signs shall be limited, in the aggregate, to a maximum of 300 square feet per business. Where four or more businesses occupy the same site, an additional 300 square feet of signage is permitted on a unified basis for identification of a shopping center.

(2) *Directional* means a sign, one end of which may be pointed or on which an arrow may be painted, indicating the direction to which attention is called, four square feet or less in area, giving the name only of the farm or business responsible for the erection of the sign.

(3) *General advertising* means a sign which directs attention to a product, commodity or service not necessarily available on the premises. Such sign shall not exceed 672 square feet in size at each location with an additional ten-percent extension.

(4) *Home occupation* means a sign not exceeding four square feet in area directing attention to a product, commodity or service available on the premises. Such product, commodity or service shall clearly be a secondary use of the dwelling.

(5) *Location* means a sign which directs attention to the approximate location of an establishment from which the advertised product may be obtained.

Sign structure includes the supports, uprights, bracing and framework of any structure, be it single-face, double-faced, V-type or otherwise, exhibiting a sign.

Sign, temporary, means a sign applying to a seasonal or other brief activity such as but not limited to summer camps, horse shows, auctions or sales of land. Temporary signs shall conform in size and type to directional signs.

Special exception means a use that would not be appropriate generally or without restriction throughout the zoning district but which, if controlled as to number, area, location or relation to the neighborhood, would promote the public health, safety, welfare, morals, order, comfort, convenience, appearance, prosperity or general welfare. Such uses may be permitted in such zoning district as a special exception if specific provision for such special exception is made in this chapter.

Store. See *Retail stores and shops*.

Story means that portion of a building, other than the basement, included between the surface of any floor and the surface of the floor next above it; if there is no floor above it, the space between the floor and the ceiling next above it.

Story, half, means a space under a sloping roof which has the line of intersection of roof decking and wall face not more than three feet above the top floor level in which not more than two-thirds of the floor area is finished off for use.

Street line means the dividing line between a street or road right-of-way and the contiguous property.

Street and *road* mean a public thoroughfare which affords principal means of access to abutting property.

Structure means anything constructed or erected, the use of which requires permanent location on the ground or attachment to something having a permanent location on the ground. This includes, among other things, dwellings, buildings, signs, etc.

Substantial alteration means expansion or modification of a building or development which would result in a disturbance of land exceeding an area of 2,500 square feet in the resource management area (RMA) overlay zoning district only.

Substantial damage means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial improvement means 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. This term includes structures which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either:

- (1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to ensure safe living conditions; or
- (2) Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a "historic structure."

Tidal shore means land contiguous to a tidal body of water between the mean low-water level and the mean high-water level.

Tidal wetlands means vegetated and nonvegetated wetlands as defined in Code of Virginia, § 28.2-1300.

Tourist court, auto court, motel, autel, cabin and motor lodge mean one or more buildings containing individual sleeping rooms, designed for or used temporarily by automobile tourists or transients with a garage or parking space conveniently located to each unit. Cooking facilities may be provided for each unit.

Tourist home means a dwelling where only lodging is provided for compensation for up to 14 persons in contradistinction to hotels and boardinghouses and open to transients.

Travel trailer means a mobile unit less than 29 feet in length and less than 4,500 pounds in weight which is designed for human habitation.

Tributary stream means any perennial stream that is depicted on the most recent U.S. Geological Survey 7 1/2-minute topographical quadrangle map (scale 1:24,000).

Use, accessory, means a subordinate use, customarily incidental to and located upon the same lot occupied by the main use.

Variance means a relaxation of the terms of this chapter where such variation is not contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the chapter would result in unnecessary and undue hardship. As used in this chapter, a variance is authorized only for height, area and size of structures; length-width ratio; size of yards; and open spaces. An establishment or expansion of a use otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of nonconformities in the zoning division or district or adjoining zoning divisions or districts.

Water-dependent facility means a development of land that cannot exist outside of the resource protection area (RPA) overlay zoning district and that must be located on the shoreline by reason of the intrinsic nature of its operation. These facilities include but are not limited to ports, the intake and outfall structures of power plants, water treatment plants, sewage treatment plants, storm sewers, marinas

and other boat docking structures, beaches and other public water-oriented recreation areas, and fisheries and other marine resource facilities.

Wayside stand, roadside stand, wayside market means any structure or land used for the sale of agricultural or horticultural produce, livestock or merchandise produced by the owner or his family on their farm.

Yard means an open space on a lot other than a court, unoccupied and unobstructed from the ground upward, except as otherwise provided in this chapter.

(1) *Front yard* means an open space on the same lot as a building between the front line of the building, exclusive of steps, and the front lot or street line extending across the full width of the lot.

(2) *Rear yard* means an open, unoccupied space on the same lot as a building between the rear line of the building, exclusive of steps, and the rear line of the lot extending the full width of the lot.

(3) *Side yard* means an open, unoccupied space on the same lot as a building between the sideline of the building, exclusive of steps, and the sideline of the lot extending from the front yard line to the rear yard line.

(Code 1988, § 17-1; Ord. No. O-02-012, 10-22-2002; Ord. No. O-03-004, 10-14-2003)

Cross references: Definitions generally, § 1-2.

State law references: Definitions relating to planning, subdivision of land and zoning, Code of Virginia, § 15.2-2201; junkyards, Code of Virginia, § 33.1-348.

Sec. 90-2. Purpose of chapter.

For the purpose of promoting the health, safety and general welfare of the public, this chapter has been 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) Expedite the provision of adequate police and fire protection, disaster evacuation, civil defense, transportation, water, sewerage, schools, parks, forests, playgrounds, recreational facilities, airports and other public requirements;
- (5) Protect against destruction of or encroachment upon historic areas; and
- (6) Protect against 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.

(Code 1988, § 17-2)

State law references: Purpose of zoning ordinances, Code of Virginia, § 15.2-2283.

Sec. 90-3. County divided into districts.

For the purpose of this chapter, the unincorporated areas of the county are hereby divided into the following districts:

TABLE INSET:

A-1	General agricultural
R-A	Residential agricultural
R-E	Residential estate
R-1	Limited residential
R-2	Limited residential
R-3	General residential
MHR	Mobile home residential
B-1	General business
M-1	Limited industrial
M-2	General industrial
M-3	Heavy industrial
RPA	Resource protection area
RMA	Resource management area

(Code 1988, § 17-3)

State law references: Regulations to be uniform throughout each district, Code of Virginia, § 15.2-2282.

Sec. 90-4. New uses in districts.

If, in any district established under this chapter, a use is not specifically permitted and an application is made by a property owner to the administrator for such use, the administrator shall refer the application to the planning commission which shall make its recommendations to the board of supervisors within 30 days. If the recommendation of the planning commission is approved by the board of supervisors, the chapter shall be amended to list the use as a permitted use in that district.

(Code 1988, § 17-4)

Sec. 90-5. Widening of streets and highways.

Whenever there shall be plans in existence, approved by either the state department of transportation or by the board of supervisors for the widening of any street or highway, the planning commission may recommend additional front yard setbacks for any new construction or for any structures altered or remodeled adjacent to the future planned right-of-way in order to preserve and protect the right-of-way for such proposed street or highway widening.

(Code 1988, § 17-5)

Sec. 90-6. Areas near airports.

(a) The planning commission shall determine whether there exist any areas which fall under the Federal Aviation Administration's criteria for determining obstruction to air navigation. If there are, they shall be marked on a copy of a zoning map in the office of the administrator. It shall be available to the public for examination.

(b) The administrator shall prepare such height and other regulations governing the construction of buildings within such areas. They are to be consistent with the Federal Aviation Administration's recommendations. Following approval by the board of supervisors, the administrator shall enforce these regulations.

(c) Places of public assembly, such as schools, churches, hospitals, apartment houses, theaters and assembly halls, shall not be erected or otherwise located in any area which would be classified as an approach zone. This zone includes an area of 11,000 feet from the end of the runway. The approach zone for airports accommodating heavy jet aircraft extends out 3 1/2 miles from the end of the runway.

(Code 1988, § 17-6)

Sec. 90-7. Official permits governed by chapter.

(a) All departments, officials and public employees of this jurisdiction which are vested with the duty or authority to issue permits or licenses shall conform to the provisions of this chapter. They shall issue permits for uses, buildings or purposes only when they are in harmony with the provisions of this chapter. Any such permit, if issued in conflict with the provisions of this chapter, shall be null and void.

(b) This chapter shall bear no relation to any private easement, covenant, agreement or restriction. No responsibility of enforcing such private easement, covenant, agreement, or restriction is imposed on any public official.

(Code 1988, § 17-7)

Sec. 90-8. Amendment, supplement, modification and repeal of chapter.

(a) The regulations, restrictions and boundaries established in this chapter may, from time to time, be amended, supplemented, changed, modified or repealed by a favorable majority of votes of the board of supervisors.

(b) Any amendment, supplement, change, modification or repeal of this chapter shall take effect only after a public hearing shall have been held in relation thereto at which parties in interest and citizens shall have had an opportunity to be heard.

(c) Notice shall be published once a week for two successive weeks in some newspaper published or having general circulation in the county, provided that such notice for both the planning commission and the board of supervisors may be published concurrently. Such notice shall specify the time and place of the hearing at which persons affected may appear and present their views, not less than five days nor more than 21 days after the second advertisement shall appear in such newspaper. The term "two successive weeks," as used in this subsection, shall mean that such notice shall be published at least twice in such newspaper with not less than six days elapsing between the first and second publication. Additional notice procedures shall be followed as required in Code of Virginia, § 15.2-2204.

(d) Changes shall be made by the board of supervisors in this chapter or the zoning map only after such changes have been referred to the planning commission for a report. Action shall be taken by the board of supervisors only after a report has been received from the planning

commission, unless a period of 30 days has elapsed after the date of referral to the commission, after which time it shall be assumed the commission has approved the change or amendment. Any rezoning application initiated by the planning commission or board of supervisors shall require the purposes for which such rezoning is requested.

(e) Any petition for an amendment, supplement, modification or repeal of this chapter or zoning map which is denied by the board of supervisors may not be reconsidered in substantially the same form for a period of one year following the date of the denial.

(Code 1988, § 17-8)

State law references: Preparation and adoption of amendments, Code of Virginia, § 15.2-2285; amendment of zoning regulations or district maps, Code of Virginia, § 15.2-2286.

Sec. 90-9. Fees.

Any person or other entity submitting an application for consideration of a request for rezoning, conditional use permit, special exception, any appeal to the board of zoning appeals, or any other filing in which a public hearing is required pursuant to the provisions of this chapter or requesting any item listed on the fee schedule shall pay the appropriate fee in conformance to the schedule of fees and charges in section 62-1 of this Code as established by the board of supervisors.

(Code 1988, § 17-9; Ord. No. O-01-008, 11-27-2001)

Sec. 90-10. Administration of chapter.

This chapter shall be enforced by the administrator.

(Code 1988, § 17-10)

State law references: Administration and enforcement of zoning ordinance, Code of Virginia, § 15.2-2286.

Sec. 90-11. Interpretation of district boundaries.

Unless zoning district boundary lines are fixed by dimensions or otherwise clearly shown or described and where uncertainty exists with respect to the boundaries of any district as shown on the zoning map, the following rules shall apply:

(1) Where district boundaries are indicated as approximately following or being at right angles to the centerlines of streets, highways, alleys or railroad main tracks, such centerlines at right angles to such centerlines shall be construed to be such boundaries.

(2) Where a district boundary is indicated to follow a river, creek or branch or other body of water, such boundary shall be construed to follow the centerline at low water or at the limit of jurisdiction. If a change in the shoreline occurs, such boundary shall be construed as moving with the actual shoreline.

(3) If no distance, angle, curvature description or other means is given to determine a boundary line accurately and subsections (1) and (2) of this section do not apply, the boundary shall be determined by the use of the scale shown on the zoning map. In case of a subsequent dispute, the matter shall be referred to the board of zoning appeals which shall determine the boundary.

(Code 1988, § 17-11)

Sec. 90-12. Spacing of general advertising signs.

The distance between general advertising signs shall be not less than 1,200 feet on the same side of a right-of-way, but in no case shall a sign be closer than 700 feet to another sign on either side of a right-of-way.

(Code 1988, § 17-12)

Sec. 90-13. Provisions declared minimum requirements.

In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements, adopted for the promotion of the public health, safety, morals or general welfare. Wherever the requirements of this chapter are at variance with the requirements of any other lawfully adopted rules, regulations, ordinances, deed restrictions or covenants, the most restrictive or that imposing the higher standards shall govern.

(Code 1988, § 17-13)

Sec. 90-14. Complaints regarding violations.

Whenever a violation of this chapter occurs or is alleged to have occurred, any person may file a written complaint. Such complaint stating fully the causes and basis thereof shall be filed with the zoning administrator. He shall record properly such complaint, immediately investigate and take action thereon as provided by this chapter.

(Code 1988, § 17-14)

Sec. 90-15. Agricultural conservation plans.

Within a Chesapeake Bay resource protection area (RMA or RPA zoning district), land upon which agricultural activities are being conducted, including but not limited to crop production, pasture, and dairy and feedlot operations, shall have a soil and water quality conservation plan. Such a plan shall be based upon the Field Office Technical Guide of the U.S. Department of Agriculture Soil Conservation Service and shall accomplish water quality protection consistent with the act and these regulations. Such a plan will be approved by the local soil and water conservation district.

(Code 1988, § 17-15)

Secs. 90-16--90-50. Reserved.

ARTICLE II. A-1 GENERAL AGRICULTURAL DISTRICT

Sec. 90-51. General description; intent.

Generally the A-1 general agricultural district covers portions of the county now devoted predominantly to farms and forests in which utilities are not generally available or anticipated in the near future. Limited residential development is anticipated in these areas and provided for on large lots. This district is established to protect land and property values, groundwater and surface water quality, and other natural resources.

(Code 1988, § 17-31)

Sec. 90-52. Uses and structures permitted by right.

The following uses and structures are permitted by right in the A-1 general agricultural district:

- (1) Agricultural uses involving tilling of the soil, the raising of crops, horticulture, forestry, and gardening.
- (2) Livestock, dairy or poultry facilities, other than those of an accessory use nature, are permitted subject to:
 - a. Minimum acreage requirements in individual ownership may consist of one or more contiguous parcels: less than 150 animal units, 75 acres; 150 to 299 animal units, 150 acres; 300 or more animal units, 225 acres.
 - b. Setbacks, measured from the edge of the area of enclosure or fenced area as well as area of nutrient application, are as follows:
 1. Existing dwellings, not on the same parcel as the facility, one mile.
 2. Public facilities or other places of congregation, one mile.
 3. Zoning district boundary other than A-1 general agricultural and individual or public water supplies, 1,000 feet.
 4. Existing recorded subdivision boundary, one mile.
 - c. A nutrient management plan will be developed for all livestock, dairy or poultry facilities with no minimum requirement for animal unit numbers. This plan must be reviewed and approved by the state department of conservation and recreation or local cooperative extension office and will be updated every five years.
- (3) Detached single-family dwelling on an individual lot.
- (4) On farms of 100 acres or more, two single-family residential structures may be constructed on the same property. When this takes place, the location of the structures shall be such as to permit future subdivision of the land to conform to the provisions of chapter 70 subdivisions, and this chapter. When the structure is built, it will be considered as one of the residential subdivisions authorized by this section. In addition to the setbacks required in this chapter, the placement of houses shall be no closer than 100 feet apart. Both houses for residential purposes must be adequately served by individual well and septic facilities approved by the state health department.
- (5) Public school.
- (6) Church, church bulletin board, parish hall, parish house, convent, monastery.

- (7) Park, playground.
- (8) Wildlife preserve, conservation area.
- (9) Home occupations:
 - a. Office.
 - b. Home occupation child care.
- (10) Volunteer fire or rescue squad.
- (11) General store with business sign.
- (12) Mobile home on a farm operation in accordance with requirements for mobile units in section 90-942.
- (13) Mobile home as a temporary use during the period of construction of a conventionally built residence in accordance with requirements for mobile units in section 90-943.
- (14) Mobile home or travel trailer as a temporary use during the period of construction of a commercial, industrial or public structure or development, public facility or public utility in accordance with the requirements for mobile units in section 90-943.
- (15) Offstreet parking as required by this article.
- (16) Public utility distribution facilities and temporary structures, with a floor area of 100 square feet or less, used in support thereof for a period of 12 months or less.
- (17) Aquaculture.
- (18) Manufactured houses at least 19 feet in width and placed in a manner which renders the unit no longer transportable. Such units shall either have an enclosed or skirted foundation.

(Code 1988, § 17-32; Ord. No. O-02-012, 10-22-2002)

Sec. 90-53. Uses and structures permitted by special exception.

The following uses and structures are permitted by special exception in the A-1 general agricultural district:

- (1) Airport, private landing area.
- (2) Riding school, riding stable.
- (3) Lodge, hunting club, yacht club, golf course, country club.
- (4) Small boat landing with repair facilities.
- (5) Cemetery.
- (6) Mobile home park.
- (7) Service station, public garage, repair shop.
- (8) Lumber, building, fencing and landscaping supplies and equipment.
- (9) Assembly hall.
- (10) Custom cabinet-making shop, furniture sales and repair shop, reupholstery shop.
- (11) Processing plant for agricultural and forestry products.
- (12) Professional office.

- (13) Sawmill.
- (14) Planing mill.
- (15) Public utility generating station, transmission line and tower other than normal distribution facilities, pipe, meter, railroad, water and sewerage installation, compressor station, measurement station, regulator station.
- (16) Business sign.
- (17) Directional sign.
- (18) Home occupation sign.
- (19) Mobile home located on individual lot when in accordance with requirements for mobile units in section 90-945.
- (20) Horse racetrack, polo field.
- (21) Extraction of natural resources, provided the board of supervisors may waive any or all provisions of section 54-6 for earth borrow pits made for sole use in the construction of highways maintained by the state department of transportation, provided the state department of transportation has jurisdiction over the erosion control and reclamation process for the borrow pit using the state department of transportation publication entitled "Road and Bridge Specifications," date July 1, 1982, as amended, for erosion control and reclamation standards.
- (22) Recreation structures and uses related to outdoor recreation, commercial and noncommercial recreational vehicle park.
- (23) Animal hospital, animal boarding place, veterinary service.
- (24) Sanitary landfill.
- (25) Golf driving range, miniature golf course.
- (26) Boys' home with a resident population not exceeding 20.
- (27) Gun club with or without indoor or outdoor shooting range, rifle range, skeet shooting range, archery range.
- (28) Radio-controlled model airplane club.
- (29) Commercial child care center.
- (30) Home for the aged.
- (31) Nursing home.
- (32) Private school, private kindergarten, nursery school.
- (33) Structure for exhibits and demonstrations operated by nonprofit organizations.
- (34) Day camp, boarding camp.
- (35) Community center.
- (36) Buildings or uses primarily for federal, state, county or local governmental purposes except public school, park or playground.
- (37) Livestock market.
- (38) Wayside stand for display and sale of farm products.
- (39) Tire retreading or recapping in conjunction with a service station, public garage or repair shop.

- (40) Gift shop.
- (41) Storage of explosives in conformance with all applicable federal and state regulations.
- (42) Agricultural equipment sales and service.
- (43) Asphalt mixing plant.
- (44) Corporate training facility with overnight accommodations.
- (45) Tree stump landfills. Stumps and other natural vegetation may be buried in designated areas, provided:
 - a. A surveyed plat of the landfilling site so designated is recorded in the clerk of the circuit court's office;
 - b. All county erosion control and reclamation ordinances are adhered to; and
 - c. Such other conditions as required by the board of supervisors that are deemed appropriate.
- (46) Processing plant for aquaculture products.
- (47) Storage of portable toilets.
- (48) Mobile home for security purposes, provided:
 - a. The conditions of section 90-945(2) through (14) be complied with.
 - b. Proof of two incidents of vandalism or theft within the preceding year be provided.
 - c. No existing home be within 100 feet of the affected property.
 - d. No alternate means of providing security is available.
- (49) Turkey shoot in accordance with the requirements of section 90-1031.
- (50) Retail sale of firearms.
- (51) Plumbing and electrical supply business with storage under separate cover.
- (52) Home professional and trade offices.
- (53) Cottage industry home occupation on a parcel of five acres or more in area.
- (54) Family day care home (large).
- (55) Home occupation in an accessory building.
- (56) Bingo hall.

(Code 1988, § 17-33; Ord. No. O-02-012, 10-22-2002; Ord. No. O-03-004, 10-14-2003)

Sec. 90-54. Accessory uses and structures permitted.

(a) In the A-1 general agricultural district, accessory uses and structures are permitted as defined; however, garages or other accessory structures, such as carports, porches and stoops, attached to the main building shall be considered part of the main building. No accessory structure may be closer than five feet to any property line.

(b) The following contained or fenced animal and poultry operations are considered accessory uses but are subject to the noted provisions:

- (1) Fowl and poultry: not to exceed 250 birds per tract.

- (2) Brood goats or sheep: four or less per acre per tract, not to exceed 75 head.
- (3) Rabbits: not to exceed 200 per tract.
- (4) Beef, dairy cattle or livestock: one or less per acre per tract, not to exceed 125 head, and provided any animal containment or fenced area is a distance of at least 150 feet from the nearest adjoined dwelling.
- (5) Hogs or swine: three or less sows, a boar and litters on a tract at least ten acres in size and provided any animal containment or fenced area is a distance of at least 500 feet from the nearest adjoining dwelling.

(Code 1988, § 17-34)

Sec. 90-55. Area regulations.

The minimum lot area for permitted uses in the A-1 general agricultural district shall be five acres, except for instances under the provisions of section 70-1 where a relaxation of this requirement is permitted to no less than one acre for "parent tract" and "family tract" divisions.

(Code 1988, § 17-35)

Sec. 90-56. Setback regulations.

(a) In the A-1 general agricultural district, structures shall be 75 feet or more from any street right-of-way which is 50 feet or greater in width or 100 feet or more from the centerline of any street right-of-way less than 50 feet in width. This shall be known as the setback line. However, public utility distribution facilities and signs advertising the sale or rent of property may be erected up to the property line.

(b) A single-family dwelling or farm building upon which lawful construction was commenced on or before December 11, 1973, that did conform to previous requirements of a 35-foot setback from any street right-of-way which was 50 feet or greater in width or 60 feet or more from the centerline of any street right-of-way less than 50 feet in width may be expanded by a maximum of 50 percent of its original area, provided that no portion of any such expansion shall be located closer to the street right-of-way than any portion of the original building. The expansion of any structure which does not meet the criteria in this subsection shall be unlawful unless a variance has been obtained as provided for in this chapter.

(Code 1988, § 17-36)

Sec. 90-57. Lot frontage; lot width.

(a) *Frontage.* The minimum lot frontage for permitted uses in the A-1 general agricultural district shall be at least 80 percent of the minimum required lot width, provided that the minimum lot frontage for permitted uses on culs-de-sac shall be at least 50 feet.

(b) *Width.* The minimum lot width for permitted uses shall be 150 feet.

(Code 1988, § 17-37)

Sec. 90-58. Length-width ratio.

In the A-1 general agricultural district, for lots created after the effective date of the ordinance from which this chapter is derived, the length thereof shall not exceed four times the width.

(Code 1988, § 17-38)

Sec. 90-59. Yard regulations.

(a) *Side.* In the A-1 general agricultural district, the minimum side yard for each main structure shall be 15 feet, and the total width of two required side yards shall be 30 feet or more.

(b) *Rear.* Each main structure shall have a rear yard of 35 feet or more.

(Code 1988, § 17-39)

Sec. 90-60. Corner lots.

(a) In the A-1 general agricultural district, the minimum side yard on the side facing the side street shall be 35 feet or more for both main and accessory buildings.

(b) Each corner lot shall have a minimum width at the setback line of 200 feet or more.

(Code 1988, § 17-40)

Sec. 90-61. Height regulations.

In the A-1 general agricultural district, buildings may be erected up to 35 feet in height, except that:

(1) A public or semipublic building such as a school or church may be erected to a height of 60 feet from grade, provided that required front, side and rear yards shall be increased one foot for each foot in height over 35 feet.

(2) Church spires, belfries, cupolas, monuments, water towers, chimneys, flues, flagpoles, television antennae and radio aerials are exempt. Parapet walls may be up to four feet above the height of the building on which the walls rest.

(3) No accessory building which is within 20 feet of any party lot line shall be more than one story high. All accessory buildings shall be less than the main building in height, provided that an accessory structure may be erected up to a height of 35 feet when located at least 150 feet from the main building and at least 100 feet from any party lot line.

(4) For structures used exclusively for agricultural purposes, there is no height limitation.

(Code 1988, § 17-41)

Secs. 90-62--90-100. Reserved.

ARTICLE III. R-A RESIDENTIAL AGRICULTURAL DISTRICT

Sec. 90-101. General description; intent.

Generally, the R-A residential agricultural district covers certain portions of the county now devoted predominantly to various open uses, such as farms and forests, into which residential or other types of development have and can reasonably be expected to expand in the foreseeable future, but where location and timing of public programs will not currently support higher densities. This district is established to permit existing farming operations and related businesses to continue as interim uses while protecting watersheds and conserving water and other natural resources. This district is also established to:

- (1) Help protect property values from the adverse effects of unregulated development;
- (2) Provide for orderly development;
- (3) Discourage the random scattering of residential and commercial uses into the area;
and
- (4) Prevent premature urbanization.

(Code 1988, § 17-516)

Sec. 90-102. Uses and structures permitted by right.

The following uses and structures are permitted by right in the R-A residential agricultural district:

- (1) Agricultural uses involving tilling of the soil, the raising of crops, horticulture, forestry and gardening.
- (2) Detached single-family dwelling on an individual lot.
- (3) On farms of 100 acres or more, two single-family residential structures may be constructed on the same property. When this takes place, the location of the structure shall be such as to permit future subdivision of the land to conform to the provisions of chapter 70 and this chapter. When the second structure is built, it will be considered as one of the residential subdivisions authorized by this subsection. In addition to the setbacks required in this chapter, the placement of houses will be no closer than 100 feet apart.
- (4) Public school.
- (5) Church, church bulletin board, parish house, convent, monastery.
- (6) Park, playground.
- (7) Wildlife preserve, conservation area.
- (8) Home occupations:
 - a. Office.
 - b. Home occupation child care.
- (9) Volunteer fire or rescue squad.
- (10) General store with business sign.
- (11) Mobile home on farm operation in accordance with requirements for mobile units in section 90-943.

(12) Mobile home as a temporary use during the period of construction of a conventionally built residence in accordance with requirements for mobile units in section 90-943.

(13) Mobile home or travel trailer as a temporary use during the period of construction of a commercial, industrial or public structure of development, public facility or public utility in accordance with the requirements for mobile units in section 90-943.

(14) Offstreet parking as required by this chapter.

(15) Public utility distribution facilities and temporary structure, with a floor area of 100 square feet or less, used in support thereof for a period of 12 months or less.

(16) Aquaculture.

(17) Manufactured houses at least 19 feet in width and placed in a manner which renders the unit no longer transportable. Such units shall either have an enclosed or skirted foundation.

(Code 1988, § 17-517; Ord. No. O-02-012, 10-22-2002)

Sec. 90-103. Uses and structures permitted by special exception.

The following uses and structures are permitted by special exception in the R-A residential agricultural district:

(1) Airport, private landing area.

(2) Riding school, riding stable.

(3) Lodge, hunting club, yacht club, golf course, country club.

(4) Small boat landing with repair facilities.

(5) Cemetery.

(6) Mobile home park.

(7) Service station, public garage, repair shop.

(8) Lumber building, fencing and landscaping supplies and equipment.

(9) Assembly hall.

(10) Custom cabinet-making shop, furniture sales and repair shop, reupholstery shop.

(11) Processing plant for agricultural and forest products.

(12) Home professional and trade offices.

(13) Sawmill.

(14) Planing mill.

(15) Public utility generating station, transmission line and tower other than normal distribution facilities, pipe, meter, railroad, water and sewerage installation, compressor station, measurement station, regulator station.

(16) Business sign.

(17) Directional sign.

(18) Home occupation sign.

- (19) Mobile home located on an individual lot when in accordance with requirements for mobile units in section 90-945.
- (20) Horse racetrack, polo field.
- (21) Extraction of natural resources, provided the board of supervisors may waive any or all provisions of section 54-6 for earth borrow pits made for sole use in the construction of highways maintained by the state department of transportation, provided the state department of transportation has jurisdiction over the erosion control and reclamation process for the borrow pit using the state department of transportation publication entitled "Road and Bridge Specifications," dated July 1, 1982, as amended, for erosion control and reclamation standards.
- (22) Recreation structure and uses related to outdoor recreation, commercial and noncommercial recreational vehicle park.
- (23) Animal hospital, animal boarding place, veterinary service.
- (24) Sanitary landfill.
- (25) Golf driving range, miniature golf course.
- (26) Boys' home with a resident population not exceeding 20.
- (27) Gun club with or without indoor or outdoor shooting range, rifle range, skeet shooting range.
- (28) Radio-controlled model airplane club.
- (29) Commercial child care center.
- (30) Home for the aged.
- (31) Nursing home.
- (32) Private school, private kindergarten, nursery school.
- (33) Structure for exhibits and demonstrations operated by nonprofit organizations.
- (34) Day camp, boarding camp.
- (35) Buildings or uses primarily for federal, state, county or local governmental purposes except public school, park or playground.
- (36) Livestock market.
- (37) Wayside stand for display and sale of farm products.
- (38) Tire retreading or recapping in conjunction with a service station, public garage or repair shop.
- (39) Gift shop.
- (40) Storage of explosives in conformance with all applicable federal and state regulations.
- (41) Agricultural equipment sales and service.
- (42) Asphalt mixing plant.
- (43) Corporate training facility with overnight accommodations.
- (44) Tree stump landfills. Stumps and other natural vegetation may be buried in designated areas, provided:
 - a. A surveyed plat of the landfilling site so designated is recorded in the office of the clerk of the circuit court;

- b. All county erosion control and reclamation ordinances are adhered to; and
 - c. Such other conditions as required by the board of supervisors that are deemed appropriate.
- (45) Processing plant for aquaculture products.
 - (46) Storage of portable toilets.
 - (47) Turkey shoot in accordance with the requirements of section 90-1031.
 - (48) Retail sale of firearms.
 - (49) Plumbing and electrical supply business with storage under separate cover.
 - (50) Embroidery operation subject to the following conditions:
 - a. The use is limited to a portion of the main structure or an outbuilding not exceeding 15 percent of the main structure or 1,000 square feet including storage areas.
 - b. The use is limited to machines with no more than two heads.
 - c. There will be no retail sales from the proposed location.
 - d. The operation can employ no more than two employees, including the owner.
 - e. The owner must reside on the parcel of land on which the embroidery operation is situated.
 - (51) Family day care home (large).
 - (52) Cottage industry home occupation on a parcel of five acres or more in area.
 - (53) Home occupation within an accessory building.
 - (54) Bingo hall.

(Code 1988, § 17-518; Ord. No. O-00-011, 10-24-2000; Ord. No. O-02-012, 10-22-2002; Ord. No. O-03-004, 10-14-2003)

Sec. 90-104. Accessory uses and structures permitted.

- (a) In the R-A residential agricultural district, accessory uses and structures are permitted as defined; however, garages or other accessory structures, such as carports, porches and stoops, attached to the main building shall be considered part of the main building. No accessory structure may be closer than five feet to any property line.
- (b) The following contained or fenced animal and poultry operations are considered accessory uses with the R-A residential agricultural district, but are subject to the noted provisions:
 - (1) Fowl and poultry: not to exceed 250 birds per tract.
 - (2) Brood goats or sheep: four or less per acre per tract, not to exceed 75 head.
 - (3) Rabbits: not to exceed 200 per tract.
 - (4) Beef, dairy cattle or livestock: one or less per acre per tract, not to exceed 125 head, and provided any animal containment or fenced area is a distance of at least 150 feet from the nearest adjoining dwelling.
 - (5) Hogs or swine: three or less sows, a boar and litters on a tract at least ten acres in size and provided any animal containment or fenced area is a distance of at least 500 feet from the nearest adjoining dwelling.

(Code 1988, § 17-519)

Sec. 90-105. Area regulations.

In the R-A residential agricultural district, the minimum lot area for permitted uses shall be five acres.

(Code 1988, § 17-520)

Sec. 90-106. Setback regulations.

(a) In the R-A residential agricultural district, structures shall be 75 feet or more from any street right-of-way which is 50 feet or greater in width or 100 feet or more from the centerline of any street right-of-way less than 50 feet in width. This shall be known as the setback line. However, public utility distribution facilities and signs advertising the sale or rent of property may be erected up to the property line.

(b) A single-family dwelling or farm building upon which lawful construction was commenced on or before December 1, 1973, that did conform to previous requirements of a 35-foot setback from any street right-of-way which was 50 feet or greater in width or 60 feet or more from the centerline of any street right-of-way less than 50 feet in width may be expanded by a maximum of 50 percent of its original area, provided that no portion of any such expansion shall be located closer to the street right-of-way than any portion of the original building. The expansion of any structure which does not meet the criteria in this subsection shall be unlawful unless a variance has been obtained as provided for in this chapter.

(Code 1988, § 17-521)

Sec. 90-107. Lot frontage; lot width.

(a) *Frontage.* In the R-A residential agricultural district, the minimum lot frontage for permitted uses shall be at least 80 percent of the minimum required lot width, provided that the minimum lot frontage for permitted uses on culs-de-sac be at least 50 feet.

(b) *Width.* The minimum lot width for permitted uses shall be 150 feet.

(Code 1988, § 17-522)

Sec. 90-108. Length/width ratio.

In the R-A residential agricultural district, for lots created after the effective date of the ordinance from which this chapter is derived, the length thereof shall not exceed four times the width.

(Code 1988, § 17-523)

Sec. 90-109. Yard regulations.

(a) *Side.* In the R-A residential agricultural district, the minimum side yard for each main structure shall be 15 feet, and the total width of two required side yards shall be 30 feet or more.

(b) *Rear.* Each main structure shall have a rear yard of 35 feet or more.

(Code 1988, § 17-524)

Sec. 90-110. Corner lots.

(a) In the R-A residential agricultural district, the minimum side yard on the side facing the side street shall be 35 feet or more for both main and accessory buildings.

(b) Each corner lot shall have a minimum width at the setback line of 200 feet or more.

(Code 1988, § 17-525)

Sec. 90-111. Height regulations.

In the R-A residential agricultural district, buildings may be erected up to 35 feet in height, except that:

(1) A public or semipublic building such as a school or church may be erected to a height of 60 feet from the grade, provided that required front, side and rear yards shall be increased one foot for each foot in height over 35 feet.

(2) Church spires, belfries, cupolas, monuments, water towers, chimneys, flues, flagpoles, television antennae and radio aerials are exempt. Parapet walls may be up to four feet above the height of the building on which the walls rest.

(3) No accessory building which is within 20 feet of any party lot line shall be more than one story high. All accessory buildings shall be less than the main building in height, provided that an accessory structure may be erected up to a height of 35 feet when located at least 150 feet from the main building and at least 100 feet from any party lot line.

(Code 1988, § 17-526)

Secs. 90-112--90-150. Reserved.

ARTICLE IV. R-E RESIDENTIAL ESTATE DISTRICT

Sec. 90-151. General description; intent.

(a) The R-E residential estate district is established to:

- (1) Provide for single-family detached dwellings at a density not to exceed one dwelling unit per one acre;
- (2) Allow other selected uses which are compatible with the low-density residential character of the district; and
- (3) Otherwise implement the stated purpose and intent of this chapter in section 90-2.

(b) It is the intent that this zoning district be utilized in areas of the county where soil and other conditions permit development of this density but where there is little likelihood of water and sewer lines being extended to these areas.

(Code 1988, § 17-56)

Sec. 90-152. Permitted uses.

The following are permitted uses in the R-E residential estate district:

- (1) Dwellings, single-family detached on individual lots.
- (2) Public schools, parks, playgrounds, athletic fields and related facilities.
- (3) Accessory buildings; however, garages or other accessory buildings such as carports, porches, and stoops attached to the main building shall be considered part of the main building. No accessory building shall be closer than five feet to any property line.
- (4) Church, church bulletin board, parish hall, parish home, convent, monastery.
- (5) Offstreet parking as required by article XIX of this chapter.
- (6) Agriculture uses on a tract of land not less than five acres in size as defined in section 90-1.
- (7) Maintaining of horses and ponies as defined in section 90-1035, but not to include the raising of poultry or livestock.
- (8) Home occupations:
 - a. Office.
 - b. Home occupation child care.

(Code 1988, § 17-57; Ord. No. O-02-012, 10-22-2002)

Sec. 90-153. Uses and structures permitted by special exception.

In the R-E residential estate district, the following uses and structures are permitted by special exception by the board of supervisors:

- (1) Interment uses.
- (2) Public utilities facilities to include:

- a. Electric substations and distribution centers including transformer stations.
 - b. Natural gas, oil or other petroleum product metering, regulating, compressor, control, and distribution stations and local office space incidental thereto and necessary for the operation of such station, but not including storage facilities.
 - c. Sewerage pumping facilities.
 - d. Water storage, control, and pumping facilities.
 - e. Utility transmission facilities and telecommunications facilities, including but not limited to poles, structures, wires, conduits, cables, vaults or other similar equipment for the transmission of telephone or other communication electricity; gas or water. For the purposes of this subsection, utility transmission facilities shall not include the following:
 - 1. Ordinary distribution facilities for delivery of such utilities to customers.
 - 2. Transmission lines approved by the state corporation commission pursuant to Code of Virginia, § 56-46.1.
- (3) Private schools of general and/or special education, including day care center.
 - (4) Medical facilities limited to nursing facilities which have a capacity of less than 50 beds; group day care facilities.
 - (5) Noncommercial community swimming pools, bathhouses, tennis courts, volleyball courts and similar outside private recreation uses to exclude musical concerts, festivals and related activities.
 - (6) Commercial marinas, docks and boating facilities.
 - (7) Family day care home (large).
 - (8) Tree stump landfills. Stumps and other natural vegetation may be buried in designated areas, provided:
 - a. A surveyed plat of the landfilling site so designated is recorded in the clerk of the circuit court's office;
 - b. All county erosion control and reclamation ordinances are adhered to; and
 - c. Such other conditions as required by the board that are deemed appropriate.
 - (9) Home professional and trade offices.
 - (10) Home occupation in an accessory building.

(Code 1988, § 17-58; Ord. No. O-02-012, 10-22-2002)

Sec. 90-154. Use limitations.

The following are use limitations in the R-E residential estate district:

- (1) No sale of goods or products shall be permitted except as accessory and incidental to a permitted use, conditional use or special exception use.
- (2) Any use not expressly permitted as an accessory use or a use permitted by special exception is prohibited.

(Code 1988, § 17-59)

Sec. 90-155. Area regulations.

For lots in the R-E residential estate district served by public or private water and sewage disposal systems, the minimum lot area shall be one acre unless otherwise qualified by the requirements of this chapter.

(Code 1988, § 17-60)

Sec. 90-156. Building heights.

Buildings in an R-E residential estate district may be erected up to 35 feet in height, except that:

- (1) The height limit for dwellings may be increased up to 45 feet and up to three stories if there are two side yards for each permitted use, each of which is 15 feet or more, plus one foot or more of side yard for each additional foot of building height over 35 feet.
- (2) A public or semipublic building such as a school or church may be erected to a height of 60 feet from grade, provided that required front, side, and rear yards shall be increased one foot for each foot in height over 35 feet.
- (3) Church spires, belfries, cupolas, monuments, water towers, chimney flues, flagpoles, television antennae and radio aerials are exempted. Parapet walls may be up to four feet above the height of the building on which the walls rest.
- (4) No accessory building which is within 20 feet of any party lot line shall be more than one story high. All accessory buildings shall be less than the main building in height.

(Code 1988, § 17-61)

Sec. 90-157. Setbacks.

Structures in an R-E residential estate district shall be located 75 feet from a recorded subdivision road. All homes constructed on lots in the R-E district will be set back from interior roads within the subdivision.

(Code 1988, § 17-62)

Sec. 90-158. Frontage and yards.

- (a) The minimum frontage of permitted use in the R-E residential estate district at the setback line shall be 150 feet or more.
- (b) The minimum yard in an R-E district for each main structure shall be 15 feet or more, and a total width of two required side yards shall be 35 feet or more.
- (c) Each main structure shall have a rear yard of 35 feet or more.

(Code 1988, § 17-63)

Sec. 90-159. Corner lots.

- (a) Of the two sides of a corner lot in an R-E residential estate district, the front shall be deemed to be the shortest of the two sides fronting on streets.

(b) The side yard on the side facing the side street shall be 40 feet or more for both main and accessory buildings.

(c) The minimum width for each corner lot shall be 175 feet.

(Code 1988, § 17-64)

Secs. 90-160--90-200. Reserved.

ARTICLE V. R-1 LIMITED RESIDENTIAL DISTRICT

Sec. 90-201. General description; intent.

The R-1 limited residential district is composed of certain quiet, low-density residential areas plus certain open areas where similar residential development appears likely to occur. The regulations for this district are designed to stabilize and protect the essential characteristics of the district, to promote and encourage a suitable environment for family life where there are children and to prohibit all activities of a commercial nature. To these ends, development is limited to relatively low concentration, and permitted uses are limited basically to single-unit dwellings providing homes for the residents plus certain additional uses, such as schools, parks, churches and certain public facilities that serve the residents of the district. No maintaining of poultry or livestock is permitted in this district.

(Code 1988, § 17-81)

Sec. 90-202. Permitted uses.

In the R-1 limited residential district, structures to be erected or land to be used shall be one or more of the following uses:

- (1) Single-family dwellings.
- (2) Schools.
- (3) Churches.
- (4) Parks and playgrounds.
- (5) Offstreet parking as required by this chapter.
- (6) Accessory buildings. However, garages or other accessory buildings, such as carports, porches and stoops, attached to the main building shall be considered part of the main building. No accessory building shall be closer than five feet to any property line.
- (7) Public utilities such as poles, lines, distribution transformers, pipes, meters, and other facilities necessary for the provision and maintenance including water and sewer facilities in accordance with a conditional use permit and provisions contained in this chapter.
- (8) Business signs erected only to advertise the sale or rent of the premises upon which erected.
- (9) Church bulletin boards and identification signs.
- (10) Nonbusiness directional signs.
- (11) Home occupations:
 - a. Office.
 - b. Home occupation child care.

(Code 1988, § 17-82; Ord. No. O-02-012, 10-22-2002)

Sec. 90-203. Uses and structures permitted by special exception.

The following uses and structures are permitted by special exception in the R-1 limited residential district:

- (1) Golf course, country club.
- (2) Removal of topsoil, in accordance with the requirements of section 54-6.
- (3) Family day care home (large).
- (4) Home professional and trade offices.
- (5) Home occupation in an accessory building.

(Code 1988, § 17-83; Ord. No. O-02-012, 10-22-2002)

Sec. 90-204. Minimum lot area.

- (a) For lots in an R-1 limited residential district served by public water and sewage disposal systems, the minimum lot area shall be 15,000 square feet.
- (b) For lots served by either public water or public sewage disposal systems, but not both, the minimum lot area shall be 17,500 square feet.
- (c) For lots served by individual water and sewage disposal systems, the minimum lot area shall be 20,000 square feet.

(Code 1988, § 17-84)

Sec. 90-205. Setbacks.

Structures in an R-1 limited residential district shall be located 35 feet or more from any street right-of-way which is 50 feet or greater in width or 60 feet or more from the centerline of any street right-of-way less than 50 feet in width. This shall be known as the setback line.

(Code 1988, § 17-85)

Sec. 90-206. Frontage.

The minimum frontage of permitted uses in the R-1 limited residential district at the setback line shall be 100 feet or more.

(Code 1988, § 17-86)

Sec. 90-207. Yards.

- (a) The minimum side yard in an R-1 limited residential district for each main structure shall be 15 feet or more, and the total width of the two required side yards shall be 30 feet or more.
- (b) Each main structure shall have a rear yard of 35 feet or more.

(Code 1988, § 17-87)

Sec. 90-208. Building heights.

Buildings in an R-1 limited residential district may be erected up to 35 feet in height, except that:

- (1) The height limit for dwellings may be increased up to 45 feet and up to three stories if there are two side yards for each permitted use, each of which is 15 feet or more, plus one foot or more of side yard for each additional foot of building height over 35 feet.
- (2) A public or semipublic building such as a school, church, library or general hospital may be erected to a height of 60 feet from grade, provided that required front, side and rear yards shall be increased one foot for each foot in height over 35 feet.
- (3) Church spires, belfries, cupolas, monuments, water towers, chimneys, flues, flagpoles, television antennae and radio aerials are exempt. Parapet walls may be up to four feet above the height of the building on which the walls rest.
- (4) No accessory building which is within 20 feet of any party lot line shall be more than one story high. All accessory buildings shall be less than the main building in height.

(Code 1988, § 17-88)

Sec. 90-209. Corner lots.

- (a) Of the two sides of a corner lot in an R-1 limited residential district, the front shall be deemed to be the shortest of the two sides fronting on streets.
- (b) The side yard on the side facing the side street shall be 35 feet or more for both main and accessory buildings.
- (c) For subdivisions platted after July 1, 1965, each corner lot shall have a minimum width at the setback line of 125 feet or more.

(Code 1988, § 17-89)

Secs. 90-210--90-240. Reserved.

ARTICLE VI. R-2 LIMITED RESIDENTIAL DISTRICT

Sec. 90-241. General description; intent.

The R-2 limited residential district is composed of certain quiet, low-density residential areas plus certain open areas where similar residential development appears likely to occur. The regulations for this district are designed to stabilize and protect the essential characteristics of the district, to promote and encourage a suitable environment for family life where there are children and to prohibit all activities of a commercial nature. To these ends, development is limited to relatively low concentration, and permitted uses are limited basically to single-unit dwellings providing homes for the residents plus certain additional uses, such as schools, parks, churches and certain public facilities that serve the residents of the district. No poultry or livestock are permitted. Multiple-unit dwellings are permitted in accordance with a conditional use permit.

(Code 1988, § 17-106)

Sec. 90-242. Permitted uses.

In the R-2 limited residential district, structures to be erected or land to be used shall be for one or more of the following uses:

- (1) Single-family dwellings.
- (2) Two-family dwellings.
- (3) Schools.
- (4) Churches.
- (5) Parks and playgrounds.
- (6) Offstreet parking as required by this chapter.
- (7) Accessory buildings. However, garages or other accessory buildings, such as carports, porches and stoops, attached to the main building shall be considered part of the main building. No accessory building may be closer than five feet to any property line.
- (8) Public utilities such as poles, lines, distribution transformers, pipes, meters, or other facilities necessary for the provision and maintenance, including water and sewer facilities.
- (9) Business signs only to advertise the sale or rent of the premises upon which erected.
- (10) Church bulletin boards and identification signs.
- (11) Nonbusiness directional signs.
- (12) Home occupations:
 - a. Office.
 - b. Home occupation child care.

(Code 1988, § 17-107; Ord. No. O-02-012, 10-22-2002)

Sec. 90-243. Uses and structures permitted by special exception.

The following uses and structures are permitted by special exception in the R-2 limited residential district:

- (1) Removal of topsoil, in accordance with the requirements of section 54-6.
- (2) Multiple-family dwellings with a conditional use permit, provided the development consists of at least 24 dwelling units and public water and sewer service are available.
- (3) Tree stump landfills. Stumps and other natural vegetation may be buried in designated areas, provided:
 - a. A surveyed plat of the landfilling site so designated is recorded in the clerk of the circuit court's office;
 - b. All county erosion control and reclamation ordinances are adhered to; and
 - c. Such other conditions as required by the board that are deemed appropriate.
- (4) Family day care home (large).
- (5) Home professional and trade offices.
- (6) Home occupation in an accessory building.

(Code 1988, § 17-108; Ord. No. O-02-012, 10-22-2002)

Sec. 90-244. Minimum lot areas.

- (a) For lots in an R-2 limited residential district containing or intended to contain a single permitted use served by public water and sewage disposal systems, the minimum lot area shall be 12,000 square feet.
- (b) For lots containing or intended to contain a single permitted use served by either public water or sewage disposal systems but not by both, the minimum lot area shall be 15,000 square feet.
- (c) For lots containing or intended to contain a single permitted use served by individual water and sewage disposal systems, the minimum lot area shall be 20,000 square feet.
- (d) For lots containing or intended to contain more than a single permitted use served by public water and sewage disposal systems, the minimum lot area shall be:
 - (1) For two units, 15,000 square feet or more;
 - (2) For three units, 17,500 square feet or more; and
 - (3) For each additional unit above three, 1,000 square feet.
- (e) For lots containing or intended to contain more than a single permitted use served by either public water or public sewage disposal systems, but not both, the minimum lot area shall be:
 - (1) For two units, 18,000 square feet or more;
 - (2) For three units, 20,000 square feet or more; and
 - (3) For each additional unit above three, 1,000 square feet.
- (f) For lots containing or intended to contain more than a single permitted use served by individual water and sewage disposal systems, the minimum lot area shall be:
 - (1) For two units, 24,000 square feet or more; and

(2) For each additional unit above three, 1,000 square feet.

(g) For permitted uses utilizing individual sewage disposal systems, the required area for any such use shall be approved by the health official. The administrator may require greater area if considered necessary by the health officer.

(Code 1988, § 17-109)

Sec. 90-245. Setbacks.

Structures in an R-2 limited residential district shall be located 35 feet or more from any street right-of-way which is 50 feet or greater in width or 60 feet or more from the centerline of any street right-of-way less than 50 feet in width. This shall be known as the setback line.

(Code 1988, § 17-110)

Sec. 90-246. Frontage.

(a) For a single permitted use in an R-2 limited residential district served by both public water and sewage disposal systems, the minimum lot width at the setback line shall be 80 feet, and for each additional permitted use there shall be at least ten feet additional lot width at the setback line.

(b) For a single permitted use served by either or both individual water or sewage disposal systems, the minimum width at the setback line shall be 100 feet with ten additional feet of front width for each additional permitted use.

(Code 1988, § 17-111)

Sec. 90-247. Yards.

(a) The minimum side yard in an R-2 limited residential district for each main structure shall be ten feet or more, and the total width of the two required side yards shall be 25 feet or more.

(b) Each main structure shall have a rear yard of 35 feet or more.

(Code 1988, § 17-112)

Sec. 90-248. Building heights.

Buildings in an R-2 limited residential district may be erected up to 35 feet in height, except that:

(1) The height limit for dwellings may be increased up to 45 feet and up to three stories, provided that there are two side yards for each permitted use, each of which is 15 feet or more, plus one foot or more of side yard for each additional foot of building height over 35 feet.

(2) A public or semipublic building such as a school, church, library or general hospital may be erected to a height of 60 feet from grade, provided that the required front, side and rear yards shall be increased one foot for each foot in height over 35 feet.

(3) Church spires, belfries, cupolas, monuments, water towers, chimneys, flues, flagpoles, television antennae and radio aerials are exempt. Parapet walls may be up to four feet above the height of the building on which the walls rest.

(4) No accessory building which is within 20 feet of any party lot line shall be more than one story high. All accessory buildings shall be less than the main building in height.

(Code 1988, § 17-113)

Sec. 90-249. Corner lots.

(a) Of the two sides of a corner lot in an R-2 limited residential district, the front shall be deemed to be the shortest of the two sides fronting on streets.

(b) The side yard on the side facing the side street shall be 25 feet or more for both main and accessory buildings.

(c) For subdivisions platted after July 1, 1965, each corner lot shall have a minimum width at the setback line of 100 feet or more.

(Code 1988, § 17-114)

Secs. 90-250--90-290. Reserved.

ARTICLE VII. R-3 GENERAL RESIDENTIAL DISTRICT

Sec. 90-291. General description; intent.

The R-3 general residential district is composed of certain quiet, low-density residential uses plus certain open areas where similar development appears likely to occur. The regulations for this district are designed to stabilize and protect the essential characteristics of the district, to promote and encourage a suitable environment for family life where there are children and to prohibit all activities of a commercial nature. To these ends, development is limited to relatively low concentration, and permitted uses are limited to basically single-family dwellings plus attendant uses. This district is not completely residential as it includes public and semipublic, institutional and other related uses.

(Code 1988, § 17-131)

Sec. 90-292. Permitted uses.

In the R-3 general residential district, structures to be erected or land to be used shall be for one or more of the following uses:

- (1) Single-family dwellings.
- (2) Multiple-family dwellings.
- (3) Tourist homes.
- (4) Schools.
- (5) Churches.
- (6) Rest homes.
- (7) General hospitals with a conditional use permit.
- (8) Clubs and lodges with a conditional use permit.
- (9) Parks and playgrounds.
- (10) Home occupations:
 - a. Office.
 - b. Home occupation child care.
- (11) Offstreet parking as required by this chapter.
- (12) Accessory buildings. However, garages or other accessory structures, such as carports, porches, and stoops, attached to the main building, shall be considered part of the main building. No accessory building shall be closer than five feet to any property line.
- (13) Public utilities such as poles, lines, distribution, transformers, pipes, meters and other facilities necessary for the provision and maintenance of public utilities, including water and sewer facilities, in accordance with a conditional use permit and with other provisions contained in this chapter.
- (14) Church bulletin boards and identification signs.
- (15) Directional signs.
- (16) Home occupation signs.

(Code 1988, § 17-132; Ord. No. O-02-012, 10-22-2002)

Sec. 90-293. Uses and structures permitted by special exception.

The following uses and structures are permitted by special exception in the R-3 general residential district:

- (1) Removal of topsoil, in accordance with the requirements of section 54-6.
- (2) Tree stump landfills. Stumps and other natural vegetation may be buried in designated areas, provided:
 - a. A surveyed plat of the landfilling site so designated is recorded in the clerk of the circuit court's office;
 - b. All county erosion control and reclamation ordinances are adhered to; and
 - c. Such other conditions as required by the board that are deemed appropriate.
- (3) Adult communities are permitted subject to the following conditions:
 - a. The minimum gross site acreage shall be 50 acres.
 - b. The project will be served by public sewer and water.
 - c. The development will be an age-restricted community. At least one of the purchasers must be 55 years old or older.
 - d. A mixture of single-family detached lots and attached homes will be provided.
 - e. Each single-family detached lot shall have a minimum of 7,000 square feet and 70 feet of lot width.
 - f. Attached units shall be side to side. No more than four units may be attached in a single structure.
 - g. A homeowners' association shall be created, which will own and operate all of the common elements of the development.
 - h. Due to the special nature of adult communities, the following exceptions to existing provisions are permitted, provided all of the conditions in this subsection are met:
 1. The roads within the development may be private, as long as provision is made for their maintenance by the homeowners' association. All private roads shall be constructed to VDOT standards and shall have curb and gutter. The minimum road width shall be 30 feet from face of curb to face of curb.
 2. Lots do not have to have frontage on a public road.
 3. Attached homes may have individual lots which are not subject to the lot provisions otherwise applicable to lots for detached homes, or may be sold as condominium units.
- (4) Family day care home (large).
- (5) Home professional and trade offices.
- (6) Home occupation in an accessory building.

(Code 1988, § 17-133; Ord. No. O-02-012, 10-22-2002)

Sec. 90-294. Minimum lot areas.

- (a) For lots in an R-3 general residential district containing or intended to contain a single permitted use served by public water and sewage disposal, the minimum lot area shall be 10,000 square feet.
- (b) For lots containing or intended to contain a single permitted use served by public water systems, but having individual sewage disposal, the minimum lot area shall be 12,000 square feet.
- (c) For lots containing or intended to contain a single permitted use served by individual water and sewage disposal systems, the minimum lot area shall be 20,000 square feet.
- (d) For lots containing or intended to contain more than a single permitted use served by public water and sewage disposal systems, the minimum lot area shall be:
 - (1) For two units, 12,000 square feet or more.
 - (2) For three units, 14,000 square feet or more.
 - (3) For each additional unit above three, 1,000 square feet.
- (e) For lots containing or intended to contain more than a single permitted use served by public water systems but having individual sewage disposal systems, the minimum lot area shall be:
 - (1) For two units, 16,000 square feet or more;
 - (2) For three units, 18,000 square feet or more; and
 - (3) For each additional unit above three, 1,000 square feet.
- (f) For lots containing or intended to contain more than a single permitted use served by individual water and sewage disposal systems, the minimum lot area shall be:
 - (1) For two units, 22,000 square feet or more;
 - (2) For three units, 24,000 square feet or more; and
 - (3) For each additional unit above three, 1,000 square feet.
- (g) For permitted uses utilizing individual sewage disposal systems, the required area for any such use shall be approved by the health official. The administrator may require a greater area if considered necessary by the health official.

(Code 1988, § 17-134)

Sec. 90-295. Setbacks.

Structures in an R-3 general residential district shall be located 35 feet or more from any street right-of-way which is 50 feet or greater in width or 60 feet or more from the centerline of any street right-of-way less than 50 feet in width. Signs advertising the sale or rental of property may be erected up to the property line. This shall be known as the setback line.

(Code 1988, § 17-135)

Sec. 90-296. Frontage.

- (a) For permitted uses in an R-3 general residential district served by both public water and public sewerage, the minimum lot width at the setback line shall be 75 feet or more, and for each additional permitted use there shall be at least ten feet of additional lot width at the setback line.

(b) For permitted uses served by individual water and sewage disposal systems, the minimum lot width at the setback line shall be 100 feet or more, and for each additional permitted use there shall be at least ten feet of additional lot width at the setback line.

(Code 1988, § 17-136)

Sec. 90-297. Yards.

(a) *Side.* The minimum side yard in an R-3 general residential district for each main structure shall be ten feet, and the total width of the two required side yards shall be 25 feet or more.

(b) *Rear.* Each main structure shall have a rear yard of 25 feet or more.

(Code 1988, § 17-137)

Sec. 90-298. Building heights.

Buildings in an R-3 general residential district may be erected up to 35 feet in height from grade, except that:

(1) The height limit for dwellings may be increased up to ten feet and up to three stories, provided that there are two side yards for each permitted use, each of which is ten feet or more, plus one foot or more of side yard for each additional foot of building height over 35 feet.

(2) A public or semipublic building such as a school, church, library or hospital may be erected to a height of 60 feet from grade, provided that the required front, side and rear yards shall be increased one foot for each foot in height over 35 feet.

(3) Church spires, belfries, cupolas, monuments, water towers, chimneys, flues, flagpoles, television antennae and radio aerials are exempt. Parapet walls may be up to four feet above the height of the building on which the walls rest.

(4) No accessory building which is within ten feet of any party lot line shall be more than one story high. All accessory buildings shall be less than the main building in height.

(Code 1988, § 17-138)

Sec. 90-299. Corner lots.

(a) Of the two sides of a corner lot in an R-3 general residential district, the front shall be deemed to be the shortest of the two sides fronting on streets.

(b) The side yard on the side facing the side street shall be 25 feet or more for both main and accessory buildings.

(c) For subdivisions platted after July 1, 1965, each corner lot shall have a minimum width at the setback line of 100 feet or more.

(Code 1988, § 17-139)

Secs. 90-300--90-340. Reserved.

ARTICLE VIII. MHR MOBILE HOME RESIDENTIAL DISTRICT*

***Cross references:** Manufactured homes and trailers, ch. 50.

Sec. 90-341. General description; intent.

The MHR mobile home residential district is composed of certain quiet, low-density residential areas plus certain open areas where similar residential development appears likely to occur. The regulations for this district are designed to stabilize and protect the essential characteristics of the district, to promote and encourage a suitable environment for family life where there are children and to prohibit all activities of a commercial nature. To these ends, development is limited to relatively low concentration, and permitted uses are limited to mobile home subdivisions. No home occupations, including room renting, and no poultry or livestock are permitted.

(Code 1988, § 17-156)

Sec. 90-342. Permitted uses.

In the mobile home residential district MHR, structures to be erected or land to be used shall be for one or more of the following uses:

- (1) Mobile homes.
- (2) Accessory buildings; provided, however, garages or other accessory buildings, such as carports, porches and stoops, attached to a mobile home shall be considered part of the mobile home. No accessory building may be closer than five feet to any property line.
- (3) Public utilities such as poles, lines, distribution transformers, pipes, meters, or other facilities necessary for the provision and maintenance, including water and sewage facilities.
- (4) Business signs only to advertise the sale or rent of the premises upon which erected.
- (5) Nonbusiness directional signs.
- (6) Home occupations:
 - a. Office.
 - b. Home occupation child care.

(Code 1988, § 17-157; Ord. No. O-02-012, 10-22-2002)

Sec. 90-343. Minimum lot areas.

- (a) For lots in an MHR mobile home residential district containing or intended to contain a single permitted use served by public water and sewage disposal systems, the minimum lot area shall be 12,000 square feet.
- (b) For lots containing or intended to contain a single permitted use served by either public water or sewage disposal systems but not by both, the minimum lot area shall be 17,500 square feet.

(c) For lots containing or intended to contain a single permitted use served by individual water and sewage disposal systems, the minimum lot area shall be 20,000 square feet.

(Code 1988, § 17-158)

Sec. 90-344. Setbacks.

Structures in an MHR mobile home residential district shall be located 20 feet or more from any street right-of-way which is 50 feet or greater in width or 60 feet or more from the centerline of any street right-of-way less than 50 feet in width. This shall be known as the setback line.

(Code 1988, § 17-159)

Sec. 90-345. Frontage.

For a single permitted use in an MHR mobile home residential district served by both public water and sewage disposal systems, the minimum lot width at the setback line shall be 60 feet.

(Code 1988, § 17-160)

Sec. 90-346. Yards.

(a) *Side.* The minimum side yard in an MHR mobile home residential district for each main structure shall be ten feet or more, and the total width of the two required side yards shall be 25 feet or more.

(b) *Rear.* Each main structure shall have a rear yard of 20 feet or more.

(Code 1988, § 17-161)

Sec. 90-347. Building height.

Building heights in an MHR mobile home residential district are limited to the standard height of a mobile home.

(Code 1988, § 17-162)

Sec. 90-348. Corner lots.

(a) Of the two sides of a corner lot in an MHR mobile home residential district, the front shall be deemed to be the shortest of the two sides fronting on streets.

(b) The side yard on the side facing the side street shall be 20 feet or more for both main and accessory buildings.

(Code 1988, § 17-163)

Sec. 90-349. Minimum size of subdivision; plat.

Every mobile home subdivision shall have a minimum size of 20 acres, and every subdivision plat proposed under the provisions of this section shall comply with the provisions of chapter 70, subdivisions.

(Code 1988, § 17-164)

Secs. 90-350--90-390. Reserved.

ARTICLE IX. B-1 GENERAL BUSINESS DISTRICT*

***Cross references:** Businesses, ch. 14.

Sec. 90-391. General description; intent.

The B-1 general business district covers that portion of the community intended for the conduct of general business to which the public requires direct and frequent access, but which is not characterized either by constant heavy trucking, other than stocking and delivery of light retail goods, or by any nuisance factors other than occasioned by incidental light and noise of congregation of people and passenger vehicles. This district includes such uses as retail stores, banks, theaters, business offices, newspaper offices, printing presses, restaurants and taverns and garages and service stations.

(Code 1988, § 17-181)

Sec. 90-392. Uses and structures permitted by right.

In the B-1 general business district, structures may be erected or land may be used for one or more of the following uses:

- (1) Retail stores and shops.
- (2) Bakeries.
- (3) Dry cleaners.
- (4) Laundries.
- (5) Wearing apparel stores.
- (6) Drugstores.
- (7) Barbershops and beauty shops.
- (8) Auto and home appliance services.
- (9) Theaters and assembly halls.
- (10) Office buildings.
- (11) Churches.
- (12) Libraries.
- (13) Funeral homes.
- (14) Service stations with major repair facilities under cover.
- (15) Clubs and lodges.
- (16) Auto sales and service.
- (17) Lumber and building supply with storage facilities under cover.
- (18) Plumbing and electrical supply with storage facilities under cover.
- (19) Machinery sales and service.
- (20) Waterfront business activities; wholesale and retail marine interests, such as boat docks, piers, small boat docks, yacht club and servicing facilities for such; docks and areas for the receipt, storage and transshipment of waterborne commerce; seafood and shellfish receiving; packing and shipping plants; and recreational activities primarily conducted on or about a waterfront. All such uses shall be contiguous to a waterfront.

- (21) Public utilities.
- (22) Offstreet parking as required by this chapter.
- (23) Business signs.
- (24) General advertising signs.
- (25) Location signs.
- (26) Restaurants.
- (27) Shopping centers.
- (28) Volunteer fire or rescue squads.
- (29) Exhibits operated by nonprofit organizations.
- (30) Community centers.
- (31) Financial institutions.
- (32) Office buildings.
- (33) Wayside stands for display and sale of farm products.
- (34) Retail catalog sales offices.
- (35) Radio, television stations.
- (36) Home service establishments such as exterminators, plumbers, decorators.
- (37) Cemeteries.
- (38) Circuses, carnivals or similar temporary activities when organized or sponsored by nonprofit organizations.
- (39) Noncommercial fairgrounds.
- (40) Commercial greenhouses, nurseries.
- (41) Buildings or uses for federal, state, county or local governmental purposes.
- (42) Instructional and/or training facilities, including but not limited to dancing schools and dancing studios.
- (43) Farm supplies.
- (44) Public utility distribution facilities.
- (45) Mobile home and recreational vehicle sales, service and repair.
- (46) Agriculture.
- (47) Dwelling units when such use is reasonably and customarily a part of the business operation such as providing living quarters for a proprietor or manager and his family, as defined by the County Zoning Ordinance, not to exceed four people; or living quarters for a watchman or custodian of an establishment:
 - a. The dwelling shall be attached to or located above the business;
 - b. The dwelling use shall contain no more than 1200 square feet, provided however, that the Board of Supervisors may authorize a greater size through the issuance of a special exception; and
 - c. The residential unit shall not be used as a rental property.

(Code 1988, § 17-182)

Sec. 90-393. Uses and structures permitted by special exception.

In the B-1 general business district, structures may be erected or land may be used for one or more of the following uses:

- (1) Wholesale and processing not objectionable because of dust, noise or odors.
- (2) Retail fish market.
- (3) Commercial fairgrounds, commercial racetrack.
- (4) Animal hospital, animal boarding place, veterinary services.
- (5) Feed and grain mill.
- (6) Outdoor theater, outdoor motion picture theater.
- (7) Hotel or motel, with or without restaurant.
- (8) Hospital, general and special care.
- (9) Bowling alley, commercial billiard room or pool room.
- (10) Dancehall.
- (11) Auto repair garage, wrecking service.
- (12) Tavern, inn.
- (13) Shop for welding, blacksmith, tinsmith, woodworking.
- (14) Stonecutting, monument works.
- (15) Warehousing with indoor storage.
- (16) Motor freight terminal, transshipment facility.
- (17) Automotive service station with major repair under cover.
- (18) Bulk gasoline and petroleum storage.
- (19) Commercial amusement park.
- (20) Commercial recreational structures and uses.
- (21) Turkey shoot.
- (22) Zoo, museum.
- (23) Public utility generating station, transmission substation, transmission line and tower other than normal distribution facilities, pipe, meter, railroad, water and sewerage installation, compressor station, measurement station, regulator station.
- (24) Health spa, massage parlor.
- (25) Circus, carnival or other similar temporary activities when organized or sponsored by commercial enterprise.
- (26) Extraction of natural resources, in accordance with the requirements of section 54-6.
- (27) Single-family residential unit located on the same or adjacent lot, providing the main purpose of the dwelling is for security of the business. In addition to requirements for the business, the minimum lot area for the dwelling shall be two acres. A dwelling or mobile home may be attached or detached to the existing business.
- (28) Commercial child care center.

(29) Tree stump landfills. Stumps and other natural vegetation may be buried in designated areas, provided:

- a. A surveyed plat of the landfilling site so designated is recorded in the clerk of the circuit court's office;
- b. All county erosion control and reclamation ordinances are adhered to; and
- c. Such other conditions as required by the board that are deemed appropriate.

(30) Carwashes.

(31) Outdoor flea markets, provided the following are met:

- a. No sale or trading of guns and other weapons.
- b. No sale or consumption of alcoholic beverages.
- c. No on-site storage of any merchandise.
- d. Adequate offstreet parking.

(32) Public and private schools.

(33) Family day care home (large) in existing dwelling.

(34) Home occupations within existing dwelling:

- a. Office.
- b. Home occupation child care.
- c. Home professional and trade offices.

(35) Bingo hall.

(Code 1988, § 17-183; Ord. No. O-02-012, 10-22-2002; Ord. No. O-03-004, 10-14-2003)

Sec. 90-394. Area limits.

There are no area regulations in the B-1 general business district. Except for permitted uses utilizing individual sewage disposal systems, the required area for any such use shall be approved by the health official. The administrator may require a greater area if considered necessary by the health officer.

(Code 1988, § 17-184)

Sec. 90-395. Setbacks.

Buildings in a B-1 general business district shall be located 25 feet or more from any street right-of-way which is 50 feet or greater in width or 35 feet or more from the centerline of any street right-of-way less than 50 feet in width. Signs advertising the sale or rental of premises may be erected up to the property line. This shall be known as the setback line.

(Code 1988, § 17-185)

Sec. 90-396. Yards.

For permitted uses in a B-1 general business district, the minimum side yard adjoining or adjacent to a residential agricultural district shall be ten feet, and offstreet parking shall be in accordance with the provisions contained in this chapter.

(Code 1988, § 17-186)

Sec. 90-397. Building heights.

Buildings in a B-1 general business district may be erected up to 35 feet in height from grade, except that:

(1) The height limit for business structures may be increased up to 60 feet from grade, provided there are two side yards for each permitted use, each of which is ten feet or more, plus one foot or more of a side yard for each additional foot of building height over 60 feet.

(2) A public or semipublic building such as a school, church, library or general hospital may be erected to a height of 60 feet from grade, provided that the required front, side, and rear yards shall be increased one foot for each foot in height over 35 feet.

(3) Church spires, belfries, cupolas, monuments, water towers, chimneys, flues, flagpoles, television antennae and radio aerials are exempt. Parapet walls may be up to four feet above the height of the building on which the walls rest.

(4) No accessory structure which is within ten feet of any party lot line shall be more than one story high. All accessory structures shall be less than the main structure in height.

(Code 1988, § 17-187)

Secs. 90-398--90-440. Reserved.

ARTICLE X. M-1 LIMITED INDUSTRIAL DISTRICT*

*Cross references: Businesses, ch. 14.

Sec. 90-441. General description; intent.

The primary purpose of the M-1 limited industrial district is to permit certain industries which do not in any way detract from residential desirability to locate in any area adjacent to residential uses. The limitations on or provisions relating to height of buildings; horsepower; heating; flammable liquids or explosives; controlling emission of fumes, odors and noise; landscaping; and the number of persons employed are imposed to protect and foster adjacent residential desirability while permitting industries to locate near a labor supply.

(Code 1988, § 17-206)

Sec. 90-442. Permitted uses.

In the M-1 limited industrial district, any structure to be erected or land to be used shall be for one or more of the following uses:

- (1) Assembly of electrical appliances, electronic instruments and devices, radios and phonographs. Also the manufacture of small parts, such as coils, condensers, transformers and crystal holders.
- (2) Laboratories, pharmaceutical and medical.
- (3) Manufacture, compounding, processing, packaging or treatment of such products as bakery goods, candy, cosmetics, dairy products, drugs, perfumes, pharmaceuticals, perfumed toilet soap, toiletries, and food products.
- (4) Manufacture, compounding, assembling or treatment of articles of merchandise from previously prepared materials including bone, cellophane, canvas, cloth, cork, feathers, felt, fiber, fur, glass, hair, horn, leather, paper, plastic, precious or semiprecious metals or stone, shell, straw, textiles, tobacco, wood, yarn and paint.
- (5) Manufacture of pottery and figurines or other similar ceramic products using only previously pulverized clay and kilns fired only by electricity or gas.
- (6) Manufacture of musical instruments, toys, novelties and rubber and metal stamps.
- (7) Feed and feed stores.
- (8) Cabinets, furniture and upholstery shops.
- (9) Boat building.
- (10) Monumental stone works.
- (11) Veterinary or dog or cat hospitals and kennels.
- (12) Airports with conditional use permit.
- (13) Wholesale businesses and storage warehouses.
- (14) Offstreet parking as required by this chapter.

(15) Public utility generating, booster or relay stations, transformer substations, transmission lines and towers and other facilities for the provision and maintenance of public utilities including railroads and facilities and water and sewerage installations.

(16) Business signs.

(17) General advertising signs.

(18) Location signs.

(19) Agriculture. Notwithstanding any other provisions of this article, only accessory structures may be erected for the use of agriculture in an M-1 district; site plan review is not required on land used exclusively for agricultural pursuits.

(20) Building supply.

(21) Dwelling units when such use is reasonably and customarily a part of the business operation such as providing living quarters for a proprietor or manager and his family, as defined by the County Zoning Ordinance, not to exceed four people; or living quarters for a watchman or custodian of an establishment:

a. The dwelling shall be attached to or located above the business;

b. The dwelling use shall contain no more than 1200 square feet, provided however, that the Board of Supervisors may authorize a greater size through the issuance of a special exception; and

c. The residential unit shall not be used as a rental property.

(Code 1988, § 17-207)

Sec. 90-443. Uses and structures permitted by special exception specified.

The following uses and structures are permitted by special exception in the M-1 limited industrial district:

(1) Extraction of natural resources, in accordance with the requirements of section 54-6.

(2) All B-1 general business district uses in sections 90-392 and 90-393.

(3) Tree stump landfills. Stumps and other natural vegetation may be buried in designated areas, provided:

a. A surveyed plat of the landfilling site so designated is recorded in the clerk of the circuit court's office;

b. All county erosion control and reclamation ordinances are adhered to; and

c. Such other conditions as required by the board that are deemed appropriate.

(4) Bingo hall.

(Code 1988, § 17-208; Ord. No. O-03-004, 10-14-2003)

Sec. 90-444. Requirements for permitted uses.

(a) Before a building permit shall be issued or construction commenced on any permitted use in an M-1 limited industrial district or a permit issued for a new use, the plans, in sufficient detail to show the operations and processes, shall be submitted to the zoning administrator for study.

The administrator shall refer these plans, together with his written recommendation, to the planning commission for its recommendation. Modifications of the plans may be required.

(b) Permitted uses shall be conducted wholly within a completely enclosed building or within an area enclosed on all sides by a solid masonry wall, a uniformly painted solid board fence or an evergreen hedge six feet in height. Public utilities and signs requiring natural air circulation, unobstructed view or other technical consideration necessary for proper operation may be exempt from this subsection.

Outdoor storage shall be permitted subject to the following conditions:

- (1) All items stored outdoors shall be accessory to the main use or structure.
- (2) Outdoor storage areas shall be located to the side or the rear of the main structure or use.
- (3) The storage area shall be screened, and the view of the subject material shall be completely obstructed immediately from any road right-of-way, occupied dwelling or residentially zoned property. If the board of supervisors deems necessary, additional areas of screening may be required.
- (4) Screening shall be comprised of one or more of the following:
 - a. Masonry wall.
 - b. Solid board fence.
 - c. Chainlink-type fence with slats.
 - d. Evergreen hedge.
 - e. Existing vegetation.
 - f. Structures.
 - g. Earth berm (landscaped and grass covered).
- (5) No storage shall extend above the height of the screening.

(c) Landscaping may be required within an established or required front setback. The plans and execution shall take into consideration traffic hazards. Landscaping shall be permitted up to a height of three feet and to within 50 feet from the corner of any intersecting streets.

(d) Sufficient area shall be provided to adequately screen permitted uses from adjacent business and residential districts and for offstreet parking of vehicles incidental to the industry, its employees and clients.

(e) Automobile graveyards and junkyards in existence on July 1, 1965, are to be considered as nonconforming uses. They shall completely screen, on any side open to view from a public road, the operation or use by a masonry wall, a uniformly painted solid board fence or an evergreen hedge six feet in height.

(f) The administrator shall act on any application received within 30 days after receiving the application. If formal notice in writing is given to the applicant, the time for action may be extended for a 30-day period. Failure on the part of the administrator to act on the application within the established time limit shall be deemed to constitute approval of the application.

(Code 1988, § 17-209)

Sec. 90-445. Area limits.

For permitted uses in an M-1 limited industrial district utilizing individual sewage disposal systems, the required area for any such use shall be approved by the health officer. The administrator may require a greater area if considered accessory by the health officer.

(Code 1988, § 17-210)

Sec. 90-446. Setbacks.

Buildings in an M-1 limited industrial district shall be located ten feet or more from any street right-of-way which is 50 feet or greater in width or 35 feet or more from the centerline of any street right-of-way less than 50 feet in width. Signs advertising the sale or rental of premises may be erected up to the property line. This shall be known as the setback line.

(Code 1988, § 17-211)

Sec. 90-447. Yards; offstreet parking.

(a) For permitted uses in an M-1 limited industrial district, the minimum side yard adjoining or adjacent to a residential or agricultural district shall be ten feet. The side yard of corner lots shall be 20 feet or more.

(b) Offstreet parking shall be in accordance with the provisions contained in this chapter.

(Code 1988, § 17-212)

Sec. 90-448. Building heights.

Buildings in an M-1 limited industrial district may be erected up to a height of 60 feet. For buildings over 60 feet in height, approval shall be obtained from the administrator. Chimneys, flues, cooling towers, flagpoles, radio or communication towers or their accessory facilities not normally occupied by workers are excluded from this limitation. Parapet walls are permitted up to four feet above the limited height of the building on which the walls rest.

(Code 1988, § 17-213)

Sec. 90-449. Lot coverage.

Buildings or groups of buildings with their accessory buildings in an M-1 limited industrial district may cover up to 70 percent of the area of the lot.

(Code 1988, § 17-214)

Secs. 90-450--90-490. Reserved.

ARTICLE XI. M-2 GENERAL INDUSTRIAL DISTRICT*

*Cross references: Businesses, ch. 14.

Sec. 90-491. General description and intent.

The primary purpose of the M-2 general industrial district is to establish an area where the principal use of land is for commercial and industrial operations which may create some nuisances that are not properly associated with nor particularly compatible with residential, institutional and neighborhood commercial service establishments. The specific intent of this district is to:

- (1) Encourage the construction of and the continued use of the land for commercial and industrial purposes.
- (2) Prohibit residential and neighborhood commercial use of the land and prohibit any other use which would substantially interfere with the development, continuation or expansion of commercial and industrial uses in the district.
- (3) Encourage the discontinuance of existing uses that would not be permitted as new uses under the provisions of this article.

(Code 1988, § 17-231)

Sec. 90-492. Permitted uses.

In the M-2 general industrial district, buildings to be erected or land to be used shall be for one or more of the following uses:

- (1) Truck terminals.
- (2) Automobile assembling, painting, upholstering, repairing, rebuilding, reconditioning, body and fender work, truck repairing or overhauling, tire retreading or recapping.
- (3) Blacksmith shops, welding or machine shops.
- (4) Building material sales yards and plumbing supplies storage.
- (5) Contractors' equipment storage yard or plant or rental of equipment commonly used by contractors.
- (6) Petroleum storage.
- (7) Sawmills and planing mills.
- (8) Brick manufacture.
- (9) Boiler shops.
- (10) Meat, poultry and fish processing.
- (11) Offstreet parking as required by this chapter.
- (12) Public utilities.
- (13) Conservation areas.
- (14) Game preserves.
- (15) Accessory uses.

- (16) Business signs.
- (17) General advertising signs.
- (18) Location signs.
- (19) Concrete products or central mixing and proportioning plants.
- (20) Agriculture. Notwithstanding any other provision of this article, only accessory structures may be erected for the use of agriculture in an M-2 district; site plan review is not required on land used exclusively for agricultural pursuits.
- (21) Wholesale businesses and storage warehouses.
- (22) Dwelling units when such use is reasonably and customarily a part of the business operation such as providing living quarters for a proprietor or manager and his family, as defined by the County Zoning Ordinance, not to exceed four people; or living quarters for a watchman or custodian of an establishment:
 - a. The dwelling shall be attached to or located above the business;
 - b. The dwelling use shall contain no more than 1200 square feet, provided however, that the Board of Supervisors may authorize a greater size through the issuance of a special exception; and
 - c. The residential unit shall not be used as a rental property.

(Code 1988, § 17-232)

Sec. 90-493. Uses and structures permitted by special exception.

The following uses are permitted by special exception in the M-2 general industrial district:

- (1) Sanitary landfill in accordance with the requirements of section 90-1033.
- (2) Tree stump landfills. Stumps and other natural vegetation may be buried in designated areas, provided:
 - a. A surveyed plat of the landfilling site so designated is recorded in the clerk of the circuit court's office;
 - b. All county erosion control and reclamation ordinances are adhered to; and
 - c. Such other conditions as required by the board of supervisors that are deemed appropriate.
- (3) Dredged material disposal site.
- (4) Public utility generating station, transmission station, transmission line and tower other than normal distribution facilities, pipe, meter, railroad, water and sewerage installation, compressor station, measurement station, regulation station.

(Code 1988, § 17-233)

Sec. 90-494. Requirements for permitted uses.

- (a) Before a building permit shall be issued or construction commenced on any permitted use in an M-2 general industrial district or a permit issued for a new use, the plans, in sufficient detail to show the operations and processes, shall be submitted to the zoning administrator for study. The administrator shall, together with his written recommendation, refer these plans to the planning commission for its recommendation. Modifications of the plans may be required.

(b) Permitted uses shall be conducted wholly within a completely enclosed building or within an area enclosed on all sides by a solid masonry wall, a uniformly painted solid board fence or an evergreen hedge six feet in height. Public utilities and signs requiring natural air circulation, unobstructed view or other technical considerations necessary for proper operation shall be exempt from this subsection. This exception does not include storing of any materials.

(c) Landscaping may be required within any established or required front setback area. The plans and execution shall take into consideration traffic hazards. Landscaping may be permitted up to a height of three feet and to within 50 feet from the corner of any intersecting streets.

(d) Sufficient area shall be provided to adequately screen permitted uses from adjacent business and residential districts and for offstreet parking of vehicles incidental to the industry, its employees and clients.

(e) Automobile graveyards and junkyards in existence on July 1, 1965, are to be considered as nonconforming uses. They shall completely screen, on any side open to view from a public road, the operation or use by a masonry wall, a uniformly painted solid board fence or an evergreen hedge six feet in height.

(f) The administrator shall act on any application received within 30 days after receiving the application. If formal notice in writing is given to the applicant, the time for action may be extended for a 30-day period. Failure on the part of the administrator to act on the application within the established time limit shall be deemed to constitute approval of the application.

(Code 1988, § 17-234)

Sec. 90-495. Area limits.

For permitted uses in an M-2 general industrial district utilizing individual sewage disposal systems, the required area for any such use shall be approved by the health officer. The administrator may require a greater area if considered necessary by the health officer.

(Code 1988, § 17-235)

Sec. 90-496. Setbacks.

Buildings in an M-2 general industrial district shall be located ten feet or more from any street right-of-way which is 50 feet or greater in width or 35 feet or more from the centerline of any street right-of-way less than 50 feet in width. Signs advertising the sale or rental of premises may be erected up to the property line. This shall be known as the setback line.

(Code 1988, § 17-236)

Sec. 90-497. Yards; offstreet parking.

(a) For permitted uses in an M-2 general industrial district, the minimum side yard adjoining or adjacent to a residential or agricultural district shall be ten feet. The side yard on a corner lot shall be 20 feet or more.

(b) Offstreet parking shall be in accordance with the provisions contained in this chapter.

(Code 1988, § 17-237)

Sec. 90-498. Building heights.

Buildings in an M-2 general industrial district may be erected up to a height of 60 feet. For buildings over 60 feet in height, approval shall be obtained from the administrator. Chimneys, flues, cooling towers, flagpoles, radio or communication towers or their accessory facilities not normally occupied by workers are excluded from this limitation. Parapet walls are permitted up to four feet above the limited height of the building on which the walls rest.

(Code 1988, § 17-238)

Sec. 90-499. Lot coverage.

Buildings or groups of buildings with their accessory buildings in an M-2 general industrial district may cover up to 70 percent of the area of the lot.

(Code 1988, § 17-239)

Secs. 90-500--90-540. Reserved.

ARTICLE XII. M-3 HEAVY INDUSTRIAL DISTRICT*

*Cross references: Businesses, ch. 14.

Sec. 90-541. General description and intent.

The primary purpose of the M-3 heavy industrial district is to establish an area where the principal use of land is for heavy industrial operations which create some nuisances that are not properly associated with nor particularly compatible with residential, institutional and neighborhood commercial service establishments. The specific intent of this district is to:

- (1) Encourage the construction of and continued use of the land for heavy industrial purposes which have the potential to generate negative environmental impacts on the surrounding community. Some of these impacts include the potential for air pollution, water quality degradation, loud noise and odor.
- (2) Prohibit residential and neighborhood commercial use of the land to prohibit any other use which would substantially interfere with the development, continuation or expansion of heavy industrial uses in the district.

(Code 1988, § 17-480)

Sec. 90-542. Permitted uses.

In the M-3 heavy industrial district, buildings to be erected or land to be used shall be for one or more of the following uses:

- (1) Battery manufacture.
- (2) Punch presses exceeding 40-ton rated capacity and drop hammers.
- (3) Sand and gravel operations.
- (4) Crushed stone operations.
- (5) Wood-preserving operations.
- (6) Abattoirs.
- (7) Acid manufacture.
- (8) Cement, lime and gypsum manufacture.
- (9) Fertilizer manufacture.
- (10) Petroleum refining including byproducts.
- (11) Asphalt mixing plants.
- (12) Paper and pulp manufacture.
- (13) Screened junk storage.
- (14) Cogeneration plants.
- (15) Materials recovery facilities, resource recovery/reclamation operations.
- (16) Dwelling units when such use is reasonably and customarily a part of the business operation such as providing living quarters for a proprietor or manager and his family, as

defined by the County Zoning Ordinance, not to exceed four people; or living quarters for a watchman or custodian of an establishment:

- a. The dwelling shall be attached to or located above the business;
- b. The dwelling use shall contain no more than 1200 square feet, provided however, that the Board of Supervisors may authorize a greater size through the issuance of a special exception; and
- c. The residential unit shall not be used as a rental property.

(Code 1988, § 17-481)

Sec. 90-543. Uses permitted by special exception/conditional use.

The following use is permitted by special exception/conditional use in the M-3 heavy industrial district: sanitary landfills in accordance with the requirements of section 90-1033.

(Code 1988, § 17-482)

Sec. 90-544. Requirements for permitted uses.

(a) Before a building permit shall be issued or construction commenced on any permitted uses in an M-3 heavy industrial district or a permit issued for a new use, the plans, in sufficient detail to show the operations and processes, shall be submitted to the planning office for study. The staff of the planning office shall, with their recommendation, refer these plans to the planning commission for its recommendation. Modifications of the plans may be required as necessary.

(b) A detailed site plan prepared in accordance with section 90-824 shall be submitted to the planning office for review prior to the issuance of a building permit.

(c) Permitted uses shall be conducted wholly within a completely enclosed building or within an area enclosed on all sides by a solid masonry wall, a uniformly painted solid board fence or an evergreen hedge a minimum of six feet in height.

(d) Landscaping may be required, at the discretion of the planning department or the planning commission, within any established or required front setback area. The plans and execution shall take into consideration traffic hazards. Landscaping may be permitted up to a height of three feet and to within 50 feet from the corner of an intersecting street.

(e) Sufficient area shall be provided to adequately screen permitted uses from adjacent business and residential districts and for offstreet parking of vehicles incidental to the industry, its employees and clients.

(f) The planning commission shall act on any application received within 60 days after receiving the application. If a formal notice in writing is given to the applicant, the time for action may be extended for an additional 60-day period.

(Code 1988, § 17-483)

Sec. 90-545. Area limits.

For permitted uses in the M-3 heavy industrial district utilizing individual sewage disposal systems, the required area for any such use shall be approved by the health officer. The planning department may require a greater area if considered necessary by the health officer.

(Code 1988, § 17-484)

Sec. 90-546. Setbacks.

Buildings in the M-3 heavy industrial district shall be located 75 feet or more from any street right-of-way which is 50 feet or greater in width or 100 feet or more from the centerline of any street right-of-way less than 50 feet in width. Signs advertising the sale or rental of premises may be erected up to the property line. This shall be known as the setback line.

(Code 1988, § 17-485)

Sec. 90-547. Yards; offstreet parking.

(a) For permitted uses in the M-3 heavy industrial district, the minimum side yard adjoining or adjacent to a residential or agricultural district shall be 200 feet. The minimum rear yard shall be 35 feet.

(b) Offstreet parking shall be in accordance with the provisions of this chapter, but not less than one space per employee shall be provided.

(Code 1988, § 17-486)

Sec. 90-548. Building heights.

Buildings in the M-3 heavy industrial district may be erected up to a height of 60 feet. For buildings over 60 feet in height, approval shall be obtained from the board of zoning appeals. Chimneys, flues, cooling towers and flagpoles are excluded from this limitation. Parapet walls are permitted to four feet above the limited height of the building on which the walls rest.

(Code 1988, § 17-487)

Sec. 90-549. Special consideration.

(a) The plan of operation for a use in the M-3 heavy industrial district shall state all noise levels in decibels, wastewater volumes, and quantities of daily emissions to the air to be generated by the proposed industrial use. The plan shall also detail how these environmental impacts will be minimized and outline what specific procedures will be utilized or equipment installed to offset the potential negative effects of the industrial operation on the surrounding community.

(b) The plan of operation shall meet all state and local health, sanitation, and environmental codes. Where applicable, a permit shall be issued from the appropriate state regulatory agency prior to local approval of the plan of operation and issuance of a building permit.

(Code 1988, § 17-488)

Secs. 90-550--90-590. Reserved.

ARTICLE XIVA. CHESAPEAKE BAY PROTECTION

Sec. 90-661. Findings of fact.

(a) The Chesapeake Bay and its tributaries are one of the most important and productive estuarine systems in the world, providing economic and social benefits to the citizens of the county and the commonwealth. The health of the bay is vital to maintaining the county's economy and the welfare of its citizens.

(b) The Chesapeake Bay waters have been degraded significantly by many sources of pollution, including nonpoint source pollution from land uses and development. Existing high quality waters are worthy of protection from degradation to guard against further pollution. Certain lands that are proximate to the shoreline have intrinsic water quality value due to the ecological and biological processes they perform. Other lands have severe development constraints from flooding, erosion, and soil limitations. Protected from disturbance, they offer significant ecological benefits by providing water quality maintenance and pollution control as well as flood and shoreline erosion control. These lands together, designated by the county as Chesapeake Bay Preservation Areas (hereinafter "CBPAs"), need to be protected from destruction and damage in order to protect the quality of water in the bay and consequently the quality of life in the county and the commonwealth.

(Ord. of 8-10-2004, § 17-531)

Sec. 90-662. Purpose and intent.

(a) This article is enacted to implement the requirements of Code of Virginia, § 10.1-2100 et seq., the Chesapeake Bay Preservation Act, and amends The Code of the County of Prince George, Virginia. The intent of the board of supervisors and the purpose of the overlay district is to:

- (1) Protect existing high quality state waters;
- (2) Restore all other state waters to a condition or quality that will permit all reasonable public uses and will support the propagation and growth of all aquatic life which might reasonably be expected to inhabit them;
- (3) Safeguard the clear waters of the commonwealth from pollution;
- (4) Prevent any increase in pollution; and
- (5) Promote water resource conservation in order to provide for the health, safety, and welfare of the present and future citizens of the county.

(b) This district shall be in addition to and shall overlay all other zoning districts where they are applied so that any parcel of land lying in the Chesapeake Bay Preservation Area Overlay District shall also lie in one or more of the other zoning districts provided for by this chapter. Unless otherwise stated in these regulations, the review and approval procedures provided for in sections 90-821--90-824 shall be followed in reviewing and approving development and uses governed by this article.

(c) This article is enacted under the authority of Code of Virginia, § 10.1-2100 et seq. (the Chesapeake Bay Preservation Act) and Code of Virginia, § 15.2-2283. Code of Virginia, § 15.2-2283, states that zoning ordinances may "also include reasonable provisions, not inconsistent with applicable state water quality standards, to protect surface water and groundwater as defined in Code of Virginia § 62.1-255."

(Ord. of 8-10-2004, § 17-532)

Sec. 90-663. 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:

Agricultural lands means those lands that are currently (i.e., natural or native vegetation has been removed) used and managed primarily for the commercial sale of crops and livestock and consist of a minimum of five acres.

Best management practices (BMPs) means a practice, or combination of practices, that are determined by a state or designated area wide planning agency to be the most effective, practical means of preventing or reducing the amount of pollution generated by nonpoint sources to a level compatible with water quality goals.

Buffer area means an area of natural or established vegetation managed to protect other components of a resource protection area and state waters from significant degradation due to land disturbances.

Chesapeake Bay Preservation Area means any land designated by the board of supervisors pursuant to part III of the Chesapeake Bay Preservation Area Designation and Management Regulations, 9 VAC 10-20-et seq., and Code of Virginia, § 10.1-2107. A Chesapeake Bay Preservation Area shall consist of a resource protection area and a resource management area.

Construction footprint means the area of all impervious surface, including but not limited to buildings, roads and drives, parking areas, sidewalks and the area necessary for construction of such improvements.

Development means the construction or substantial alteration of residential, commercial, industrial, institutional, recreational, transportation, or utility facilities or structures.

Diameter at breast height (DBH) means the diameter of a tree measured outside the bark at a point 4.5 feet above the ground.

Drip-line means a vertical projection to the ground surface from the furthest lateral extent of a tree's leaf canopy.

Floodplain means all lands that would be inundated by floodwater as a result of a storm event of a 100-year return interval.

Highly erodible soils means soils (excluding vegetation) with an erodibility index (EI) from sheet and rill erosion equal to or greater than eight. The erodibility index for soils 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 soil 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 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.

Intensely Developed Area (IDA) means a portion of a resource protection area or resource management area designated by the board of supervisors where little of the natural environment remains and where development is currently concentrated.

Land disturbance means any activity upon land which causes, contributes to, or results in the removal or covering of the vegetation upon such land, including, but not limited to, clearing, grading, filling, dredging, or excavating. This term shall not include minor activities such as home gardening, planting of trees and shrubs, and home maintenance.

Lot coverage means the impervious area of any lot or parcel including, but not limited to buildings, drives, parking areas, sidewalks, patios, decks, etc.

Nonpoint source pollution means pollution consisting of constituents such as sediment, nutrients, and organic and toxic substances from diffuse sources, such as runoff from agricultural and urban land development and use.

Nontidal wetlands 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 the U.S. Environmental Protection Agency pursuant to Section 404 of the federal Clean Water Act, in 33 CFR 328.3b, as now or hereafter amended.

Noxious weeds means weeds that are difficult to control effectively, such as Johnson grass, kudzu, and multiflora rose.

Plan of development means the process for site plan or subdivision plat review to ensure compliance with Code of Virginia, § 10.1-2109 and this article, prior to any clearing and grading of a site and the issuance of a building permit.

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 state department of transportation, including regulations promulgated pursuant to the Erosion and Sediment Control Law (Code of Virginia, § 10.1-603.1 et seq.). This definition includes those roads where the state department of transportation exercises direct supervision over the design or construction activities, or both, and cases where roads are constructed and maintained, or both, by the county in accordance with the standards of the county.

Redevelopment means the process of developing land that is or has been previously developed.

Resource management area (RMA) means that component of the Chesapeake Bay Preservation Area that is not classified as the resource protection area. RMAs include land types that, if improperly used or developed, have the potential for causing significant water quality degradation or for diminishing the functional value of the resource protection area.

Resource protection area (RPA) means that component of the 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.

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 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.

Substantial alteration means expansion or modification of a building or development that would result in a disturbance of land exceeding an area of 2,500 square feet in the resource management area only.

Tidal shore or shore means land contiguous to a tidal body of water between the mean low water level and the mean high water level.

Tidal wetlands means vegetated and nonvegetated wetlands as defined in Code of Virginia, § 28.2-1300.

Water-dependent facility means a development of land that cannot exist outside of the resource protection area and must be located on the shoreline by reason of the intrinsic nature of its operation. These facilities include, but are not limited to (i) ports; (ii) the intake and outfall structures of power plants, water treatment plants, sewage treatment plants, and storm sewers; (iii) marinas and other boat docking structures; (iv) beaches and other public water-oriented recreation areas; and (v) fisheries or other marine resources facilities.

Wetlands means tidal and nontidal wetlands.

(Ord. of 8-10-2004, § 17-533)

Cross references: Definitions generally, § 1-2.

Sec. 90-664. Areas of applicability.

(a) The Chesapeake Bay Preservation Area (CBPA) Overlay District shall apply to all lands identified as a CBPA as designated by the county and as shown on the Official Preservation Area District Map prepared as a part of the county's Chesapeake Bay Preservation Area Program. The CBPA Map together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this article.

(1) The resource protection areas shall consist 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 cause significant degradation to the quality of state waters. In their natural condition, these lands 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 resource protection area includes:

- 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. A vegetated buffer area not 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.

(2) Resource management areas shall include land types that, if improperly used or developed, have potential for causing significant water quality degradation or for diminishing the functional value of the resource protection area. The resource management area shall be provided contiguous to the entire inland boundary of the resource protection area, and shall consist of an area 150 feet in width, or an area composed of any of the following land categories, whichever is larger:

- a. Floodplains;
- b. Highly erodible soils, including steep slopes defined as those greater than 15 percent;
- c. Highly permeable soils;
- d. Nontidal wetlands not included in the resource protection area

(b) The CBPA Overlay District Map shows only the general location of CBPAs and should be consulted by persons contemplating activities within the county prior to engaging in a regulated activity. The specific location of RPAs on a lot or parcel shall be delineated on each site or parcel as required under section 90-669 through the review and approval of the plan of development process or as required under section 90-671 through the review and approval of a water quality impact assessment.

(c) Portions of resource protection areas and resource management areas designated by the county as intensely developed areas shall serve as redevelopment areas. Areas so designated shall comply with all erosion and sediment control requirements and the performance standards for redevelopment in section 90-667 (Performance standards).

(d) If the boundaries of a Chesapeake Bay Preservation Area include only a portion of a lot, parcel, or development project, the entire lot, parcel, or development project shall comply with the requirements of the overlay district. The division of property shall not constitute an exemption from this requirement.

(Ord. of 8-10-2004, § 17-534)

Sec. 90-665. Conflict with other regulations.

In any case where the requirements of this article conflict with any other provisions of The Code of Prince George County, Virginia, or existing state and federal regulations, whichever imposes the more stringent restrictions shall apply.

(Ord. of 8-10-2004, § 17-535)

Sec. 90-666. Site specific delineation of RPA limits.

(a) *Delineation by applicant.* The site-specific boundaries of the resource protection area shall be determined by the applicant through the performance of an environmental site assessment, subject to approval by the planning director or his designee and in accordance with section 90-669 (Plan of development process) or section 90-668 (Water quality impact assessment). The Official Preservation Area District Map may be used as a guide to the general location of resource protection areas.

(b) *Delineation by planning director or his designee.* The planning director or his designee, when requested by the applicant wishing to construct a single-family residence, may waive the requirement for an environmental site assessment and perform the delineation. The planning director or his designee may use hydrology, soils, plant species, and other data, and consult with other appropriate resources as needed to perform the delineation.

(c) *Where conflict arises over delineation.* Where the applicant has provided a determination of the resource protection area, the boundaries of this district shall be as shown on the overlay district boundary map unless a field survey conducted by the U.S. Army Corps of Engineers, an applicable agency of the state or federal government, a licensed engineer, licensed soil scientist or other professional designated by the Chesapeake Bay Local Assistance Department, finds such boundary to be in error. If the adjusted boundary delineation is contested by the applicant, the applicant may seek relief.

(Ord. of 8-10-2004, § 17-536)

Sec. 90-667. Performance standards.

(a) *Purpose and intent.* The performance standards establish the means to minimize erosion and sedimentation potential, reduce land application of nutrients and toxics, and maximize rainwater infiltration. Natural ground cover, especially woody vegetation, is most effective in holding soil in place and preventing site erosion. Indigenous vegetation, with its adaptability to local conditions without the use of harmful fertilizers or pesticides, filters stormwater runoff. Keeping impervious cover to a minimum enhances rainwater infiltration and effectively reduces stormwater runoff potential.

The purpose and intent of these requirements is also to implement the following objectives: prevent a net increase in nonpoint source pollution from new development; achieve a ten-percent reduction in nonpoint source pollution from redevelopment; and achieve a 40-percent reduction in nonpoint source pollution from agricultural uses.

(b) *General performance standards for development and redevelopment.*

(1) Land disturbance shall be limited to the area necessary to provide for the proposed use or development.

a. In accordance with an approved site plan, the limits of clearing or grading shall be strictly defined by the construction footprint. These limits shall be clearly shown on submitted plans and physically marked in the development site.

b. Ingress and egress during construction shall be limited to one access point, unless otherwise approved by the planning director or his designee and authorized by an approved site plan.

(2) Indigenous vegetation shall be preserved to the maximum extent practicable consistent with the proposed use or development permitted and in accordance with the Virginia Erosion and Sediment Control Handbook.

a. Existing trees over six inches in diameter at breast height (DBH) shall be preserved outside the approved construction footprint. However, 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. Diseased trees or trees weakened by age, storm, fire, or other injury may be removed, when approved by the planning director or his designee for the county. Other woody vegetation on site shall also be preserved outside the approved construction footprint.

b. Site clearing for construction activities shall be allowed as approved by the planning director or his designee for the county through the plan of development review process.

c. Prior to clearing, grading and/or filling, suitable protective barriers, like safety fencing, shall be erected five feet outside the drip-line of any around [sic] any tree or stand of trees to be preserved. Protective barriers shall remain so erected throughout all phases of construction. The storage of equipment, materials, debris, or fill shall not be allowed within the area protected by the barrier.

(3) Land development shall minimize impervious cover consistent with the proposed use or development.

a. Pervious surfaces, such as grid and modular pavements, shall be used for any required parking area, alley or other low traffic driveway, unless otherwise approved by the planning director or his designee.

b. Parking space size shall be 162 square feet. Parking space width shall be nine feet; parking space length shall be 18 feet. Two-way aisles shall be a minimum of 22 feet in width.

(4) Notwithstanding any other provisions of this article pertaining thereto, any land disturbing activity exceeding 2,500 square feet, including construction of all single-family houses, shall comply with the requirements of the erosion and sediment control ordinance (section 38-31 et seq.).

(5) All development and redevelopment within RMAs and RPAs that exceeds 2,500 square feet of land disturbance shall be subject to a plan of development process, including the approval of a site plan in accordance with the provisions of this chapter; or a subdivision plan in accordance with the subdivision ordinance (chapter 70); or a water quality impact assessment in accordance with section 90-668.

(6) For any use or development, stormwater runoff shall be controlled by the use of best management practices consistent with the water quality protection provisions of the Virginia Stormwater Management Regulations (4 VAC 3-20-10 et seq.) that achieve the following:

a. For development, the post-development nonpoint source pollution runoff load shall not exceed the pre-development load, based on the average total phosphorus loading of 0.45 pounds per acre per year.

b. For sites within intensely developed areas or other isolated redevelopment sites, the nonpoint source pollution load shall be reduced by at least ten percent. The planning director or his designee for the county may waive or modify this requirement for redevelopment sites that originally incorporated best management practices for stormwater runoff quality control, provided the following provisions are satisfied:

1. In no case may the post-development nonpoint source pollution runoff load exceed the pre-development load;

2. Runoff pollution loads must have been calculated and the BMPs selected for the expressed purpose of controlling nonpoint source pollution;

3. If the best management practices (BMPs) are structural, evidence shall be provided by the owner of record that facilities are currently in good working order and performing at the design levels of service through routine maintenance of the facilities.

(7) Prior to initiating grading or other on-site activities on any portion of a lot or parcel, all wetlands permits required by federal, state, and local laws and regulations shall be obtained and evidence of such submitted to the planning director or his designee of the county.

(8) Land upon which agricultural activities are being conducted shall undergo a soil and water quality conservation assessment. Such assessment shall evaluate the effectiveness of existing practices pertaining to soil erosion and sediment control, nutrient management and management of pesticides, and where necessary, results in a plan that outlines additional practices needed to ensure that water quality protection is accomplished consistent with this article and conducted by the James River Soil and Water Conservation District.

(c) *Buffer area requirements.* To minimize the adverse effects of human activities on the other components of resource protection areas (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 and established where it does not exist.

The buffer area shall be located adjacent to and landward of other RPA components and along both sides of any water body with perennial flow. The 100-foot full buffer area shall be designated as the landward component of the resource protection area notwithstanding permitted use encroachment and vegetation clearing and the buffer area is not reduced.

The 100-foot buffer area shall be deemed to achieve a 75-percent reduction of sediments and a 40 - percent reduction of nutrients.

(1) The buffer area shall be maintained to meet the following additional performance standards:

a. In order to maintain the functional value of the buffer area, indigenous vegetation may be removed only, subject to approval by the planning director or his designee for the county, to provide for reasonable sight lines, access paths, general woodlot management, and best management practices 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 allowed as permitted by the planning director or his designee of the county pursuant to sound horticultural practices.
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.

(2) Permitted encroachments into the buffer area.

a. When the application of the buffer areas would result in the loss of a buildable area on a lot or parcel recorded prior to October 1, 1989, the planning director, or his designee, may permit encroachments into the buffer area.

1. Encroachments into the buffer areas shall be the minimum amount 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 or parcel; and
3. The encroachment may not extend into the seaward 50 feet of the buffer area.

b. When the application of the buffer area would result in the loss of a buildable area on a lot or parcel recorded between October 1, 1989 and March 1, 2002, the planning director, or his designee, may permit encroachments into the buffer area in accordance with section 90-669 (Plan of development process) and the following criteria:

1. The lot or parcel was created as a result of a legal process conducted in conformity with the county's subdivision regulations (chapter 70);
2. Any specific conditions, mitigation measures or other such legally binding conditions or covenants imposed through a previously approved zoning case shall be binding and shall be met;
3. If the use of a best management practice (BMP) was previously required, the BMP shall be evaluated by a certified engineer (retained by the applicant) to determine if it continues to function effectively and, if necessary, the BMP shall be reestablished or repaired and maintained by the owner of record as required; and
4. The criteria in subsection (c)(2)a. of this section shall be met.

(3) The planning director, or his designee, may waive the requirements for the reestablishment of vegetation within the RPA buffer on redevelopment sites within intensely developed areas (IDA) in accordance with section 90-669, Plan of development process.

(4) On agricultural lands the agricultural buffer area shall be managed to prevent concentrated flows of surface water from breaching the buffer area and noxious weeds from invading the buffer area. The agricultural activities may encroach into the buffer area as follows:

- a. Agricultural activities may encroach into the landward 50 feet of the 100-foot wide buffer area when at least one agricultural best management practice, which, in the opinion of the James River Soil And Water Conservation District Board, addresses the more predominant water quality issue 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 best management practice 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 test, must be developed consistent with the Virginia Nutrient Management Training and Certification Regulations (4 VAC 5-15 et seq.) administered by the state department of conservation and recreation (DCR).
- b. Agricultural activities may encroach within the landward 75 feet of the 100-foot wide buffer area when agricultural best management practices 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 Resources Conservation Service. A nutrient management plan, including soil test, must be developed consistent with the "Virginia Nutrient Management Training and Certification Regulations (4 VAC 5-15 et seq.) administered by the state department of conservation and recreation. In conjunction with the remaining buffer area, this collection of best management practices shall be presumed to achieve water quality protection at least the equivalent as provided by the 100-foot wide buffer area.
- c. The buffer area is not required to be designated adjacent to agricultural drainage ditches if the adjacent agricultural land has in place at least one best management practice as considered by the James River Soil and Water Conservation District to address the more predominant water quality issue on the

adjacent land--either erosion control or nutrient management--is being implemented on the adjacent land.

(5) When agricultural or silvicultural uses within the buffer area cease and the lands are proposed to be converted to other uses, the full 100-foot wide buffer shall be reestablished. In reestablishing the buffer, management measures shall be undertaken to provide woody vegetation that assures the buffer functions are maintained or established.

(d) *Development criteria for resource protection areas.*

(1) Land development in resource protection areas may be allowed only when permitted by the planning director, or his designee, for the county and if it (i) is water-dependent; (ii) constitutes redevelopment; (iii) is a new use subject to the provisions of subsection (c)(2) of this section; or (iv) is a road or driveway crossing satisfying the conditions set forth in subsection (d)(1)c of this section.

a. A new or expanded water dependent facility may be allowed provided that the following criteria are met:

1. It does not conflict with the comprehensive plan;
2. It complies with the performance criteria set forth in this section 90-667(b);
3. Any nonwater-dependent component is located outside of the RPA; and
4. Access to the water-dependent facility will be provided with the minimum disturbance necessary. Where practicable, a single point of access will be provided

b. Redevelopment on isolated redevelopment sites outside of locally designated intensely developed areas sites shall be permitted only if there is no increase in the amount of impervious cover and no further encroachment within the RPA and it shall conform to the stormwater management requirements outlined under subsection (b)(6) of this section and the erosion and sediment control requirements outlined in subsection (b)(4) of this section.

c. Roads and driveways not exempt under section 90-671 and which, therefore, must comply with the provisions of this article, may be constructed in or across RPAs if all of the following conditions are met:

1. The planning director, or his designee, for the county makes a finding that there are no reasonable alternatives to aligning the road or drive in or across the RPA;
2. The alignment and design of the road or driveway are optimized, consistent with other applicable requirements, to minimize encroachment in the RPA and minimize adverse effects on water quality;
3. The design and construction of the road or driveway satisfy all applicable criteria of this article, including submission of a water quality impact assessment;
4. The planning director, or his designee, for the county reviews the plan for the road or driveway proposed in or across the RPA in coordination with the plan of development requirements as required under section 90-669 or subdivision plan.

(2) A water quality impact assessment as outlined in section 90-668 shall be required for any proposed land disturbance, development or redevelopment within resource

protection areas and for any other development within resource management areas when required by the planning director, or his designee, for the county because of the unique characteristics of the site or intensity of development, in accordance with the provisions of section 90-668.

Sec. 90-668. Water quality impact assessment.

(a) *Purpose and Intent.* The purpose of the water quality impact assessment is to: (i) identify the impacts of proposed land disturbance, development or redevelopment on water quality and lands in RPAs and other environmentally sensitive lands; (ii) ensure that, where land disturbance, development or redevelopment does take place within RPAs and other sensitive lands, it will occur on those portions of a site and in a manner that will be least disruptive to the natural functions of RPAs and other sensitive lands; (iii) protect individuals from investing funds for improvements proposed for location on lands unsuited for such development because of high groundwater, erosion, or vulnerability to flood and storm damage; (iv) provide for administrative relief from terms of this article when warranted and in accordance with the requirements contained herein; and (v) specify mitigation which will address water quality protection.

(b) *Applicability.* A water quality impact assessment shall be required (i) for any proposed land disturbance, development or redevelopment activity within a Resource Protection Area and (ii) for any other development in resource management areas as deemed necessary by the planning director or his designee for the county due to the unique site characteristics or intensity of the proposed use or development. There shall be two levels of water quality impact assessments: a minor assessment and a major assessment.

(c) *Minor water quality impact assessment.* A minor water quality impact assessment pertains only to land disturbance, development or redevelopment activity within a CBPA which causes no more than 5,000 square feet of land disturbance and/or which proposes to encroach into the landward 50 feet of the 100-foot buffer area. A minor assessment must demonstrate that the undisturbed buffer area, enhanced vegetative plantings and any required best management practices will result in the removal of no less than 75 percent of sediments and 40 percent of nutrients from post-development stormwater runoff and that will retard runoff, prevent erosion, and filter nonpoint source pollution the equivalent of the full undisturbed 100-foot buffer area. A minor assessment shall include a site drawing drawn at 1"=100' or the same scale as the preliminary site plan or subdivision plat, and shall be certified as complete and accurate by a professional engineer or a certified land surveyor, which shows the following:

- (1) Location of the components of the resource protection area, including the 100-foot buffer area; and the location of any water body with perennial flow;
- (2) Location and nature of the proposed encroachment into the buffer area, including, type of paving material; areas of clearing or grading; location of any structures, drives, or other impervious cover; and sewage disposal systems or reserve drainfield sites;
- (3) Type and location of proposed best management practices to mitigate the proposed encroachment;
- (4) Location of existing vegetation on site, including the number and type of trees and other vegetation to be removed in the buffer to accommodate the encroachment or modification;
- (5) Revegetation plan that supplements the existing buffer vegetation in a manner that provides for pollutant removal, erosion and runoff control.

(d) *Major water quality impact assessment.* A major water quality impact assessment shall be required for any development which (i) exceeds 5,000 square feet of land disturbance within CBPAs and proposes to encroach into the landward 50 feet of the 100-foot buffer area; (ii)

proposes to disturb any portion of the seaward 50 feet of the 100-foot buffer area or any other component of an RPA; or (iii) is located solely in a RMA when deemed necessary by the planning director or his designee for the county. The information required in this section shall be considered a minimum, unless the planning director or his designee determines that some of the elements are unnecessary due to the scope and nature of the proposed use and development of land.

The following elements shall be included in the preparation and submission of a major water quality impact assessment:

- (1) All of the information required in a minor water quality impact assessment, as specified in subsection (c) of this section;
- (2) A hydrogeological element that:
 - a. Describes the existing topography, soils, and hydrology of the site and adjacent lands.
 - b. Describes the impacts of the proposed development on topography, soils, hydrology and geology on the site and adjacent lands.
 - c. Indicates the disturbance or removal of wetlands and justification for such action;
 - d. Indicates the disruptions or reductions in the supply of water to wetlands, streams, lakes, rivers or other water bodies;
 - e. Indicates the disruptions to existing hydrology including wetland and stream circulation patterns;
 - f. Indicates the source location of and description of proposed fill material;
 - g. Indicates the location of dredging and location of dumping area for such dredged materials;
 - h. Indicates the estimation of pre- and post-development pollutant loads in runoff;
 - i. Indicates the estimation of percent increase in impervious surface on site, type(s) of surfacing material used;
 - j. Indicates the percent of site to be cleared for project;
 - k. Indicates the anticipated duration and phasing schedule of construction project;
 - l. Indicates the listing of all requisite permits from all applicable agencies necessary to develop project.
 - m. Describes the proposed mitigation measures for the potential hydrogeological impacts. Potential mitigation measures include:
 1. Additional proposed erosion and sediment control concepts beyond those normally required. These additional concepts may include the following: minimizing the extent of cleared area; perimeter controls; reduction of runoff velocities; measures to stabilize disturbed areas; schedule and personnel for site inspection;
 2. Proposed stormwater management system for nonpoint source quality and quantity control;
 3. Creation of wetlands to replace those lost.
 4. Minimizing cut and fill.

(3) A vegetative element that:

- a. Identifies and delineates the location of all woody plant material on site, including all trees on site with six inches or greater diameter at breast height or, where there are groups of trees, said stands may be outlined.
- b. Describes the impacts the development or use will have on the existing vegetation. Information should include:
 1. General limits of clearing, based on all anticipated improvements, including buildings, drives, and utilities;
 2. Clear delineation of all trees and other woody vegetation which will be removed;
 3. Description of all plant species to be disturbed or removed.
- c. Describes the proposed measures for mitigation. Possible mitigation measures include:
 1. Proposed design plan and replanting schedule for trees and other woody vegetation removed for construction, including a list of proposed plants and trees to be used;
 2. Demonstration that the revegetation plan supplements the existing buffer vegetation in a manner that provides for pollutant removal, erosion and runoff control;
 3. Demonstration that the design of the plan will preserve to the greatest extent possible any significant trees and vegetation on the site and will provide maximum erosion control and overload flow benefits from such vegetation.
 4. Demonstration that indigenous plants are to be used to the greatest extent possible.

(e) *Submission and review requirements.*

- (1) Five copies of all site drawings and other applicable information as required by subsections (c) and (d) of this section shall be submitted to the planning director or his designee for the county for review.
- (2) All information required in this section shall be certified as complete and accurate by a professional engineer or certified land surveyor.
- (3) A minor water quality impact assessment shall be prepared and submitted to and reviewed by the planning director or his designee for the county.
- (4) A major water quality impact assessment shall be prepared and submitted to and reviewed by the planning director or his designee for the county in conjunction with a request for rezoning or a special exception permit, as deemed necessary by the planning director or his designee for the county.
- (5) As part of any major water quality impact assessment submittal, the planning director or his designee for the county may require review by the Chesapeake Bay Local Assistance Department (CBLAD). Upon receipt of a major water quality impact assessment, the planning director or his designee will determine if such review is warranted and may request CBLAD to review the assessment and respond with written comments. Any comments by CBLAD will be incorporated into the final review by the planning director or his designee, provided that such comments are provided by CBLAD within 90 days of the request.

(f) *Evaluation procedure.*

(1) Upon the completed review of a minor water quality impact assessment, the planning director or his designee for the county will determine that any proposed encroachment into the RMA is consistent with the provisions of this article and make a finding based upon the following criteria:

- a. The necessity of the proposed encroachment and the ability to place improvements elsewhere on the site to avoid disturbance of the buffer area;
- b. Impervious surface is minimized;
- c. Proposed mitigation measures, in the RMA, including the revegetation plan and site design, result in minimal disturbance to all components of the RPA, including the 100-foot buffer area;
- d. Proposed mitigation measures will work to retain all buffer area functions: pollutant removal, erosion and runoff control;
- e. Proposed best management practices, where required, achieve the requisite reductions in pollutant loadings;
- f. The development, as proposed, is consistent with the purpose and intent of this article;
- g. The cumulative impact of the proposed development, when considered in relation to other development in the vicinity, both existing and proposed, will not result in a significant degradation of water quality.

(2) Upon the completed review of a major water quality impact assessment, the planning director or his designee for the county will determine whether or not the proposed development is consistent with the purpose and intent of this article and make a finding based upon the following criteria:

- a. Within any RPA, the proposed development is water-dependent or a redevelopment;
- b. The percentage of existing wetlands disturbed by the development. The number of square feet or acres to be disturbed;
- c. The development will not result in significant disruption of the hydrology of the site;
- d. The development will not result in unnecessary destruction of plant materials on site;
- e. Proposed erosion and sediment control concepts are adequate to achieve the reductions in runoff and prevent off-site sedimentation;
- f. Proposed stormwater management concepts are adequate to control the stormwater runoff to achieve "no net increase" in pollutant loadings;
- g. Proposed revegetation of disturbed areas will provide optimum erosion and sediment control benefits, as well as runoff control and pollutant removal equivalent of the full 100-foot undisturbed buffer area;
- h. The development is consistent with the purpose and intent of the overlay district.

(3) The planning director or his designee for the county shall require additional mitigation where potential impacts have not been adequately addressed. Evaluation of mitigation measures will be made by the planning director or his designee based on the criteria listed above and in subsections (1) and (2).(4) The Planning Director or his

designee for the county shall find the proposal to be inconsistent with the purpose and intent of this article when the impacts created by the proposal cannot be mitigated. Evaluation of the impacts will be made by the planning director or his designee based on the criteria listed in subsection (f)(1) and (2) of this section.

(Ord. of 8-10-2004, § 17-538)

Sec. 90-669. Plan of development process.

Any development or redevelopment exceeding 2,500 square feet of land disturbance shall be accomplished through a plan of development process prior to any development preparation activities on site, such as clearing or grading of the site and the issuance of any building permit, to assure compliance of all applicable requirements of this article.

(1) *Required information.* In addition to the requirements of section 90-824, Site plan required, the plan of development process shall consist of the plans and studies identified in this section. These required plans and studies may be coordinated or combined, as deemed appropriate by the planning director or his designee for the county. The following plans or studies shall be submitted, unless otherwise provided for:

- a. A site plan in accordance with section 90-824;
- b. An environmental site assessment;
- c. A landscaping plan;
- d. A stormwater management plan;
- e. An erosion and sediment control plan in accordance with the provisions of sections 38-31--38-65, the erosion and sediment control ordinance of the county.

(2) *Environmental site assessment.* An environmental site assessment shall be submitted in conjunction with preliminary site plan or preliminary subdivision plan approval.

a. The environmental site assessment shall be drawn to scale at 1" = 100' or the same scale as the preliminary site plan or subdivision plat and shall clearly delineate the following environmental features:

1. Tidal wetlands;
2. Tidal shores;
3. Nontidal wetlands connected by surface flow and contiguous to tidal wetlands, or water bodies with perennial flow;
4. A 100-foot buffer 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;
5. Other sensitive environmental features as determined by the planning director or his designee for the county.

b. Wetlands delineations shall be performed consistent with the procedures specified in the Federal Manual for Identifying and Delineating Jurisdictional Wetlands, 1986.

c. The environmental site assessment shall delineate the geographic extent of the resource protection area on the specific site or parcel.

d. The environmental site assessment shall be drawn at 1"=100' or the same scale as the preliminary site plan or subdivision plat, and shall be certified as

complete and accurate by a professional engineer or a certified land surveyor. This requirement for certification by an engineer or surveyor may be waived by the planning director or his designee for the county, when the proposed use or development would result in less than 5,000 square feet of disturbed area.

(3) *Landscaping plan.* A landscaping plan shall be submitted in conjunction with site plan review and approval or as part of subdivision plat approval. No clearing or grading of any lot or parcel will be permitted without an approved landscaping plan. Landscaping plans shall be prepared and/or certified by a design professional practicing within his areas of competence as prescribed by the Code of Virginia.

a. *Contents of the plan.*

1. The landscaping plan shall be drawn to scale at 1"=100' or the same scale as the preliminary site plan or subdivision plat, and shall clearly delineate the location, size, and description of existing and proposed plant materials. All existing trees on the site six inches or greater in diameter at breast height (DBH) shall be shown on the landscaping plan, or where there are groups of trees, such stands may be outlined instead. The specific number of trees six inches or greater DBH to be preserved outside of the building envelope shall be indicated on the plan. Trees and other woody vegetation proposed to be removed to create the desired construction footprint shall be clearly delineated on the landscaping plan.
2. Any required RPA buffer area shall be clearly delineated and any plant material to be added to establish or supplement the buffer area, as required by this article, shall be shown on the landscaping plan.
3. Within the buffer area, trees and other woody vegetation to be removed for sight lines, vistas, access paths, and best management practices, as provided for in subsection (c)(1)a of this section, shall be shown on the plan. Vegetation required by this article to replace any existing trees within the buffer area shall also be depicted on the landscaping plan.
4. Trees and other woody vegetation to be removed for shoreline stabilization projects and any replacement vegetation required by this article shall be shown on the landscaping plan.
5. The plan shall depict grade changes or other work adjacent to trees that would adversely affect them. Specifications shall be provided as to how grade, drainage, and aeration would be maintained around trees to be preserved.
6. The landscaping plan will include specifications for the protection of existing trees and other vegetation during clearing, grading, and all phases of construction.
7. If the proposed development is a change in use from agricultural or silvicultural to some other use, the plan must demonstrate the reestablishment of vegetation in the buffer area.

b. *Plant specifications.*

1. All plant materials necessary to supplement the buffer area or vegetated areas outside the construction footprint shall be installed according to standard planting practices and procedures.
2. All supplementary or replacement plant materials shall be living and in a healthy condition. Plant materials shall conform to the standards of the

most recent edition of the American Standard for Nursery Stock, published by the American Association of Nurserymen.

3. Where areas to be preserved, as designated on an approved landscaping plan, are encroached, replacement of existing trees and other vegetation will be achieved at a three planted trees to one removed. Replacement trees shall be a minimum one and one-half inches DBH at the time of planting.

4. Use of native or indigenous species.

c. *Maintenance.*

1. The applicant shall be responsible for the maintenance and replacement of all vegetation as may be required by the provisions of this article.

2. In buffer areas and areas outside the construction footprint, plant material shall be tended and maintained in a healthy growing condition and free from refuse and debris. Unhealthy, dying, or dead plant materials shall be replaced during the next planting season, as required by the provisions of this article.

(4) *Stormwater management plan.* A stormwater management plan shall be submitted as part of the plan of development process required by this article and in conjunction with site plan or subdivision plan approval.

a. *Contents of the plan.* The stormwater management plan shall contain maps, charts, graphs, tables, photographs, narrative descriptions, explanations, and citations to supporting references as appropriate to communicate the information required by this article. At a minimum, the stormwater management plan must contain the following:

1. Location and design of all planned stormwater control devices;
2. Procedures for implementing nonstructural stormwater control practices and techniques;
3. Pre- and post-development nonpoint source pollutant loadings with supporting documentation of all utilized coefficients and calculations;
4. For facilities, verification of structural soundness, and certification by a professional engineer.

b. *Designed site facilities.* Site specific facilities shall be designed for the ultimate development of the contributing watershed based on zoning, comprehensive plans, local public facility master plans, or other similar planning documents.

c. *Calculations.* All engineering calculations must be performed in accordance with the procedures outlined in the current edition of the Virginia Stormwater Management Handbook.

d. *Schedule established.* The plan shall establish a schedule for inspection and maintenance of stormwater management facilities that includes all maintenance requirements and persons responsible for performing maintenance. If the designated maintenance responsibility is with a party other than the county, then a maintenance agreement shall be executed between the responsible party and the county.

(5) *Erosion and sediment control plan.* An erosion and sediment control plan shall be submitted that satisfies the requirements of this article and is in accordance with

sections 38-31--38-65, the county's erosion and sediment control ordinance, in conjunction with site plan or subdivision plan approval.

(6) *Final plan.* Final plans for property within CBPAs shall be final plats for land to be subdivided or site plans for land not to be subdivided as required in section 90-824.

a. *Generally.* Final plans for all lands within CBPAs shall include the following additional information:

1. The delineation of the resource protection area boundary, including the 100-foot buffer component;
2. Plat or plan note stating that no land disturbance is allowed in the buffer area without review and approval by the planning director or his designee for the county;
3. All wetlands permits required by law;
4. A maintenance agreement as deemed necessary and appropriate by the planning director or his designee for the county to ensure proper maintenance by the owner of record of best management practices in order to continue their functions.

b. *Installation and bonding requirements.*

1. Where buffer areas, landscaping, stormwater management facilities or other specifications of an approved plan are required, no final certificate of occupancy shall be issued until the installation of the required plant materials or facilities is completed in accordance with the approved site plan.
2. When the occupancy of a structure is desired prior to the completion of the required landscaping, stormwater management facilities, or other specifications of an approved plan, a certificate of occupancy may be issued only if the applicant provides to the county a form of surety satisfactory to the planning director or his designee for the county in an amount equal to the remaining plant materials, related materials, or installation costs of the required landscaping or facilities and/or maintenance costs for any required stormwater management facilities.
3. All required landscaping shall be installed and approved by the first planting season following issuance of a certificate of occupancy, or the surety may be forfeited to the county.
4. All required stormwater management facilities or other specifications shall be installed and approved within 18 months of project commencement. Should the applicant fail, after proper notice, to initiate, complete or maintain appropriate actions required by the approved plan, the surety may be forfeited to the county. The county may collect from the applicant the amount by which the reasonable cost of required actions exceeds the amount of the surety held.
5. After all required action of the approved site plan has been completed, the applicant must submit a written request for final inspection. If the requirements of the approved plan have been completed to the satisfaction of the planning director or his designee for the county, such unexpended or un-obligated portion of the surety held shall be refunded to the applicant or terminated within 60 days following receipt of the applicant's request for final inspection. The planning director or his designee may require a certificate of substantial completion from a

professional engineer or class III B surveyor before making a final inspection.

(7) *Administrative responsibility.* Administration of the plan of development process shall be in accordance with section 90-824. The county shall approve, approve subject to conditions, or disapprove the plans in accordance with the reviewing authorities' recommendations. The planning director or his designee shall return notification of plan review results to the applicant, including recommended conditions or modifications. If the results and/or recommended conditions or modifications are acceptable to the applicant, the plan shall be so modified, if required, and approved.

(8) *Denial of plan, appeal of conditions or modifications.* If the final plan or any component of the plan of development process is disapproved or recommended conditions or modifications are unacceptable to the applicant, the applicant may appeal such administrative decision to the county planning commission. In granting or denying an appeal, the planning commission must find such plan to be in accordance with all applicable ordinances and include necessary elements to mitigate any detrimental impact on water quality and upon adjacent property and the surrounding area, or such plan meets the purpose and intent of the performance standards in this article. If the planning commission finds that the applicant's plan does not meet the above stated criteria, it shall deny approval of the plan.

(Ord. of 8-10-2004, § 17-539)

Sec. 90-670. Nonconforming uses and noncomplying structures.

The lawful use of a building or structure which existed on November 19, 1991, or which exists at the time of any amendments to this article, and which is not in conformity with the provisions of the overlay district may be continued in accordance with sections 90-741--90-747. No change or expansion of use shall be allowed with the exceptions that:

(1) The planning director or his designee for the county may grant a nonconforming use and/or waiver for structures on legal nonconforming lots or parcels to provide for remodeling and alterations to such nonconforming structures provided that:

- a. There will be no net increase in nonpoint source pollution load;
- b. Any development or land disturbance exceeding an area of 2,500 square feet complies with all erosion and sediment control requirements of this article.

(2) An application for a nonconforming use and/or waiver shall be made to and upon forms furnished by the planning director or his designee for the county and shall include for the purpose of proper enforcement of this article, the following information:

- a. Name and address of applicant and property owner;
- b. Legal description of the property and type of proposed use and development;
- c. A sketch of the dimensions of the lot or parcel, location of buildings and proposed additions relative to the lot lines, and boundary of the resource protection area;
- d. Location and description of any existing private water supply or sewage system.

(3) A nonconforming use and development waiver shall become null and void 12 months from the date issued if no substantial work has commenced.

(4) An application for the expansion of a nonconforming structure may be approved by the planning director or his designee, provided that the following findings are demonstrated by the applicant:

- a. The request for the waiver is the minimum necessary to afford relief;
- b. Granting the waiver will not confer upon the applicant any specific privileges that are denied by this article to other property owners in similar situations;
- c. The waiver is in harmony with the purpose and intent of this article 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;
- e. Reasonable and appropriate conditions are imposed, as warranted, that will prevent the waiver from causing a degradation of water quality;
- f. Other findings, as appropriate and required by county are met; and
- g. In no case shall this provision apply to accessory structures.

(Ord. of 8-10-2004, § 17-540)

Sec. 90-671. Exemptions.

(a) *Public utilities, railroads, public roads, and facilities.* Construction, installation, operation, and maintenance of electric, natural gas, fiber-optic, and telephone transmission lines, railroads, and public roads and their appurtenant structures in accordance with (i) regulations promulgated pursuant to the Erosion and Sediment Control Law (Code of Virginia, § 10.1-560 et seq.) and the Stormwater Management Act (Code of Virginia, § 10.1-603.1 et seq.), (ii) an erosion and sediment control plan and a stormwater management plan approved by the state department of conservation and recreation, or (iii) local water quality protection criteria at least as stringent as the above state requirements, are deemed to comply with this article.

(b) *Local utilities and other service lines.* Construction, installation, and maintenance of water, sewer, natural gas, underground telecommunications and cable television lines owned, permitted or both, by a local government or regional service authority shall be exempt from the overlay district, provided that:

- (1) To the degree possible, the location of such utilities and facilities should be outside resource protection areas;
- (2) No more land shall be disturbed than is necessary to provide for the proposed utility installation;
- (3) All such construction, installation, and maintenance of such utilities and facilities shall be in compliance with all applicable state and federal requirements and permits, and designed and conducted in a manner that protects water quality; and
- (4) Any land disturbance exceeding an area of 2,500 square feet complies with all erosion and sediment control requirements of the county.

(c) *Silvicultural activities.* Silvicultural activities are exempt from the requirements of this article, provided that silvicultural operations adhere to water quality protection procedures prescribed by the state department of forestry in the 1997 edition of "Forestry Best Management Practices for Water Quality in Virginia."

(d) *Resource protection areas.* The following land disturbances in resource protection areas may be exempt from the overlay district, provided that they comply with the requirements listed below in subdivisions 1 through 3:

- (1) Water wells;
- (2) Passive recreation facilities such as boardwalks, trails, and pathways; and
- (3) Historic preservation and archaeological activities:

- a. Any required permits, except those to which this exemption specifically applies, shall have been issued; and
- (b. Sufficient and reasonable proof is submitted that the intended use will not deteriorate water quality; and
- c. The intended use does not conflict with nearby planned or approved uses.
- d. Any land disturbance exceeding an area of 2,500 square feet shall comply with all erosion and sediment control requirements of the county.

(Ord. of 8-10-2004, § 17-541)

Sec. 90-672. Exceptions.

(a) A request for an exception to the requirements of section 90-667(c) shall be made in writing to the county board of zoning appeals. It shall identify the impacts of the proposed exception on water quality and on lands within the resource protection area through the performance of a water quality impact assessment which complies with the provisions of section 90-668.

(b) The County of Prince George shall notify the affected public of any such exception requests and shall consider these requests in a public hearing in accordance with 15.2-2204 of the Code of Virginia, except that only one hearing shall be required.

(c) The county board of zoning appeals shall review the request for an exception and the water quality impact assessment and may grant the exception with such conditions and safeguards as deemed necessary to further the purpose and intent of this article if the board of zoning appeals finds:

- (1) Granting the exception will not confer upon the applicant any special privileges denied by this article to other property owners in the CBPA Overlay District;
- (2) The exception request is not based on conditions or circumstances that are self-created or self-imposed, nor does the request arise from conditions or circumstances either permitted or nonconforming that are related to adjacent parcels;
- (3) The exception request is the minimum necessary to afford relief;
- (4) The exception request will be in harmony with the purpose and intent of the CBPA Overlay District, not injurious to the neighborhood or otherwise detrimental to the public welfare, and is not of substantial detriment to water quality; and
- (5) Reasonable and appropriate conditions are imposed which will prevent the exception request from causing a degradation of water quality.

(d) If the county board of zoning appeals cannot make the required findings or refuses to grant the exception, the board of zoning appeals shall return the request for an exception together with the water quality impact assessment and the written findings and rationale for the decision to the applicant.

A request for an exception to the requirements of provisions of this article other than section 90-667(c) shall be made in writing to the county board of zoning appeals. The board of zoning appeals may grant these exceptions provided that:

- (1) Exceptions to the requirements are the minimum necessary to afford relief; and
- (2) Reasonable and appropriate conditions are placed upon any exception that is granted, as necessary, so that the purposes and intent of this article are preserved.
- (3) Exceptions to section 90-667(b) may be made, provided that the findings noted in section 90-672(c) are made by the applicant.

Secs. 90-673--90-690. Reserved.

ARTICLE XV. FLOODPLAIN

Sec. 90-691. General description; intent.

(a) The purpose of this article is to prevent the loss of life and property, the creation of health and safety hazards, the disruption of commerce and governmental services, the extraordinary and unnecessary expenditure of public funds for flood protection and relief, and the impairment of the tax base by:

(1) Regulating uses, activities, and development which, alone or in combination with other existing or future uses, activities, and development, will cause unacceptable increases in flood heights, velocities, and frequencies.

(2) Restricting or prohibiting certain uses, activities, and development from locating within districts subject to flooding.

(3) Requiring all those uses, activities, and developments that do occur in floodprone districts to be protected and/or floodproofed against flooding and flood damage.

(4) Protecting individuals from buying land and structures which are unsuited for intended purposes because of flood hazards.

(b) The provisions in this article are supplemental to existing zoning districts and are designed as overlay zoning districts.

(Code 1988, § 17-450)

Sec. 90-692. Applicability.

This article shall apply to all lands within the jurisdiction of the county and identified as being in the 100-year floodplain by the Federal Emergency Management Agency.

(Code 1988, § 17-451)

Sec. 90-693. Compliance and liability.

(a) No land shall be developed and no structure shall be located, relocated, constructed, reconstructed, enlarged, or structurally altered except in full compliance with the terms and provisions of this article any other applicable ordinances and regulations which apply to uses within the jurisdiction of this article.

(b) The degree of flood protection sought by the provisions of this article is considered reasonable for regulatory purposes and is assessed on acceptable engineering methods of study. Larger floods may occur on rare occasions. Flood heights may be increased by manmade or natural causes. This article does not imply that districts outside the floodplain district or that land uses permitted within such district will be free from flooding or flood damages.

(c) This article shall not create liability on the part of the county or any officer or employee thereof for any flood damages that result from reliance on this article or any administrative decision lawfully made under this article.

(Code 1988, § 17-452)

Sec. 90-694. Abrogation and greater restrictions.

This article supersedes any ordinance currently in effect in floodprone districts. However, any underlying ordinance shall remain in full force and effect to the extent that its provisions are more restrictive than this article.

(Code 1988, § 17-453)

Sec. 90-695. Description of districts.

(a) *Basis of districts.* The various floodplain districts shall include areas subject to inundation by waters of the 100-year flood. The basis for the delineation of these districts shall be the flood insurance study (FIS) for the county prepared by the Federal Emergency Management Agency, Federal Insurance Administration, dated November 1979, as amended. The districts are as follows:

(1) *Floodway district.* The floodway district is delineated, for the purposes of this article, using the criterion that certain areas within the floodplain must be capable of carrying the waters of the 100-year flood without increasing the water surface elevation of that flood more than one foot at any point. The areas included in this area are specifically defined in table 2 of the flood insurance study and shown on the accompanying flood boundary and floodway map or flood insurance rate map.

(2) *Flood-fringe district.* The flood-fringe district shall be that area of the 100-year floodplain not included in the floodway district. The basis for the outermost boundary of the area shall be the 100-year flood elevations contained in the flood profiles of the flood insurance study and as shown on the accompanying flood boundary and floodway map or flood insurance rate map.

(3) *Approximated floodplain district.* The approximated floodplain district shall be that floodplain area for which no detail flood profiles or elevations are provided, but where a 100-year floodplain boundary has been approximated. Such areas are shown as zone A on the maps accompanying the flood insurance study. For these areas, the 100-year flood elevations and floodway information from federal, state, and other acceptable sources shall be used, when available. Where the specific 100-year flood elevation cannot be determined for this area using other sources of data, such as the U.S. Army Corps of Engineers floodplain information reports, U.S. Geological Survey floodprone quadrangles, etc., the applicant for the proposed use, development and/or activity shall determine this elevation in accordance with hydrologic and hydraulic engineering techniques. Hydrologic and hydraulic analyses shall be undertaken only by professional engineers or others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently accepted technical concepts. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough review by the county.

(b) *Overlay concept.* The overlay concept is as follows:

(1) The floodplain districts described in subsection (a) of this section shall be overlays to the existing underlying districts as shown on the official zoning ordinance map, and as such the provisions for the floodplain districts shall serve as a supplement to the underlying district provisions.

(2) If any conflict occurs between the provisions or requirements of the floodplain districts and those of any underlying district, the more restrictive provisions and/or those pertaining to the floodplain districts shall apply.

(3) If any provision concerning a floodplain district is declared inapplicable as a result of any legislative or administrative action or judicial decision, the basic underlying provisions shall remain applicable.

(Code 1988, § 17-454)

Sec. 90-696. Official zoning map.

The boundaries of the floodplain districts are established as shown on the flood boundary and floodway map and/or flood insurance rate map which is declared to be a part of this article and which shall be kept on file at the county offices.

(Code 1988, § 17-455)

Sec. 90-697. District boundary changes.

The delineation of any of the floodplain districts may be revised by the board of supervisors where natural or manmade changes have occurred and/or where more detailed studies have been conducted or undertaken by the U.S. Army Corps of Engineers or other qualified agency or an individual documents the need for such change. However, prior to any such change, approval must be obtained from the Federal Emergency Management Agency.

(Code 1988, § 17-456)

Sec. 90-698. Interpretation of district boundaries.

Initial interpretations of the boundaries of the floodplain districts shall be made by the zoning official. Should a dispute arise concerning the boundaries of any of the districts, the board of zoning appeals shall make the necessary determination. The person questioning or contesting the location of the district boundary shall be given a reasonable opportunity to present his case to the board and to submit his own technical evidence if he so desires.

(Code 1988, § 17-457)

Sec. 90-699. Permit requirements.

All uses, activities, and development occurring within any floodplain district shall be undertaken only upon the issuance of a zoning permit. Such development shall be undertaken only in strict compliance with the provisions of this article and with all other applicable codes and ordinances, such as the uniform statewide building code and the county subdivision regulations. Prior to the issuance of any such permit, the zoning officer shall require all applications to include compliance with all applicable state and federal laws. Under no circumstances shall any use, activity, and/or development adversely affect the capacity of the channels or floodway of any watercourse, drainage ditch, or any other drainage facility or system.

(Code 1988, § 17-458(a))

Sec. 90-700. Alteration or relocation of watercourse.

Prior to any proposed alteration or relocation of any channels or of any watercourse, stream, etc., within this jurisdiction, a permit shall be obtained from the U.S. Army Corps of Engineer, the state water control board, and the state marine resources commission. A joint permit application is available

from any of these organizations. Furthermore, notification of the proposal shall be given by the applicant to all affected adjacent jurisdictions, the division of soil and water conservation (department of conservation and recreation), and the Federal Emergency Management Agency.

(Code 1988, § 17-458(b))

Sec. 90-701. Site plans and permit applications.

All applications for developments in the floodplain district and all building permits issued for the floodplain shall incorporate the following information:

- (1) For structures to be elevated, the elevation of the lowest floor, including basement.
- (2) For structures to be floodproofed (nonresidential only), the elevation to which the structure will be floodproofed.
- (3) The elevation of the 100-year flood.
- (4) Topographic information showing existing and proposed ground elevations.

(Code 1988, § 17-458(c))

Sec. 90-702. Recreational vehicles.

(a) Recreational vehicles placed on sites in a floodplain district shall either:

- (1) Be on the site for fewer than 180 consecutive days, be fully licensed and ready for use; or
- (2) Meet the permit requirements for placement and the elevation and anchoring requirements for manufactured homes as contained in the uniform statewide building code.

(b) A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick-disconnect-type utilities and security devices, and has no permanently attached additions.

(Code 1988, § 17-458(d))

Sec. 90-703. Floodway district.

In the floodway district no encroachments, including fill, new construction, substantial improvements, or other development shall be permitted unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in the 100-year flood elevation.

(Code 1988, § 17-459)

Sec. 90-704. Flood-fringe and approximated floodplain districts.

(a) In the flood-fringe and approximated floodplain districts, the development and/or use of land shall be permitted in accordance with the regulations of the underlying district, provided that all such uses, activities, and/or development shall be undertaken in strict compliance with the floodproofing and related provisions contained in the uniform statewide building code and all other applicable codes and ordinances.

(b) Within the approximated floodplain district, the applicant shall also delineate a floodway area based on the requirement that all existing and future development not increase the 100-year elevation more than one foot at any one point. The engineering principle--equal reduction of conveyance--shall be used to make the determination of increased flood heights.

(c) Within the floodway area delineated by the applicant, the provisions of section 90-703 shall apply.

(Code 1988, § 17-460)

Sec. 90-705. Design criteria for utilities and facilities.

(a) *Sanitary sewer facilities.* All new or replacement sanitary sewer facilities and private package treatment plants, including all pumping stations and collector systems, shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into the floodwaters. In addition, they should be located and constructed to minimize or eliminate flood damage and impairment.

(b) *Water facilities.* All new or replacement water facilities shall be designed to minimize or eliminate infiltration of floodwaters into the systems and shall be located and constructed to minimize or eliminate flood damages.

(c) *Drainage facilities.* All storm drainage facilities shall be designed to convey the flow of surface waters without damage to persons or property. The systems shall ensure drainage away from buildings and on-site waste disposal sites. The board of supervisors may require a primarily underground system to accommodate frequent floods and a secondary surface system to accommodate larger, less frequent floods. Drainage plans shall be consistent with local and regional drainage plans. The facilities shall be designed to prevent the discharge of excess runoff onto adjacent properties.

(d) *Utilities.* All utilities, such as gas lines and electrical and telephone systems being placed in floodprone areas should be located, elevated where possible, and constructed to minimize the change of impairment during a flooding occurrence.

(e) *Streets and sidewalks.* Streets and sidewalks should be designed to minimize their potential for increasing and aggravating the levels of flood flow. Drainage openings shall be required to sufficiently discharge flood flows without unduly increasing flood heights.

(Code 1988, § 17-461)

Sec. 90-706. Variances.

(a) In passing upon applications for variances to this article, the board of zoning appeals shall satisfy all relevant factors and procedures specified in other sections of this chapter and consider the following additional factors:

(1) The danger of life and property due to increased flood heights or velocities caused by encroachments. No variance shall be granted for any proposed use, development, or activity within any floodway district that will cause any increase in the 100-year flood elevation.

(2) The danger that materials may be swept onto other lands or downstream to the injury of others.

(3) The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.

- (4) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners.
- (5) The importance of the services provided by the proposed facility to the community.
- (6) The requirements of the facility for a waterfront location.
- (7) The availability of alternative locations not subject to flooding for the proposed site.
- (8) The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
- (9) The relationship of the proposed use to the comprehensive plan and floodplain management program for the area.
- (10) The safety of access by ordinary and emergency vehicles to the property in time of flood.
- (11) The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters expected at the site.
- (12) The repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
- (13) Such other factors which are relevant to the purposes of this article.

(b) The board of zoning appeals may refer any application and accompanying documentation pertaining to any request for a variance to any engineer or other qualified person or agency for technical assistance in evaluating the proposed project in relation to flood heights and velocities and the adequacy of the plans for flood protection and other related matters.

(c) Variances shall be issued only after the board of zoning appeals has determined that the granting of such will not:

- (1) Result in:
 - a. Unacceptable or prohibited increase in flood heights;
 - b. Additional threats to public safety;
 - c. Extraordinary public expense; and
- (2) Create nuisances;
- (3) Cause fraud or victimization of the public; or
- (4) Conflict with local laws or ordinances.

(d) Variances shall be issued only after the board of zoning appeals has determined that the variance will be the minimum required to provide relief from any hardship to the applicant.

(e) The board of zoning appeals shall notify the applicant for a variance, in writing, that the issuance of a variance to construct a structure below the 100-year flood elevation:

- (1) Increases the risks of life and property; and
- (2) Will result in increased premium rates for flood insurance.

(f) A record shall be maintained of the notification in subsection (e) of this section as well as all variance actions, including justification for the issuance of the variance. Any variances which are issued shall be noted in the annual or biennial report submitted to the Federal Insurance Administrator.

(Code 1988, § 17-462)

Sec. 90-707. Existing structures in floodplain districts.

A structure or use of a structure or premises which lawfully existed before the enactment of the ordinance from which this article is derived, provisions, but which is not in conformity with this article, may be continued subject to the following conditions:

(1) Existing structures in the floodway district shall not be expanded or enlarged unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed structure would not result in any increase in the 100-year flood elevation.

(2) Any modification, alteration, repair, reconstruction, or improvement of any kind to a structure and/or use located in any floodplain area to an extent or amount of less than 50 percent of its market value shall be elevated and/or floodproofed to the greatest extent possible.

(3) The modification, alteration, repair, reconstruction, or improvement of any kind to a structure and/or use, regardless of its location in a floodplain area, to an extent or amount of 50 percent or more of its market value shall be undertaken only in full compliance with the provisions of this article and the uniform statewide building code.

(Code 1988, § 17-463)

Secs. 90-708--90-740. Reserved.

ARTICLE XVI. NONCONFORMING USES*

***Cross references:** Buildings and building regulations, ch. 10.

Sec. 90-741. Continuance.

(a) If any legal activity is being pursued or any lot or structure is being legally utilized in a manner or for a purpose which does not conform to the provisions of this chapter on July 1, 1965, such manner of use or purpose may be continued, except that advertising structures that become nonconforming because of a rezoning have 24 months within which to relocate in a permitted area.

(b) If any change in title of possession or renewal of a lease of any such lot or structure occurs, the use existing may be continued.

(c) If any nonconforming use, structure or activity is discontinued for a period exceeding two years after July 1, 1965, it shall be deemed abandoned, and any subsequent use shall conform to the requirements of this chapter.

(d) Whenever a nonconforming structure, lot or activity has been changed to a more limited nonconforming use, such existing use may only be changed to an even more limited use.

(e) Temporary seasonal nonconforming uses that have been in continual operation prior to July 1, 1965, are permitted.

(f) Any poultry or livestock operation in existence in the R-A and A-1 zoning districts prior to April 1, 1995, may be continued even if in violation of any regulation of these district provisions unless discontinued for 24 consecutive months, and such right shall continue with passing of the property title.

(g) Home occupation permits may be issued by the zoning administrator for home occupation home office uses and for home occupation child care conducted by the residents of existing dwellings within the M-1, M-2, or M-3 district, including mobile homes within existing mobile home parks, as accessory uses to those dwellings. The issuance of any such home occupation permit shall not create any vested right for the continuance or expansion of such nonconforming residential use.

(Code 1988, § 17-256; Ord. No. O-02-012, 10-22-2002)

Sec. 90-742. Zoning permit and certificate of occupancy required.

All nonconforming uses shall obtain a zoning permit and a certificate of occupancy within 60 days after July 1, 1965. Such permits shall be issued promptly upon the written request of the owner or operator of a nonconforming use.

(Code 1988, § 17-257(a))

Sec. 90-743. Maintenance and repairs.

On any building devoted in whole or in part to any nonconforming use, work may be done in any period of 12 consecutive months on ordinary repairs or on repair or replacement of nonbearing walls, fixtures, wiring or plumbing to an extent not exceeding ten percent of the current replacement value of

the structure, provided that the cubic content of the structure as it existed on July 1, 1965, shall not be increased. Nothing in this section shall be deemed to prevent the strengthening or restoring to a safe condition any structure or part thereof declared to be unsafe by any official charged with protecting the public safety upon order of such official.

(Code 1988, § 17-258)

Sec. 90-744. Changes in district boundaries.

Whenever the boundaries of a district are changed, any uses of land or buildings which become nonconforming as a result of such change shall become subject to the provisions of this article.

(Code 1988, § 17-259)

Sec. 90-745. Expansion or enlargement.

(a) A nonconforming structure to be extended or enlarged shall conform with the provisions of this chapter.

(b) A nonconforming activity may be extended throughout any part of a structure which was arranged or designed for such activity on July 1, 1965.

(c) Nonconforming single-family residential structures, churches and accessory structures and farm buildings which are located in a B-1, M-1 or M-2 district may be expanded for their respective uses, subject to the following:

(1) Expansion may not exceed 50 percent of the ground area of the original structure.

(2) Any expansion may not come closer to a road or right-of-way than the existing structure, unless the setback requirements of the district can be met.

(d) Nonconforming buildings located on lots or parcels in the RPA overlay district may be enlarged or have accessory structures constructed in conjunction with the principal building, provided such expansion does not exceed 50 percent of the ground area of the principal building to a maximum of 1,000 square feet of ground area.

(Code 1988, § 17-260)

Sec. 90-746. Lot areas.

Any lot of record which on July 1, 1965, is less in area or width than the minimum required by this chapter may be used when the requirements of the board of zoning appeals regarding setbacks, side and rear yards are met.

(Code 1988, § 17-261)

Sec. 90-747. Restoration or replacement.

(a) If a nonconforming activity is destroyed or damaged in any manner to the extent that the cost of restoration to its condition before the occurrence shall exceed 50 percent of the cost of reconstructing the entire activity or structure, it shall be restored only if such use complies with the requirements of this chapter.

(b) If a nonconforming structure is destroyed or damaged in any manner to the extent that the cost of restoration to its condition before the occurrence shall exceed 75 percent of the cost of

reconstructing the entire structure, it shall be restored only if it complies with the requirements of this chapter. The property owner so affected may take recourse to obtain rezoning.

(c) When a conforming structure devoted to a nonconforming activity is damaged less than 50 percent of the cost of reconstructing the entire structure or where a nonconforming structure is damaged less than 75 percent of the cost of reconstructing the entire structure, either may be repaired or restored, provided that any such repair or restoration is started within 12 months and completed within 18 months from the date of partial destruction.

(d) The cost of land or any factors other than the cost of the structure are excluded in the determination of cost of restoration for any structure or activity devoted to a nonconforming use.

(e) All nonconforming activities and structures existing on July 1, 1965, are excluded from these provisions regarding restoration or replacement.

(Code 1988, § 17-262)

Secs. 90-748--90-780. Reserved.

ARTICLE XVII. CONDITIONAL ZONING*

***State law references:** Conditional zoning, Code of Virginia, § 15.2-2296 et seq.

Sec. 90-781. Purpose.

Where competing and incompatible uses conflict, traditional zoning methods and procedures are sometimes inadequate. In such cases, more flexible and adaptable zoning methods are needed to permit differing land uses and at the same time to recognize effects of change. It is the purpose of this article to provide a zoning method as authorized under Code of Virginia, § 15.2-2303 whereby a zoning reclassification may be allowed subject to certain conditions proffered by the zoning applicant for the protection of the community even though such conditions may not be generally applicable to land similarly zoned. While the conditions may vary from property to property by reason of the nature of the use and different circumstances at a particular location, it is not the intention of this section to authorize conditions limited to a particular individual or group, owner or operator, and the provisions of this article shall not be used for the purpose of discrimination in housing.

(Ord. No. O-02-007, § 17-421, 6-11-2002)

Sec. 90-782. Proffer in writing.

As a part of a petition for rezoning or amendment of the zoning district map, the owner of the property involved may, prior to a public hearing before the board of supervisors, voluntarily proffer in writing such reasonable conditions, in addition to the regulations provided for the zoning district as set forth in this chapter, as he deems appropriate for the particular case, provided that:

- (1) The rezoning itself must give rise for the need for the conditions;
- (2) Such conditions shall have a reasonable relation to the rezoning;
- (3) All such conditions shall be in conformity with the comprehensive plan; and
- (4) If proffered conditions include the dedication of real property or 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 capital improvements program, provided that nothing in this subsection shall prevent the county from accepting proffered conditions which are not normally included in such capital improvement. If proffered conditions include the dedication of real property or the payment of cash, the proffered conditions shall provide for the disposition of such property or cash payment if the property or cash payment is not used for the purpose for which proffered.

(Ord. No. O-02-007, § 17-422, 6-11-2002)

Sec. 90-783. Interpretation of proffered conditions.

For the purpose of this chapter, proffered conditions pursuant to this article shall be interpreted to include written statements, development plans, profiles, elevations and/or demonstrative materials. Materials of whatever nature and intended as conditions shall be annotated with the following statement signed by the owner of the subject property:

"I (We) hereby proffer that the development of the subject property of this application shall be in strict accordance with the conditions set forth in this submission."

(Ord. No. O-02-007, § 17-423, 6-11-2002)

Sec. 90-784. Review and revision of proffered conditions.

(a) Under this article additional conditions or modified conditions may be proffered by the applicant during or subsequent to the public hearings before the planning commission; provided, however, that after proffered conditions are signed and made available for public review and the public hearing before the board of supervisors has been advertised, whether or not jointly held with the planning commission, no change or modification to any condition shall be approved without a second advertised public hearing thereon.

(b) After the board of supervisors' public hearing has been advertised or commenced, should additional or modified conditions be proffered by the applicant, which conditions were discussed at the public hearing before the planning commission, a second public hearing need be held only before the board of supervisors before the application, and the modified conditions can be approved.

(c) Should additional conditions be proffered by the applicant at the time of the public hearing before the board of supervisors, which conditions were not addressed at the public hearing before the planning commission, or if the proffered conditions are modified beyond the scope of any conditions considered at the public hearing before the planning commission, the application shall be the subject of a second public hearing before both the planning commission and the board of supervisors, which hearing may be either separately or jointly held.

(Ord. No. O-02-007, § 17-424, 6-11-2002)

Sec. 90-785. Annotation of zoning district map.

The zoning district map shall show by an appropriate symbol on the map the existence of conditions attaching to the zoning on the map. The director of planning shall keep in his office and make available for public inspection a conditional zoning index. The index shall provide ready access to the zoning ordinance creating conditions in addition to the regulations provided for in a particular zoning district. Such conditions shall become a part of the zoning regulations applicable to the property in question, regardless of changes in ownership or operation, unless subsequently changed by an amendment to the zoning district map, and such conditions shall be in addition to the specific regulations set forth in this chapter for the zoning district in question.

(Code 1988, § 17-425)

Sec. 90-786. Enforcement of conditions.

The director of planning shall be vested with all necessary authority on behalf of the board of supervisors to administer and enforce conditions attached to such rezoning or amendment to the zoning district map, including (i) the ordering in writing of the remedy of any noncompliance with such conditions, (ii) the bringing of legal action to ensure compliance with such conditions, including injunction, abatement or other appropriate action or proceeding; and (iii) requiring a guarantee, satisfactory to the board of supervisors, in an amount sufficient for and conditioned upon the construction of any physical improvements required by the conditions, or a contract for the construction of such improvements and the contractor's guarantee, in like amount and so conditioned, which guarantee shall be reduced or released by the board of supervisors or the agent thereof upon the submission of satisfactory evidence that construction of such improvements has been completed in

whole or in part. Further, failure to meet all conditions shall constitute cause to deny the issuance of any of the required use, occupancy or building permits, as may be appropriate.

(Code 1988, § 17-426)

State law references: Enforcement and guarantees, Code of Virginia, § 15.2-2299.

Sec. 90-787. Conformity with development plans.

Upon approval as provided in this article, any site plan, subdivision plat or development plan thereafter submitted for the development of the property in question shall be in substantial conformity with all proffered statements, plans, profiles, elevations or other demonstrative materials, and no development shall be approved by any county official in the absence of such substantial conformity. For the purpose of this article, substantial conformity shall mean that conformity which leaves a reasonable margin for adjustment to final engineering data but conforms with the general nature of the development, the specific uses and the general layout depicted by the plans, profiles, elevations and other demonstrative materials presented by the applicant.

(Ord. No. O-02-007, § 17-427, 6-11-2002)

Sec. 90-788. Change of approved conditions.

Once conditions have been approved pursuant to this article and there is cause for an amendment that would not be in substantial conformity with the proffered conditions, an application shall be filed for an amendment. Such amendment shall be the subject of public hearing in accordance with the requirements for a new application. If the amendment concerns an approved site plan, such application shall include the submission requirements for a site plan set forth in section 90-824, except that the director of planning may waive any submission requirement if such requirement is not necessary for an adequate review of the site plan amendment application.

(Ord. No. O-02-007, § 17-428, 6-11-2002)

Sec. 90-789. Review of decision of director of planning.

Any zoning applicant who is aggrieved by the decision of the director of planning pursuant to this article may petition the board of supervisors for review of the decision of the director of planning pursuant to provisions of section 90-990.

(Ord. No. O-02-007, § 17-429, 6-11-2002)

State law references: Petition for review of decision, Code of Virginia, § 15.2-2301.

Secs. 90-790--90-820. Reserved.

ARTICLE XVIII. PERMITS, CERTIFICATES

Sec. 90-821. Zoning permits.

(a) Buildings or structures shall be started, reconstructed, enlarged or altered only after a zoning permit has been obtained from the administrator.

(b) The planning commission may request a review of the zoning permit approved by the administrator in order to determine if the contemplated use is in accordance with the district in which the construction lies.

(c) Each application for a zoning permit shall be accompanied by three copies of a scale drawing. The drawing shall show the size and shape of the parcel of land on which the proposed building is to be constructed, the nature of the proposed use of the building or land, and the location of such building or use with respect to the property lines of the parcel of land and to the right-of-way of any street or highway adjoining the parcel of land. Any other information which the administrator may deem necessary for consideration of the application may be required. If the proposed building or use is in conformity with the provisions of this chapter, a permit shall be issued to the applicant by the administrator. One copy of the drawing shall be returned to the applicant with the permit.

(d) All necessary drainage facilities shall be provided within the James River watershed to ensure compliance with the water quality standards contained in the Chesapeake Bay Preservation Area Designation and Management Regulations (VR 173-02-01) based on the best management practices efficiencies shown in appendix C of the Chesapeake Bay local assistance department's local assistance manual for lots created prior to April 1, 1995.

(Code 1988, § 17-281)

Sec. 90-822. Certificate of occupancy.

Land may be used or occupied and buildings, structurally altered or erected, may be used or changed in use only after a certificate of occupancy has been issued by the administrator. Such permit shall state that the building or the proposed use or the use of the land complies with the provisions of this chapter. A similar certificate shall be issued for the purpose of maintaining, renewing, changing or extending a nonconforming use. A certificate of occupancy either for the whole or a part of a building shall be applied for simultaneously with the application for a zoning permit. The permit shall be issued within ten days after the erection or structural alteration of such building or part has conformed with the provisions of this chapter.

(Code 1988, § 17-282)

Sec. 90-823. Conditional use permit.

Where permitted by this chapter, the location of hotels, motels, mobile home parks, commercial amusement parks, hospitals, mobile homes, airports, borrow pits, sanitary fill method of garbage disposal, public utilities, refuse sites and other permitted uses shall require, in addition to the zoning permit and certificate of occupancy, a conditional use permit. These permits shall be subject to such conditions as the board of supervisors deems necessary to carry out the intent of this chapter.

(Code 1988, § 17-283)

Sec. 90-824. Site plan required.

(a) A site plan shall be required for all structures which contain more than four residential units or are for other than agricultural purposes. No building permit shall be issued to erect or to alter any building until a site plan is approved under the provisions of this article.

(b) Final site plans shall be certified by a licensed architect, landscape architect, engineer or land surveyor and shall include but not be limited to indicating scale; north arrow; property boundaries, including topography with five-foot contour intervals; the location of any 100-year floodplain boundaries; location and sizes of utilities (sanitary and storm sewers, culverts, gas lines, etc.); easements, both existing and proposed; points of site ingress and egress; on-site and offsite stormwater drainage; erosion and sediment control provisions; solid waste refuse storage and collection facilities; and proposed recreational and open space areas; parking areas; landscaping and screening; lighting; walkways; and curbs and gutters.

(c) In the development of site plans, the following design standards shall be utilized:

(1) Buildings shall be located or designed so that the fronts of buildings containing dwelling units do not face into rear yards or service areas of other buildings, except where walls, fences or topographic features provide screening.

(2) Reasonable screening shall be provided between residential uses and incompatible abutting features, such as major thoroughfares, railroads, noise or odors, and between residential uses and sites developed or intended to be developed with incompatible uses.

(3) Yards, spaces between buildings, required open space and livability space shall serve the purposes intended by this chapter, such as provision of light and air, separation between buildings, separation between incompatible functions, enhancement of privacy and promotion of public health and safety.

(4) Areas set aside for solid waste collection should be conveniently located and shall be screened from view from adjacent properties and streets. Dumpsters must be accessible to trucks at all times and may not be blocked by parking spaces.

(5) Both the front and rear of all buildings shall be accessible to fire vehicles at all times in all weather.

(6) Access to adjoining minor residential streets shall not be permitted when adequate access is available to collector streets or major thoroughfares and when other adequate access can be provided for emergency vehicles.

(7) Driveways, parking areas, and individual parking spaces shall be clearly identified and separated from pedestrian routes and useable open spaces by curbs, markings, planting areas, fences or similar features. Whenever parking spaces abut a building, fence, wall or other structural barrier or when parking spaces abut adjacent properties, public streets, or alleys, bumpers or curbs shall be provided. The bumpers or curbs shall be located 2 1/2 feet from the end of the parking space. Parking spaces shall be separated from pedestrian walkways by bumpers or curbs to ensure a minimum walkway width of four feet unobstructed by vehicle overhang.

(8) All parking areas, access aisles and driveways shall be paved with a dustfree, all-weather surface.

(9) The minimum width of a driveway shall be nine feet for a single lane and 15 feet for a double lane. Bases must be well-compacted and well-drained. Soft clay or heavy truck traffic necessitates a heavier base. Accepted bases for driveways are bank run gravel or stones up to one inch in size, sandy gravel, cinders, crushed stone 1 1/2 or 2 1/2 inches in size, slag, or other inorganic porous materials.

(10) The minimum size of a parking space must be nine feet by 19 feet. Minimum aisle dimensions and adequate backup space shall be provided for all parking spaces. The minimum width of drive-in window aisles for banks and fast food restaurants must be nine feet.

(11) Exterior lighting of parking areas and pedestrian walkways shall be located, shielded or limited in intensity so as not to shine on adjacent residential properties or interfere with motorist vision.

(12) Grading and drainage plans shall conform to the county soil and erosion control ordinance contained in article II of chapter 38. Adequate facilities for the drainage of stormwater from the land or buildings shall be provided by the owner at his cost and expense so as not to adversely affect or damage adjacent properties or streets. All drainage facilities shall be provided that are necessary within the James River watershed to ensure compliance with the water quality standards contained in appendix C of the Chesapeake Bay local assistance department's local assistance manual.

(13) A landscaping plan shall be submitted. The natural landscape and topography shall be preserved except when alterations are necessary to accommodate building sites, parking areas and access drives, necessary drainage facilities and utility systems, and recreational areas.

(14) All required screening shall be provided in accordance with the following standards, except as provided in other sections of this chapter:

- a. It shall have an opaqueness of 60 percent or more.
- b. The screening may consist of shrubs, trees, or other evergreen vegetative material or structural material not less than six feet in height. Additional noise and light reducing screening may be required. The types of screening materials used should be compatible with the character of the surrounding area.
- c. If screening is to be accomplished by landscaping, the landscaping materials shall achieve standards stated in this subsection within a period of five years or less.

(15) Where a wetland, an RPA or an RMA zoning overly district affects the property for which a site plan is required:

- a. A permit issued by the U.S. Environmental Protection Agency pursuant to section 404 of the Federal Clean Water Act, if any disturbance is proposed, must be submitted with site plan as well as any required state permits relative to wetlands.
- b. The RPA area and/or wetland must be shown on the site plan in relationship to the area of disturbance.

(16) Limits of site disturbances shall be shown on the site plan and field staked prior to any site work beginning.

(Code 1988, § 17-284)

Secs. 90-825--90-860. Reserved.

ARTICLE XIX. OFFSTREET PARKING*

***Cross references:** Stopping, standing and parking, § 78-261 et seq.

Sec. 90-861. Minimum spaces required.

There shall be provided at the time of erection of any main building or at the time any main building is being enlarged minimum offstreet space with adequate provision for entrance and exit by standard sized automobiles, as follows:

- (1) In all residential districts there shall be provided, either in a private garage or on the lot, space for the parking of one automobile for each dwelling unit in a new building or each dwelling unit added if an existing building is enlarged.
- (2) Tourist homes and motels shall provide, on the lot, parking space for one automobile for each accommodation.
- (3) Church, high school, college and university auditoriums; theaters; general auditoriums; stadiums; and other similar places of assembly shall provide at least one parking space for every five fixed seats in such building.
- (4) Hospitals shall provide at least one parking space for each two beds' capacity, including infants' cribs and children's beds.
- (5) Medical and dental clinics shall provide at least ten parking spaces. Three additional parking spaces shall be furnished for each doctor or dentist having offices in such clinic in excess of three doctors or dentists.
- (6) Tourist courts, apartments and apartment motels shall provide at least one parking space for each individual sleeping or living unit. Hotels and apartment motels shall provide at least one parking space for each two sleeping rooms, up to and including the first 20 sleeping rooms, and one parking space for each three sleeping rooms over 20.
- (7) Mortuaries and liquor stores shall provide at least 30 parking spaces.
- (8) Retail stores and shopping centers selling directly to the public shall provide one parking space for each 200 square feet of gross floor space in the building.
- (9) Office buildings shall provide six parking spaces for the first 1,000 square feet of gross leasable space, after which an additional parking space shall be provided for each additional 250 square feet of gross leasable space.
- (10) Any other commercial building not listed in this section shall provide one parking space for each 100 square feet of business floor space in the building.

(Code 1988, § 17-301)

Sec. 90-862. Location; surfacing; guards; lighting.

The parking space required in section 90-861 shall be on the same lot with the main building, except that for buildings other than dwellings, spaces may be located as far away as 600 feet. Every parcel of land used as a public parking area shall be surfaced with gravel, stone, asphalt or concrete. It shall have appropriate guards where needed as determined by the administrator. Any lights used to illuminate such parking areas shall be so arranged as to reflect the light away from adjoining premises in a residential district.

(Code 1988, § 17-302)

Sec. 90-863. Parking of commercial-type vehicles in residential zoned areas.

No commercial-type vehicle, defined as any vehicle with a curb (empty) weight exceeding 9,000 pounds, shall be parked or stored in an R-E, R-1, R-2, R-3 or MHR zoning district for more than three consecutive days and no more than ten days total for any consecutive 30-day period, other than:

- (1) Such vehicles that are completely enclosed in a building or structure or completely screened from view of any public road;
- (2) Campers, recreational and other similarly used vehicles; or
- (3) School buses or other similar vehicles used for public or private educational purposes.

(Code 1988, § 17-303)

Secs. 90-864--90-900. Reserved.

ARTICLE XX. MOBILE HOME AND TRAILER PARKS*

*Cross references: Manufactured homes and trailers, ch. 50.

Sec. 90-901. Permanent.

The location of permanent mobile home parks shall require, in addition to the zoning permit and certificate of occupancy, a conditional use permit issued by the board of supervisors. Operators of such parks shall comply with the following:

- (1) *Area requirements.* For each mobile home space within a park having a central water and sewer system designed to accommodate one mobile home, there shall be provided 3,000 square feet of area or more which shall front on an internal street, road or right-of-way.
- (2) *Width.* Each mobile home space shall have a minimum width of 40 feet.
- (3) *Distance between mobile homes.* Parking spaces for mobile homes shall be arranged so as to provide a distance of 15 feet or more between individual units, but in no case closer than five feet to the individual lot line of the mobile home space.
- (4) *Sanitary facilities.* Each mobile home space shall be provided with individual water and sewer connections to a public system.
- (5) *Electrical connections.* Each mobile home space shall be provided with electrical outlets installed in accordance with the uniform statewide building code.

(Code 1988, § 17-321)

Sec. 90-902. Temporary.

(a) Conditional use permits for temporary trailer parks may be issued by the board of supervisors subject to the following conditions:

- (1) The location of a temporary trailer park is necessary for the housing of construction workers employed on an industrial or highway construction project.
- (2) The request is filed by or certified to by the industry or state department of transportation as being essential to the construction.
- (3) A minimum area of 2,000 square feet is provided for each space.
- (4) Sanitary facilities conform to the state health department's trailer camp sanitation requirements.
- (5) The period for operating such temporary park shall concur with the anticipated period of the construction. Applications for renewal may be submitted if more time is required to complete the project. However, such renewal applications shall be filed at least 45 days prior to the expiration of the original temporary use permit.

(b) The board of supervisors, in granting such a conditional use permit, may require the posting of a bond to ensure that the temporary trailer court is removed and the site left in good order at the expiration of the permit. The board of supervisors shall establish such additional requirements as are in the best interest of the public.

(Code 1988, § 17-322)

Secs. 90-903--90-940. Reserved.

ARTICLE XXI. MOBILE UNITS

Sec. 90-941. Temporary use.

Notwithstanding any other provision of this chapter, a special exception may be granted for the temporary use of a mobile home or mobile office, excluding vehicles designed and manufactured for the transportation of materials, products or animals, referred to as a "mobile unit," in A-1, B-1, M-1 and M-2 districts for business and industrial purposes, provided that the following conditions must be observed in the location and use of such mobile unit:

- (1) *Health and sanitation.* All health and sanitary regulations of the county and the state departments of health must be observed.
- (2) *Development standards.* The minimum lot area, minimum setback, minimum yard regulations and other development standards that are applicable to permanent structures in the district in which the mobile unit is located must be observed.
- (3) *Skirts.* The area between the bottom of the walls of the mobile unit and ground surface must be neatly skirted with material fabricated from metal, wood, concrete, masonry, rigid vinyl or fiberglass. Such skirts must be of one color which harmonizes with the color of the mobile home. Such skirts must be rattle-free and installed in a manner to accommodate frost heave.
- (4) *Ground cover.* All required yards around the mobile home unit must be covered with one or more of the following:
 - a. Lawn grass;
 - b. Natural shrubbery;
 - c. Plants; or
 - d. Trees.
- (5) *Fuel tanks; outside storage.* No fuel tank may be placed within view of a public road or an occupied dwelling. Outside storage of tangible personal property, currently licensed passenger cars excepted, is prohibited.
- (6) *Ingress and egress.* No means of ingress and egress may be established to serve the mobile unit until a permit therefor has been obtained from the state department of transportation. Points of ingress and egress must be established and maintained in accordance with the prevailing standards of the state department of transportation.
- (7) *Use expiration.* The special exception may be granted for a period of 24 months or less. The special exception may be renewed for a period not to exceed 12 months. Within 30 days of expiration of the special exception, the mobile unit and improvements installed in connection therewith must be removed from the premises, except utilities, driveways, well and septic tank-drainfield system.
- (8) *Placement on lot.* The mobile unit may not be located, stored or placed on the lot until a zoning permit has been approved by the zoning administrator.
- (9) *Occupancy.* The mobile unit may not be occupied until a certificate of occupancy has been issued by the zoning administrator. No such certificate may be issued until each and every condition set forth in subsections (1) through (8) of this section has been observed, provided that compliance with conditions set forth in subsection (4) of this section may be deferred until 90 days after issuance of the certificate of occupancy.

(10) *Transfer or assignment prohibited.* A special exception granted under this article is neither transferable nor assignable.

(Code 1988, § 17-371)

Sec. 90-942. Farm operation.

(a) *Number of mobile homes permitted.* Notwithstanding regulations and uses set forth in this chapter applicable to mobile homes and to mobile home parks or subdivisions, there may be placed upon a farm operation in the A-1 general agricultural district one or more mobile homes, but not to exceed four mobile homes, per farm operation according to the following table:

TABLE INSET:

Number of Mobile Homes Permitted	Minimum Acreage in Farm Operation
1	25
2	200
3	300
4	400

(b) *Location, placement and use of mobile homes.* The location, placement and use of such mobile homes shall be subject to the following conditions:

(1) *Head of household.* The head of the household who occupies each such mobile home shall be gainfully employed full time on the farm operation.

(2) *General regulations.* Each such mobile home shall be considered a conventional dwelling within the terms of this chapter, and the general regulations of the district in which each such mobile home is located shall be applied to each such mobile home.

(3) *Reclassification.* If the land upon which each such mobile home is located shall be reclassified to a residential, business or industrial district, the affected mobile homes shall be removed from the land so reclassified within 90 days following the effective date of the reclassification.

(4) *Health.* Each such mobile home shall be connected to an approved septic tank and drainfield system and to a satisfactory water supply.

(Code 1988, § 17-372)

Sec. 90-943. Temporary permits.

(a) *Conditions for issuance.* In any district in which mobile homes or travel trailers are permitted as temporary uses, the zoning administrator may grant a temporary permit for the location, placement and use of a mobile home or travel trailer subject to the following conditions:

(1) *Residence use.* The mobile home is situated at the residence construction site and is occupied solely by the owner of the premises and members of the owner's immediate family.

(2) *Office use.* The mobile home or travel trailer is situated at the commercial, industrial, or public construction site and is occupied only by persons directly engaged in the supervision of the construction of the structure or development.

(3) *Yard requirements.* All yard requirements of the district in which the mobile home or travel trailer is located shall be observed.

(4) *Mobile home facilities.* Only mobile homes containing sleeping accommodations, a flush toilet, and a tub or showerbath shall be occupied as living quarters.

(5) *Health and sanitation.* All health and sanitary regulations of the county and the state departments of health shall be observed.

(6) *Electrical service.* Safe temporary connection to the electrical utility system is made in accordance with the uniform statewide building code.

(b) *Term; renewal.* A temporary permit is issued for a period of 12 months only upon showing by the applicant of a valid and approved building permit for a conventionally built residence or church or a commercial, industrial or public structure or development, public facility or public utility. Such temporary permit may be renewed two times for a period of 12 months each for a maximum of 36 months upon the applicant demonstrating that substantial progress is being made in the construction of the conventionally built residence or church or a commercial, industrial or public structure or development, public facility or public utility. The term "substantial progress" is defined as having completed at least 15 percent of the structure at the end of the initial permit and at least 40 percent of the structure at the end of the first renewal, as determined by the building official.

(Code 1988, § 17-373)

Sec. 90-944. Temporary permit for placement of mobile homes or travel trailers.

(a) Upon application by the property owner, the zoning administrator shall grant a temporary permit for the placement of a mobile home or travel trailer for residential use upon the premises of a single-family dwelling or mobile home for a period of 90 days, which permit may be renewed for an additional 90 days, when a single-family dwelling becomes uninhabitable due to:

- (1) Civil commotion.
- (2) Explosion.
- (3) Fire.
- (4) Flood.
- (5) Hail.
- (6) Lightning.
- (7) Sudden and accidental damage from smoke.
- (8) Vehicles and aircraft.
- (9) Wind storms.

(b) Uninhabitable shall be a condition determined by the building official, following consultation with the health officer.

(Code 1988, § 17-374)

Sec. 90-945. Location on individual lot in A-1 district.

In the A-1 general agricultural district, upon issuance of a special exception by the board of zoning appeals, a mobile home may be located on an individual lot for use as a dwelling subject to the following conditions:

- (1) *Owner occupied.* The mobile home must be occupied by the owner.
- (2) *Single use or structure.* The mobile home must be the only dwelling on the lot; no other main building shall be on the lot.
- (3) *Development standards.* The minimum lot area, minimum setback, minimum yard regulations and other detached single-family dwelling requirements of this chapter not in conflict with this section must be observed.
- (4) *Public road frontage.* The lot upon which the mobile home is placed must have frontage on an existing public road and must meet minimum lot frontage and lot width standards, provided that a mobile home may be placed on a lot which does not have frontage on an existing public road when a conventionally built residence may lawfully be constructed upon the lot.
- (5) *Health.* The mobile home must be connected to a water supply and to an individual septic tank-drainfield system which meet the standards of the county health department or to an approved public water and sewer system. In addition, all health and sanitary regulations of the county and the state departments of health must be observed.
- (6) *Skirts.* The area between the bottom of the walls of the mobile home and ground surface must be neatly skirted with material fabricated from metal, wood, concrete, masonry, rigid vinyl or fiberglass. Such skirts must be of one color which harmonizes with the color of the mobile home. Such skirts must be rattle-free and installed in a manner to accommodate frost heave.
- (7) *Ground cover.* All required yards around the mobile home must be covered with one or more of the following:
 - a. Lawn grass;
 - b. Natural shrubbery;
 - c. Plants; or
 - d. Trees.
- (8) *Fuel tanks; outside storage.* No fuel tank may be placed within view of a public road or an occupied dwelling. Outside storage of tangible personal property, currently licensed passenger cars exhibited, is prohibited.
- (9) *Ingress and egress.* No means of ingress and egress may be established to serve the mobile home until a permit therefor has been obtained from the state department of transportation. Points of ingress and egress must be established and maintained in accordance with the prevailing standards of the state department of transportation.
- (10) *Use expiration.* The special exception may be granted for a period of four years or less. The special exception may be renewed thereafter in single increments of four years or less. Within 30 days following expiration of the special exception, the mobile home and improvements installed in connection therewith must be removed from the premises, except utilities, driveways, well and septic tank and drainfield system.
- (11) *Placement on lot.* The mobile home may not be located, stored or placed on the lot until a zoning permit has been approved by the zoning administrator.
- (12) *Occupancy.* The mobile home may not be occupied until a certificate of occupancy has been issued by the zoning administrator. No such certificate may be

issued until each and every condition set forth has been observed, provided that compliance with conditions set forth in subsection (7) of this section may be deferred until 90 days after issuance of the certificate of occupancy.

(13) *Reclassification.* If the land upon which the mobile home is located is reclassified to a residential, business or industrial district, the mobile home must be removed from the land so reclassified within 12 months following the effective date of the reclassification.

(14) *Proximity to conventionally built dwelling.* No mobile home may be placed within 500 feet of a conventionally built dwelling.

(15) *Transfer or assignment prohibited.* A special exception granted under this article is neither transferable nor assignable.

(16) *Suspension of requirements.* Certain requirements of this section may be suspended as follow:

a. For good cause shown the board of zoning appeals may suspend the requirements of subsections (2), (6), (7), (8) and (14) of this section for a period not to exceed 12 months when the application thereof would circumvent the provisions of section 90-2.

b. Upon submission with the application for a special exception of written certification from a physician licensed to practice in the state, the board of zoning appeals may suspend the requirements of subsections (1), (2) and (14) of this section for a period not to exceed four years for mobile homes proposed to be occupied by or for the sole benefit and care of:

1. Senior citizens over 65 years of age, provided that for mobile homes occupied by senior citizens, no physician's certification is required;
2. Physically handicapped persons with health impairments requiring close supervision and care from other persons; or
3. Physically handicapped persons confined to a wheelchair.

Upon expiration of the initial period wherein subsections (1), (2) and (14) of this section are suspended, the zoning administrator may thereafter issue a zoning permit, for periods not in excess of 24 months, for the continued location and occupancy of such mobile homes by the persons named in subsection (16)b.1., (16)b.2., or (16)b.3. of this section when the qualifying conditions of the initial special exception are unchanged.

(Code 1988, § 17-375)

Sec. 90-946. Existing mobile homes.

(a) *Issuance of permit.* Upon application to the director of planning, a four-year permit, which may be renewed by the board of zoning appeals, shall be issued for any existing mobile home located on a lot between July 1, 1965, and January 1, 1973. This permit shall be issued upon the property owner presenting evidence that the following conditions have been met:

(1) *Health.* The mobile home must be connected to a water supply and a septic tank-drainfield system which meet the standards of the county health department or to an approved public water and sewer system. In addition, all health and sanitary regulations of the county and the state departments of health must be observed.

(2) *Skirts.* The area between the bottom of the walls of the mobile home and ground surface must be neatly skirted with material fabricated from metal, wood, concrete,

masonry, rigid vinyl or fiberglass. Such skirts must be of one color which harmonizes with the color of the mobile home. Such skirts must be rattle-free and installed in a manner to accommodate frost heave.

(3) *Ground cover.* All required yards around the mobile home must be covered with one or more of the following:

- a. Lawn grass;
- b. Natural shrubbery;
- c. Plants; or
- d. Trees.

(4) *Fuel tanks; outside storage.* No fuel tank may be placed within view of a public road or an occupied dwelling. Outside storage of tangible personal property, currently licensed passenger cars excepted, is prohibited.

(b) *Failure to comply.* Failure to comply with all the requirements of this chapter shall result in the mobile home being removed from the property.

(Code 1988, § 17-376)

Secs. 90-947--90-980. Reserved.

ARTICLE XXII. BOARD OF ZONING APPEALS*

***Cross references:** Other boards and commissions, § 2-61 et seq.

State law references: Board of zoning appeals, Code of Virginia, § 15.2-2308 et seq.

Sec. 90-981. Composition; appointment, compensation and removal of members; filling vacancies.

- (a) A board of zoning appeals consisting of five members shall be appointed by the county circuit court.
- (b) The members of the board of zoning appeals shall serve for five-years staggered terms of office.
- (c) The board of zoning appeals shall be compensated at a rate set by the board of supervisors.
- (d) Any member of the board of zoning appeals may be removed for malfeasance, misfeasance or nonfeasance in office, or for other just cause, by the court which appointed him, after a hearing held after at least 15 days' notice.
- (e) Appointments to fill vacancies shall be only for the unexpired portion of the term.

(Code 1988, § 17-341)

State law references: Creation, membership, etc., of board of zoning appeals, Code of Virginia, § 15.2-2308.

Sec. 90-982. Term of members; one member to be member of planning commission.

§ 90-982 was repealed (Ordinance O-11-02).

State law references: Terms of members of board of zoning appeals, Code of Virginia, § 15.2-2308.

Sec. 90-983. Disqualification of members.

No member of the board of zoning appeals shall act upon a matter before the board of zoning appeals in violation of the State and Local Government Conflict of Interests Act (Code of Virginia, § 2.2-3100 et seq.).

(Code 1988, § 17-343)

Sec. 90-984. Chairman and vice-chairman.

The board of zoning appeals shall choose annually its own chairman and vice-chairman who shall act in the absence of the chairman.

(Code 1988, § 17-344)

State law references: Officers of board of zoning appeals, Code of Virginia, § 15.2-2308.

Sec. 90-985. Powers and duties generally.

The board of zoning appeals shall have the power and duty:

(1) To hear and decide appeals from any order, requirement, decision or determination made by an administrative officer in the administration or enforcement of this chapter or of any ordinance adopted pursuant thereto. The decision on such appeal shall be based on the board's judgment of whether the administrative officer was correct. The board shall consider the purpose and intent of any applicable ordinances, laws and regulations in making its decision.

(2) To authorize upon appeal or original application in specific cases such variance as defined in Code of Virginia, § 15.2-2201 from the terms of this chapter as will not be contrary to the public interest, when, owing to special conditions, a literal enforcement of the provisions will result in unnecessary hardship, provided that the spirit of this chapter shall be observed and substantial justice done, as follows: when a property owner can show that his property was acquired in good faith and where by reason of the exceptional narrowness, shallowness, size or shape of a specific piece of property at the time of the effective date of the ordinance from which this chapter is derived, or where by reason of exceptional topographic conditions or other extraordinary situation or condition of the piece of property or of the condition, situation, or development of property immediately adjacent thereto, the strict application of the terms of this chapter would effectively prohibit or unreasonably restrict the utilization of the property or where the board is satisfied, upon the evidence heard by it, that the granting of the variance will alleviate a clearly demonstrable hardship approaching confiscation, as distinguished from a special privilege or convenience sought by the applicant, provided that all variances shall be in harmony with the intended spirit and purpose of this chapter.

a. No such variance shall be authorized by the board unless it finds that:

1. The strict application of this chapter would produce undue hardship;
2. The hardship is not shared generally by other properties in the same zoning district and the same vicinity; and
3. The authorization of the variance will not be of substantial detriment to adjacent property and the character of the district will not be changed by the granting of the variance.

b. No variance shall be authorized 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.

c. No variance shall be authorized unless the board finds that 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 this chapter.

d. In authorizing 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.

(3) To hear and decide appeals from the decision of the zoning administrator after notice and hearing as provided 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.

(4) To hear and decide applications for interpretation of the district map where there is any uncertainty as to the location of a district boundary. After notice to the owners of the property affected by the question, and after public hearing with notice as required by Code of Virginia, § 15.2-2204, the board may interpret the map in such way as to carry out the intent and purpose of this chapter for the particular section or district in question. 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 not have the power to change substantially the locations of district boundaries as established by ordinance.

(5) No provision of this section shall be construed as granting the board of zoning appeals the power to rezone property or to base board decisions on the merits of the purpose and intent of local ordinances duly adopted by the board of supervisors.

(6) The board by resolution may fix a schedule of regular meetings and may also fix the day to which any meeting shall be continued if the chairman, or vice-chairman if the chairman is unable to act, finds and declares that weather or other conditions are such that it is hazardous for members to attend the meeting. Such finding shall be communicated to the members and the press as promptly as possible. All hearings and other matters previously advertised for such meeting in accordance with Code of Virginia, § 15.2-2312 shall be conducted at the continued meeting and no further advertisement is required.

(7) To hear and decide appeals to decrease the 100-foot-wide buffer area provided for as a portion of the RPA overlay zoning district in accordance with the provisions provided in section 90-596.

(Code 1988, § 17-345)

State law references: Powers and duties of board of zoning appeals, Code of Virginia, § 15.2-2309.

Sec. 90-986. Rules and regulations.

The board of zoning appeals shall adopt such rules and regulations as it may consider necessary.

(Code 1988, § 17-346)

State law references: Rules of board of zoning appeals, Code of Virginia, § 15.2-2308.

Sec. 90-987. Meetings.

(a) The meetings of the board of zoning appeals shall be held at the call of its chairman or at such times as a quorum of the board of zoning appeals shall determine.

(b) All meetings of the board of zoning appeals shall be open to the public.

(c) A quorum shall be at least three members.

(Code 1988, § 17-347)

Sec. 90-988. Oaths; attendance of witnesses.

The chairman of the board of zoning appeals or, in his absence, the acting chairman may administer oaths and compel the attendance of witnesses.

(Code 1988, § 17-348)

Sec. 90-989. Records of proceedings.

The board of zoning appeals shall keep minutes of its proceedings showing the vote of each member upon each question or if absent or failing to vote indicating such fact. It shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the board of zoning appeals and shall be a public record.

(Code 1988, § 17-349)

Sec. 90-990. Appeals to board.

(a) An appeal to the board of zoning appeals may be taken by any person aggrieved or by any officer, department, board or bureau of the county affected by any decision of the zoning administrator or from any order, requirement, decision or determination made by any other administrative officer in the administration or enforcement of this chapter or any ordinance adopted pursuant thereto. Notwithstanding any charter provision to the contrary, any written notice of a zoning violation or a written order of the zoning administrator dated on or after July 1, 1993, shall include a statement informing the recipient that he may have a right to appeal the notice of a zoning violation or a written order within 30 days in accordance with this section and that the decision shall be final and unappealable if not appealed within 30 days. The appeal period shall not commence until the statement is given. The appeal shall be taken within 30 days after the decision appealed from by filing with the zoning administrator, and with the board of zoning appeals, a notice of appeal specifying the grounds thereof. The zoning administrator shall forthwith transmit to the board of zoning appeals all the papers constituting the record upon which the action appealed from was taken.

(b) An appeal shall stay all proceedings in furtherance of the action appealed from unless the zoning administrator certifies to the board of zoning appeals that by reason of facts stated in the certificate a stay would in his opinion cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order granted by the board of zoning appeals or by a court of record, on application and on notice to the zoning administrator and for good cause shown.

(c) In no event shall a written order, requirement, decision or determination made by the zoning administrator or other administrative officer be subject to change, modification or reversal by the zoning administrator or other administrative officer after 60 days have elapsed from the date of the written order, requirement, decision or determination where the person aggrieved has materially changed his position in good faith reliance on the action of the zoning administrator or other administrative officer unless it is proven that such written order, requirement, decision or determination was obtained through malfeasance of the zoning administrator or other administrative officer or through fraud. The six-day limitation period shall not apply in any case where, with the concurrence of the attorney for the board of supervisors, modification is required to correct clerical or other nondiscretionary errors.

(Code 1988, § 17-350)

State law references: Appeals to board, Code of Virginia, § 15.2-2311.

Sec. 90-991. Notice of appeal.

Appeals shall be mailed to the board of zoning appeals in care of the zoning administrator, and a copy of the appeal shall be mailed to the secretary of the planning commission. A third copy shall be mailed to the individual, official, department or agency concerned, if any.

(Code 1988, § 17-351)

Sec. 90-992. Public hearing; record; witnesses.

(a) The board of zoning appeals shall fix a reasonable time for the hearing of an application or appeal, give public notice thereof as well as due notice to the parties in interest and decide the application or appeal within 90 days of the filing of the application or appeal. In exercising its powers the board of zoning appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from. The concurring vote of three members of the board of zoning appeals shall be necessary to reverse any order, requirement, decision or determination of an administrative officer or to decide in favor of the applicant on any matter upon which it is required to pass under this chapter or to effect any variance from this chapter.

(b) The board of zoning appeals shall keep minutes of its proceedings and other official actions which shall be filed in the office of the board of zoning appeals and shall be public records. The chairman of the board of zoning appeals, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses.

(Code 1988, § 17-352)

State law references: Procedure on appeal, Code of Virginia, § 15.2-2312.

Sec. 90-993. Review of decisions of board.

(a) Any persons jointly or severally aggrieved by any decision of the board of zoning appeals or any aggrieved taxpayer or any officer, department, board or bureau of the county may file with the clerk of the circuit court for the county a petition specifying the grounds on which aggrieved within 30 days after the final decision of the board of zoning appeals.

(b) Upon the presentation of such petition, the court shall allow a writ of certiorari to review the decision of the board of zoning appeals and shall prescribe therein the time within which a return thereto must be made and served upon the realtor's attorney, which shall not be less than ten days and may be extended by the court. The allowance of the writ shall not stay proceedings upon the decision appealed from, but the court may, on application, on notice to the board of zoning appeals and on due cause shown, grant a restraining order.

(c) The board of zoning appeals shall not be required to return the original papers acted upon by it, but it shall be sufficient to return certified or sworn copies thereof or of the portions thereof as may be called for by the writ. The return shall concisely set forth such other facts as may be pertinent and material to show the grounds of the decision appealed from and shall be verified.

(d) If, upon the hearing, it shall appear to the court that testimony is necessary for the proper disposition of the matter, it may take evidence or appoint a commissioner to take evidence as it may direct and report the evidence to the court with his findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which the determination of the court shall be made. The court may reverse or affirm, wholly or partly, or may modify the decision brought up for review.

(e) In the case of an appeal from the board of zoning appeals to the circuit court of an order, requirement, decision or determination of the zoning administrator or other administrative officer in the administration or enforcement of any ordinance or provision of state law, the decision of the board of zoning appeals shall be presumed to be correct. The appealing party may rebut that presumption by proving by a preponderance of the evidence, including the record before the board of zoning appeals, that the board of zoning appeals erred in its decision. Any party may introduce evidence in the proceedings in the court.

(f) In the case of an appeal by a person of any decision of the board of zoning appeals that denied or granted an application for a variance or application for a special exception, the decision of the board of zoning appeals shall be presumed to be correct. The petitioner may rebut that presumption by showing to the satisfaction of the court that the board of zoning appeals applied erroneous principles of law or, where the discretion of the board of zoning appeals is involved, the decision of the board of zoning appeals was plainly wrong and in violation of the purpose and intent of this chapter.

(g) Costs shall not be allowed against the board of zoning appeals, unless it shall appear to the court that it acted in bad faith or with malice in making the decision appealed from. If the decision of the board is affirmed and the court finds that the appeal was frivolous, the court may order the person who requested the issuance of the writ of certiorari to pay the costs incurred in making the return of the record pursuant to the writ of certiorari. If the petition is withdrawn subsequent to the filing of the return, the board of zoning appeals may request that the court hear the matter on the question of whether the appeal was frivolous.

(Code 1988, § 17-353)

State law references: Certiorari to review decision of board, Code of Virginia, § 15.2-2314.

Secs. 90-994--90-1030. Reserved.

ARTICLE XXIII. MISCELLANEOUS PROVISIONS

Sec. 90-1031. Turkey shoots.

Turkey shoots are permitted by special exception in the A-1 general agricultural and R-A residential agricultural districts, subject to the following conditions:

(1) *Distance and direction of discharge from public road.* The point of discharge of firearms must be at least 300 feet from the right-of-way of a public road or private easement, and the direction of discharge of such firearms shall be in the opposite direction of such public road or private easement.

(2) *Distance and direction of discharge from occupied dwelling or structure.* No firearm shall be discharged within 1,000 feet of an occupied dwelling, structure, or boundary of the applicant's property. This subsection may be waived with written permission from adjoining landowners, provided that the direction of discharge of such firearms shall be in the opposite direction of such occupied dwelling or structure.

(3) *Rifles prohibited.* The use of rifles is prohibited.

(Code 1988, § 17-396)

Sec. 90-1032. Requirements for recorded lot.

(a) No zoning or building permit shall be issued for the construction of a dwelling or other structure, except those strictly for agricultural use, unless such structure is to be located on a lot, tract or parcel of land which is shown on a plat recorded in the office of the circuit court clerk of the county and which has frontage as required by this chapter. When frontage is not upon an existing street or road maintained by the state department of transportation, the location and width of such easement or right-of-way shall be illustrated on a plat and recorded in the office of the circuit court of the county.

(b) Any lot, tract or parcel of land or part thereof, which has been conveyed by deed dated on or before December 31, 1972, but which did not meet the applicable standards of this section on December 31, 1972, is hereby declared a lawful subdivision of land, provided that the following minimum standards have been observed:

(1) The lot, tract or parcel of land is served by an easement or right-of-way, conveyed by deed and not less than ten feet in width, which extends from such lot, tract or parcel of land to an existing public road maintained by the state department of transportation. An easement of unspecified width, for the provisions of this subsection, will be assumed to be ten feet wide.

(2) The area of such lot, tract or parcel of land meets applicable minimum requirements of this chapter.

(Code 1988, § 17-397)

Sec. 90-1033. Sanitary landfills.

The following minimum requirements must be observed in the establishment, operation and maintenance of a sanitary landfill:

(1) *M-2 general industrial and M-3 heavy industrial districts.* Sanitary landfills are permitted by a special exception in M-2 and M-3 districts only in conjunction with the reclamation of land.

(2) *Health, sanitation and environmental codes, rules and regulations.* The health, sanitation and environmental codes, rules and regulations of the department of health, state water control board and state air pollution control board, the commonwealth and the county applicable to such facilities must be observed. A statement from agencies of the state identified in this subsection must be submitted, addressing such matters as health hazards, water pollution and air pollution about the proposed site and operation.

(3) *External traffic.* The external highway traffic plan and entrances and exits to such facilities shall be approved by the state department of transportation.

(4) *Screening.* The site must be screened from all property lines.

(5) *Life, materials, use of facility.* A statement which estimates the time of usage, materials to be used, condition of land upon completion of the fill and future use of the land must be attached to the site plan.

(6) *Ground cover.* All areas not occupied by structures, driveways, walkways, parking areas, active fill areas and other authorized installations shall be covered with one or more of the following:

- a. Grass;
- b. Natural shrubbery;
- c. Plants; or
- d. Trees.

(7) *Bond.* A cash bond, in an amount determined by the board of supervisors, must be posted by the applicant to ensure reclamation.

(8) *Site plan review and implementation.* The applicant must propose and submit to the commission for its approval a site plan. The site plan must be clearly drawn to a scale of 200 feet to one inch and must show the following:

- a. The proposed title of the project and the names of the developer and person responsible for its preparation.
- b. Existing zoning and zoning district boundaries.
- c. A certified plat of the boundaries of the property involved; county boundaries; the general location, dimension, width, grade and treatment of all existent easements and existing roads; the general location of all buildings or waterways; major tree masses; and other existing physical features in or adjoining the project.
- d. Topography of the project area, both existing and proposed, with contour intervals of two feet or less.
- e. The approximate location and sizes of sanitary sewers, water mains, water storage facilities, disposal areas, and other underground structures, existing and planned, in or near the project.
- f. The general location, dimensions, width, proposed grades, treatment and character of construction of proposed internal driveways, parking areas, entrances and exits, outdoor lighting systems, storm drainage on and off the site, water service and sanitation facilities (dump stations, restrooms, etc.).

- g. The general location of proposed setback lines, rights-of-way and easements.
- h. Location with respect to each other and to lot lines and approximate height of all proposed buildings and structures, accessory and main, or major excavations.
- i. Preliminary plans and elevations of the various buildings and structures and sight lines from highways and existing residences.
- j. A landscaping plan indicating location, height, and material of all existing and proposed fences, walls, screen planting, landscaping and buffer strips (which shall be not less than 50 feet in depth).
- k. General location, character, size and height and orientation of proposed signs.
- l. A tabulation of the total number of acres in the project and the percentage thereof proposed to be devoted to the various uses, i.e., landfill area, parking, driveways, open space, and other reservations.
- m. Land use, both existing and potential, on the periphery of the project area must be identified.
- n. A vicinity map showing the relation of the proposed use to other uses in the vicinity.
- o. Drawings of the proposed exterior elevation and plans of all buildings and an outline of specifications of the proposed architectural treatments for those exteriors, including an architectural perspective drawing of the project as it will appear from its principal road frontage.
- p. Proposed plans for sedimentation control during construction and for stormwater drainage during operation.
- q. A statement of intent to comply with the minimum requirements and performance standards in this chapter and signed by the owner of the proposed development or, in the case of a governmental agency or a corporation, an officer thereof or its authorized agent.

(Code 1988, § 17-398)

State law references: Air pollution control board, Code of Virginia, § 10.1-1300 et seq.; Virginia Waste Management Act, Code of Virginia, § 10.1-1400 et seq.; State Water Control Law, Code of Virginia, § 62.1-44.2 et seq.

Sec. 90-1034. Classification of federal land leased or sold.

All federal government land leased or sold either for public or private use shall be considered to be zoned A-1 general agricultural, unless and until otherwise classified.

(Code 1988, § 17-399)

Sec. 90-1035. Horses and ponies in residential districts.

Notwithstanding any other provision of this chapter, there may be housed and maintained in R-1 limited residential, R-2 limited residential and R-3 general residential districts one horse or one pony on a lot of two acres or more. For each additional acre in excess of two acres, one additional horse or one additional pony may be housed and maintained. The following conditions shall be observed:

(1) A fence shall be erected around the entire grazing area. The fence shall not be located closer than 150 feet to the front property line, nor closer than 150 feet to an existing residence located on an adjacent lot.

(2) A stable or shelter shall be provided for the stabling of each horse or pony. Such structure shall be designed to adequately house the subject animals. No stable or shelter shall be erected within 90 feet of any side or rear property line, nor within 150 feet of any front property line.

(3) Receptacles for the storage of grain and hay shall be provided and properly maintained. A bedding area shall be provided and maintained in a sanitary manner.

(4) The keeping of horses and ponies shall be done in such a manner so as not to be objectionable to the neighborhood by reason of odor, dust, insects, noise, air pollution or water pollution.

(5) The keeping of horses and ponies is for personal use only; no retail or wholesale use may be made of subject animals.

(Code 1988, § 17-400)

Sec. 90-1036. Sign setback requirements.

Notwithstanding any other provision of this chapter, a sign shall be located 20 feet or more from any street or road right-of-way or easement; this shall be known as the setback line. There shall be excepted from this setback requirement residential identification signs, signs advertising the sale or rent of the premises and signs in which the lowest portion of the advertising area is a minimum of ten feet above the ground surface, which signs may be erected up to the property line. No sign shall be required to be set back from the street or road right-of-way or easement a distance greater than the setback line of the existing main structure on the lot.

(Code 1988, § 17-401)

Sec. 90-1037. Density zoning requirements.

Within the R-2 and R-3 residential districts, it shall be permissible to reduce the required lot sizes for single-family detached houses, provided that:

(1) The subdivision within which such lot reduction is to be applied shall contain a minimum of 100 lots.

(2) The reduction in lot size shall not exceed 50 percent of the lot size which would be required by the zoning district of size provisions, but in no instance shall the reduced lots be less than 7,000 square feet.

(3) The lots for which a reduction in size is requested be used only for single-family houses.

(4) The side yard, right-of-way setback and rear yard requirements shall be as set forth by the board of zoning appeals upon application for a variance from those required by existing provisions. Such yard requirements as determined by the board of zoning appeals shall be uniformly applied.

(5) The number of lots permitted due to a reduction in lot size shall not exceed those permitted under conventional practice, taking into account any land upon which lots could not be platted.

(6) There shall be available both central water and sewage disposal facilities.

(7) Any lot within the development shall be at least 350 feet from any parcel currently zoned R-1, R-2 or R-3 residential.

(8) The land not utilized for home sites as a result of any lot reduction shall be dedicated for open space and recreational use with provisions made to ensure maintenance of these lands. A minimum of 25 percent of this land is to be utilized for recreational purposes.

(9) Any request made under this section shall be subject to review and approval by the planning commission and board of supervisors following a public hearing by both bodies prior to approval by the zoning administrator.

(Code 1988, § 17-402)

Sec. 90-1038. Second dwelling use for family members on a parcel with an existing dwelling.

The placement of a manufactured home (mobile home) on an individual parcel with a principal dwelling or the construction of a second dwelling unit separated or attached without internal access to the principal dwelling shall be permitted subject to the following conditions:

(1) This use is for a family member 65 years of age or older, or a physically or mentally handicapped family member with health impairments requiring close supervision and care from other persons with a physician's statement confirming such health conditions. For the purpose of this section, mental illness and developmental disability shall not include illegal use of or addiction to a controlled substance as defined in Code of Virginia, § 54.1-3401.

(2) The Virginia Department of Health shall be the certifying authority that the parcel or existing drain field is adequate to support the attached, detached second dwelling or manufactured home (mobile home).

(3) The second dwelling unit shall be permitted for a period of one year from approval and must be renewed annually 30 days prior to the expiration date. The owner/applicant shall request renewal of the permit. This request shall be approved through an administrative permit signed by the director of planning or his/her designee. The administrative permit shall be accompanied by a notarized affidavit from the person whom the permit was issued that indicates the approved occupant(s) are residing in the attached or detached second dwelling. When the permittee hereunder no longer occupies such attached or detached second dwelling, such second dwelling shall have the kitchen facilities removed within 90 days, or if such second dwelling is a manufactured home (mobile home), said manufactured home (mobile home) shall be removed within 90 days. Failure to request renewal is indication that the second dwelling is no longer needed and such attached or detached second dwelling shall have the kitchen facilities removed within 90 days, or if such second dwelling is a manufactured home (mobile home), said manufactured home (mobile home) shall be removed within 90 days.

(4) This administrative permit shall not be transferable nor run with the land.

(5) Manufactured homes (mobile homes) are not permitted in the R-E, Residential Estate; R-1, Limited Residential; R-2, Limited Residential; or R-3, General Residential Zoning Districts.

(6) Initial fee of \$200.00 with a renewal fee of \$25.00.

(Ord. No. O-06-04, 10-24-2006)

Sec. 90-1039. Planned unit developments.

(a) *Statement of intent.* The purpose of mixed use planned unit development districts is to promote the efficient use of land to allow for flexible application of development controls, promote a broad spectrum of land uses in more intensive developments, and protect the natural features and beauty of the land. Planned unit developments (PUDs) are intended to provide variety, flexibility, and convenience for residents. PUDs should be in accordance with the approved comprehensive plan and should be developed to allow for appropriate integration with existing land uses.

(b) *Definitions.* 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:

Acreage, gross. The total amount of area, to include land unsuitable for development, within the PUD.

Acreage, net. The total area of land suitable for development within the PUD.

Age restricted residential. Residential communities occupied by those persons 55 years or older pursuant to Section 100.304 of the Department of Housing and Urban Development guidelines.

Agricultural. As defined in section 90-1 of the Code of the County of Prince George.

Business. Business shall mean any component of the PUD that is not used for residential, agricultural and recreational purposes and from which state and county tax revenues applicable to business are generated.

Business, convenience. Use designation, which permits limited retail and personal service establishments such as the sale of food, gasoline, hardware, banks, offices and personal service businesses for nearby residential communities.

Business, neighborhood. Use designation which permits neighborhood-oriented retail and service establishments such as small shopping centers or developments that serve neighborhood wide trade areas.

Business, regional. Use designation, which permits retail and service establishments such as shopping centers or developments located on large sites that serve regional areas.

Business, community. Use designation, which permits community, scale retail and service establishments to include shopping centers that serve community-wide trade areas.

Civic uses. Use designation that permits public facilities, to include but not limited to, uses such as governmental offices, fire and police facilities and public schools.

Development. As defined in section 90-1 of the Code of the County of Prince George.

Development review team. Group comprised of, but not limited to, staff from the following agencies:

- (1) Planning department.
- (2) Building official.
- (3) Utilities department.
- (4) Fire services.
- (5) Police department.
- (6) Virginia Department of Health.
- (7) Virginia Department of Transportation.

(8) Economic development office.

Mixed-use building. An appropriate combination of two or more uses within a single structure. Mixed-use buildings may consist of residential, office and business uses.

Offices. Use designation, which permits for professional and administrative office uses, and similar uses.

Open space, unoccupied. Any area unoccupied by a building, structure, drive or parking area.

Open space, unusable. Any area of open space considered as undevelopable acreage based on the presence of one or more of the following:

- (1) Resource protection areas and resource management areas, which must be preserved to mitigate impacts to the water quality of adjacent streams or water bodies.
- (2) Wetlands.
- (3) Steep slopes.
- (4) Endangered native plant and animal life pursuant to the Virginia Department of Conservation and Recreation's 2003 Natural Heritage Plan.

Open space, usable. Any area of open space that is designated for community recreational uses, to include but not limited to uses such as swimming pools, athletic fields, tennis courts, basketball courts, golf courses, playgrounds, boating docks, walking, bridle and bicycle trails.

Phase. A component of the PUD that encompasses 20 percent or more of the PUD. Phased development shall include one or more of the following land uses along with supporting infrastructure:

- (1) Residential.
- (2) Office.
- (3) Commercial.

Primary right-of-way. Right-of-way with a functional classification as a collector road or major arterial. These classifications are defined below:

- (1) *Collector road.* Right-of-way that serves as a principal artery within residential and commercial areas. Collector roads typically have one or two lanes of traffic in each direction. Typical traffic volumes on these roads are from 1,000 to 10,000 vehicles per day. Typical speeds range from 25 to 35 miles per hour.
- (2) *Major arterial.* Right-of-way that serves as a major thoroughfare in rural areas. This right-of-way also carries through traffic within sections of urbanized areas. This right-of-way generally has two or three lanes of traffic in each direction. Typical traffic volumes on these roads are from 5,000 to 25,000 vehicles per day. Typical speeds range between 35 and 45 miles per hour.

Residential, single-family. Use designation that permits for attached and detached homes designed to be occupied by one family.

Residential, two-family. Use designation that permits for attached and detached homes designed to be occupied by two families.

Residential, multi-family. Use designation that permits for attached and detached homes designed to be occupied by three or more families.

Steep slope. Terrain generally classified as having a 25 percent vertical rise to the horizontal run.

Substantial modification. Any change that significantly alters and/or impacts the character of the approved master plan.

Village community. Communities, which are distinct because of unique cultural, historical and architectural heritage. Architectural standards shall be established in the village areas to maintain its historical characteristics.

(c) *Location and size of planned unit developments.* The location of planned unit developments shall be in accordance with the approved comprehensive plan and an approved master plan of the PUD.

- (1) The PUD shall have limited direct access to primary right-of-ways within the county.
- (2) The minimum PUD size shall be no less than 25 acres of contiguous land.
- (3) The proposed PUD shall be designed in a manner to promote the fulfillment of the purposes in the comprehensive plan that is consistent with the plan, as well as other county plans and/or policies.
- (4) The PUD shall provide for the appropriate use and management of available land and will preserve and protect, to the greatest possible extent, the natural features of the land such as topographic features, trees and streams.
- (5) PUDs shall only be developed in areas where adequate transportation facilities, fire protection, schools, public water and sewer and other public and community facilities exist or will be available for the uses and densities proposed. The applicant shall be responsible for providing such facilities, which are not presently available. Public water and sewer shall be extended in accordance with the county utilities ordinance, comprehensive plan and any other applicable county plans and/or policies.

(d) *Submission process and documents required for submission.* A pre-application conference with the applicant and director of planning or his designee shall be held prior to any filing for a rezoning. In addition, a pre-application meeting with the development review team prior to filing an application is required. The director of planning, prior to filing, may require a preliminary plan review from the applicant.

The applicant shall be required to send notification, schedule and conduct a meeting with residents that live within the vicinity of the proposed development. This public meeting shall be conducted prior to filing an application with the planning department.

The applicant shall submit any information required by the director of planning necessary to evaluate a rezoning application or plan of development, not limited to, but to include the following:

- (1) Application for rezoning.
- (2) A required application fee, as set forth within the most recent fee schedule approved by the county board, shall be submitted along with the application.
- (3) Ten copies of a master plan schematic for review.
- (4) Community impact statement.
 - a. A certified planner, licensed surveyor, architect, landscape architect and/or engineer shall prepare the master plan. It shall include:
 1. A vicinity map showing the property with surrounding roads and adjacent properties at a scale of not less than one inch to one mile.
 2. A north arrow.
 3. The approximate boundaries of each section, land use and proposed density, location of proposed streets and right-of-ways, location of proposed common open space and recreation areas.

4. Each land use section or area of the master plan shall be clearly labeled as:

- Single-family
- Two-family
- Multi-family
- Business uses
- Offices
- Mixed uses
- Open space
- Civic uses

Cases in which mixed uses will be present throughout the entire planned unit development, intended land uses shall be enumerated and designated on the master plan in regards to their location.

5. It shall contain a table showing, for each section or different uses, the use, approximate development phasing, density and maximum number of dwelling units for residential areas, maximum area of square feet for commercial or office areas and maximum acreage of each.

6. Indicate master water, sewer and drainage plans.

7. A design manual for the PUD, to include descriptions and depictions for the following:

a. An overall PUD description establishing the community characteristics, design themes and elements to be incorporated into the PUD, to include concepts relative to bulk, material composition and physical relationships.

b. Proposed typical elevations for all structures, which shall include the following details:

i. Facade materials, to include color(s) to be used.

ii. Building height, depth and length. Building height shall be pursuant to the applicable requirements of the development standards for PUDs, subsection (m)(2).

iii. Roof lines and roof material(s) to be used.

iv. Screening for the air conditioning, heating and electrical systems used for commercial or mixed use buildings. Screening shall be established pursuant to the minimum requirements of the development standards for PUDs, subsection (m)(8).

c. Community design characteristics to include the following details:

i. Functional classifications for internal roads.

ii. Streetscape design within the PUD. Streetscape design shall be established pursuant to the requirements of the development standards for PUDs, subsection (m)(3).

- iii. Proposed setback lines for each road type classified (if applicable).
 - iv. Pedestrian system, including type(s) of impervious surface and/or paving to be used.
- d. Landscape details including plantings and larger specimen tree types and locations, street furniture, site lighting and recreational improvements for the following areas:
- i. Along the perimeter of the PUD.
 - ii. Along major thoroughfares external to the PUD.
 - iii. Internal streets.
 - iv. Common areas.
 - v. Parking lots.

Plantings, larger specimen tree types and site lighting shall be established pursuant to the applicable requirements of the development standards for PUDs .

e. An open space plan, to include areas proposed for passive and active recreational uses, natural and undisturbed areas, and proposed buffer areas around the perimeter of the PUD. The plan shall address how the features described in submission process and documents required for submission, subsection (d)(4)b.6.a. through f., shall be preserved and/or enhanced. Information on the specific design, location and timing of these areas and their ownership and maintenance should be included.

- b. The community impact statement shall be prepared and address:
- 1. Assessment of impact on schools.
 - 2. A public utilities and services plan providing requirements for and provision of all utilities, sewer, public services and public facilities to serve the PUD. This plan shall address:
 - a. Adequacy of existing utilities, water, sewer, public services and public facilities in the vicinity of the PUD.
 - b. Public improvements both offsite and onsite that are proposed for construction and a cost estimate for providing these improvements.
 - 3. A traffic impact study pursuant to the Code of Virginia, § 15.2-2222.1.
 - 4. Economic impact of the proposed project.
 - 5. Employment opportunities to be created by the development.
 - 6. Environmental impact analysis, to include:
 - a. Wetlands determination pursuant to the Army Corps of Engineers manual.
 - b. Topography shown at five-foot contour intervals. Pre-development and post-development storm water runoff amounts shall be provided.
 - c. Groundwater to be impacted to include ponds, lakes, streams, rivers and Chesapeake Bay associated water bodies.

- d. Flood plains.
- e. Tree lines to be impacted. The limits of clearing and where buffers will be installed shall be provided.
- f. Endangered native plant and animal life pursuant to the Virginia Department of Conservation and Recreation's 2003 Natural Heritage Plan.

7. Historic resources to be impacted including, but not limited to, the historic areas identified as historic sites in the 2007 Draft Comprehensive Plan and all historic places designated by the National Register of Historic Places.

(5) The proposed master plan shall be reviewed by all appropriate agencies to ensure that existing or planned public infrastructure can accommodate rezoning for the PUD.

(6) The planning commission shall review the proposed master plan for a recommendation to the board of supervisors after the public hearing has been advertised pursuant to Code of Virginia, § 15.2-2204. The planning commission shall report its recommendation to the board of supervisors after the public hearing. The planning commission shall recommend approval, approval with appropriate modifications, or deny the master plan.

(7) The board of supervisors shall review the proposed master plan, and act to approve, approve with modifications or deny the proposed master plan after receiving a recommendation from the planning commission and after a public hearing has been advertised pursuant to Code of Virginia, § 15.2-2204. Approval of the proposed master plan shall constitute acceptance of the plan's concepts and provisions pursuant to permitted uses in PUD developments, maximum PUD densities, and development standards for PUDs. The plan approved by the board of supervisors shall constitute the final plan for the PUD.

(e) *Revisions to the final master plan.* Major revisions to the approved master plan shall be reviewed at a public hearing before the planning commission and board of supervisors following the procedures and requirements of submission process and documents required for submission subsection of this section.

Major revisions include, but are not limited to, changes such as:

- (1) Density increases in the PUD.
- (2) Changes that intensify permitted uses in the PUD by 20 percent or more.
- (3) Substantial changes in access or circulation.
- (4) Substantial changes in the mixture of dwelling unit's types within the PUD.
- (5) Substantial changes in the mixture of land use types.
- (6) Substantial changes in the amount of acreage devoted to nonresidential uses.
- (7) Reduction of acreage approved for open space, buffering or landscaping.
- (8) Substantial changes in site design or architectural features.
- (9) Any other change that the planning director deems a major change to the approved master plan.

(f) *Minor revisions to the final master plan.* All other changes of the approved master plan shall be considered as minor revisions. The director of planning, upon receipt of a written request of the owner or authorized agent, may approve such minor revisions after consultation and agreement with any other impacted county or state agency.

(1) A request, which is not approved by the director of planning, shall be considered as a major revision and shall be subject to the approval process outlined in submission process and documents required for submission subsection of this section.

(g) Preliminary and final site plan approval.

(1) Following the approval of the final master plan, the owner or the authorized agent shall be required to submit preliminary and final site plans.

(2) Subdivision plans shall be submitted and reviewed simultaneously with the site plan submittal. Subdivision plans shall be submitted pursuant to the applicable requirements of the Prince George County Subdivision Ordinance.

(3) Preliminary and final site plans submitted for review shall conform to the final master plan approved by the board of supervisors. Site plans shall be submitted pursuant to the applicable requirements of the Prince George County Zoning Ordinance.

(h) *Failure to proceed with development.* Failure to submit a preliminary site plan for the PUD or any phase of the PUD within five years of the approval of the final master plan shall initiate a notice from the board of supervisors by certified mail to the applicant/owner to submit an application to the planning department to revert acreage in the PUD to its former zoning classification. The board of supervisors may act to approve the zoning reversion after a public hearing has been advertised pursuant to Code of Virginia, § 15.2-2204. The applicant and owner shall bear all costs associated with the rezoning application and advertising.

(i) *Time extension to submit a preliminary site plan.* The director of planning, upon receipt of a written request of the owner or authorized agent, may grant a time extension beyond five years to submit a preliminary site plan provided; however, such extension shall not exceed one year. The circumstance(s) to validate a time extension shall be deemed appropriate by the director of planning.

(j) *Permitted uses in PUD developments.* Within PUD developments, the following uses are permitted in accordance with an approved master plan:

- (1) Agricultural.
- (2) Single-family residential.
- (3) Two-family residential.
- (4) Multi-family residential.
- (5) Age restricted residential.
- (6) Convenience retail business.
- (7) Neighborhood business.
- (8) Community business.
- (9) Regional business.
- (10) Offices.
- (11) Open space.
- (12) Civic uses.

(k) *Accessory structures and uses.* Accessory structures and uses that are typically subordinate and incidental to the principal use shall be permitted on any parcel within the PUD.

(l) *Maximum PUD densities.* Maximum densities allowable in the PUD shall be established through a recommendation of the planning commission and approval by the board of

supervisors. The density within the PUD shall not exceed that which can be served by adequate public infrastructure either existing or planned at the time of rezoning.

(m) *Development standards for PUDs.*

(1) *Parking.* Off street parking shall be provided in accordance with section 90-861 of the county zoning ordinance.

(2) *Building height.* Single-family detached shall not exceed 35 feet in height. Other residential structures shall be erected to a height not to exceed four stories.

Mixed-use buildings that include residences shall not be less than two stories in height. The first floor of a mixed-use building shall be used for commercial and/or office uses. Residential uses shall not be located on the first floor of a mixed-use building.

Nonresidential structures shall be erected to a height not to exceed 60 feet. Nonresidential structures over four stories shall not be located at the boundaries of land bays with lower maximum height restrictions.

(3) *Landscaping.* All landscaping shall be established pursuant to an approved master plan. Plantings should be of low height with preference given to native and drought-resistant species. Landscaping is also encouraged throughout parking areas of multi-family, office and business development. Larger specimen trees shall be used between parking areas and public rights-of-way. Within large parking areas, planting shall be designed to break up large parking areas into smaller parking areas.

(4) *Site lighting.* Site lighting shall be provided to allow for safe and efficient pedestrian and vehicular movement. Site lighting shall be designed to minimize the trespass of light onto adjacent buildings and glare.

The light fixtures shall serve as way finders and enhance the character of the PUD during the nighttime. Light fixture locations are subject to site plan review pursuant to an approved master plan.

General lighting requirements: Lighting on parcels shall be subject to the following requirements:

a. Downward directional lighting shall be used for all freestanding or building mounted lights on site.

b. Light intensity shall not exceed 0.5 foot-candles above background levels, measured at ground level at any parcel line. Light levels at adjacent parcel lines with similar uses shall be exempt from this requirement.

c. The maximum height for light fixture poles in the following locations is:

1. Pedestrian walks and sidewalks, plazas and open spaces: 16 feet

2. Internal streets: 20 feet

3. Parking areas: 30 feet

d. Site plans for any business or office use that operates during any hour of darkness shall include:

A lighting plan for the entire site to be developed, which shall include a photometric plan, light fixture specifications, and fixture mounting detail. Light sources from business or office sites shall be not directed towards adjoining residential parcels.

(5) *Signage.* Signs shall comply with the requirements set forth in sections 90-1 and 90-1036 of the county zoning ordinance. Signage shall be compatible with the

architecture of the building and are limited to monument signs, building mounted signs placed at a consistent height, signs in shop windows and hanging signs.

(6) *Open space.* Usable open space shall be provided within the PUD. No less than 15 percent of the gross acreage of the PUD shall be usable open space. Natural features such as wetlands and ravines, tree lines or high points of topography may be utilized for residential open space but not counted towards meeting the 15 percent requirement.

Permitted uses shall be pursuant to the definition of usable open space in the subsection (a) of this section.

Improvements in usable open spaces may be used as a credit towards the gross acreage requirement. These improvements shall be reviewed by the planning commission and the board of supervisors pursuant to submission process and documents required for submission section items (5) through (7).

Improvements in usable open space areas shall be maintained and replaced, as necessary, by the homeowners' association.

Undevelopable acreage shall not be applied to meet the usable open space requirement.

Paved sidewalks shall be installed along all roads and streets in residential, office and commercial areas according to VDOT standards for acceptance in the VDOT system for maintenance. Paving shall not be required for walking trails, bridle and bicycle trails that are not in the VDOT rights-of-way.

The edges of the open space area shall be clearly defined through landscaping.

(7) *Natural features.* Natural features such as wildlife habitats, historic sites, and irreplaceable assets shall be preserved to the maximum extent possible.

(8) *Screening.* Screening is required for service, loading and trash areas, as well as, mechanical equipment. Screening shall be constructed in a manner that minimizes views into the areas from adjacent right-of-ways and buildings. Mechanical equipment shall be screened by walls, fences or plantings that are a minimum of five feet in height.

(9) *Vehicular access.* Vehicular access to the internal streets within the PUD shall be established through a boulevard style collector road. Parking areas shall be accessed from internal streets. Access points along internal streets shall align with streets and parking area access that intersect at a common point, where possible, in order to limit conflict points and promote the continuation of those streets. Shared common access points into parking lots shall be established to limit conflict points from internal streets. Cross-access easements between adjacent parking lots shall be established whenever possible to limit conflict points along internal streets. All proposed access points shall be reviewed by the Virginia Department of Transportation for access management. All streets shall meet the standards of and be maintained by the VDOT.

(10) *Architectural standards for village communities.* Architectural standards shall be established for village communities to maintain the character of the village areas to provide assistance and guidance in the maintenance of their historical characteristics.

(11) *Use compatibility.* Business and office uses shall be compatible with residential uses when integrated with such uses. Any traffic, noise, lights generated by business or office uses shall be mitigated by design when integrated with residential uses. Outside storage shall not be permitted. There shall not be any emissions that may have a detrimental effect in the community.

(12) *Age restricted residential communities.* Age restricted residential communities are permitted in PUDs provided that the development is established pursuant to Sections

100.304 through 100.307 of the Department of Housing and Urban Development guidelines.

(13) *Homeowners' association.* A homeowners' association shall be created during the subdivision process when any of the following conditions are proposed:

- a. Alleys, pedestrian access ways and/or sidewalks that are not maintained by the Virginia Department of Transportation.
- b. Commonly held parcels or open space are proposed.
- c. Storm water management infrastructure/best management practices located on a commonly held parcel.

(n) *Modifications to development standards.* The planning commission may grant modifications to development standards established in this section. Modifications may be granted with or without conditions. The owner or authorized agent shall submit an application to the planning department to request modifications to development standards. The planning commission shall review this request after the public hearing has been advertised pursuant to Code of Virginia, § 15.2-2204.

(1) No development standard modification shall be authorized by the planning commission unless substantial compliance has been determined for the following factors, as applicable:

- a. By reason of the exceptional size and/or shape of the parcel or parcels or by reason of exceptional topographic conditions when strict application of the terms in this section would prevent or reasonably restrict the use of the parcel or parcels.
- b. The granting of the modification will provide relief from a clearly demonstrated hardship. This hardship shall be distinguishable from a special privilege or convenience.
- c. The modification will not endanger the public safety, health or general welfare of adjacent parcel owners; and will not change the character of the PUD.
- d. The modification will comply with the comprehensive plan.

(Ord. No. O-07-03, 6-12-2007)

State law references: Advertisement of plans, ordinances, etc.; joint public hearings; written notice of certain amendments, Code of Virginia § 15.2-2204 and coordination of state and local transportation planning, Code of Virginia § 15.2-2222.1

Sec. 90-1040. Variances Granted by the Administrator.

(a) Pursuant to Section 15.2-2286, of the Code of Virginia (1950), as amended, and in accordance with the following criteria, the Administrator shall be granted to authorize variances from the setback and yard requirements of this chapter upon the following conditions:

- (1) The Administrator shall find in writing that:
 - a. The strict application of the ordinance would produce an undue hardship;
 - b. Such hardship is not shared generally by other properties in the same zoning district and same vicinity; and
 - c. The authorization of the variance will not be of substantial detriment to adjacent property; and
 - d. The granting of the variance will not change the character of the zoning district.
- (2) A variance granted by the Administrator shall be the minimum necessary to relieve the hardship.
- (3) Prior to the granting of a variance, the Administrator shall give all adjoining property owners, as shown on the current real estate tax assessment records of the County, written notice of the request for the variance. Such owners shall be given an opportunity to respond to the request within twenty-one (21) days of the date of the notice. If any adjoining property owner objects to said request in writing within the time specified above, the request shall be transferred to the Board of Zoning Appeals for decision in accordance with the Rules of Procedure for the Board.
- (4) Applications for variances authorized by this section shall be submitted to the Administrator on forms provided by the Administrator, and shall be accompanied by a fee as set forth in the County fee schedule.

(b) The Administrator shall be authorized to grant variances from:

- (1) The interior side yard and rear yard requirements of this chapter for single-family dwellings and nonprofit uses and their accessory structures; provided that no such variance is greater than (50) percent of the requirement contained in this chapter.
- (2) The setback regulations of this chapter for single-family dwellings and nonprofit uses; provided that no such variance is greater than fifty (50) percent of the requirement contained in this chapter.

(Ord. No. O-09-07A, 10-13-09)

ARTICLE XXIV. CLO CLUSTER OVERLAY DISTRICT

Section 90-1050 CLO Cluster Overlay District

Ordinance O-11-23 (October 11, 2011)

An Ordinance to Amend The Code of the County of Prince George, 2005, as amended, by repealing §§ 90-1050, 90-1050.2, 90-1050.4, 90-1050.6, 90-1050.8, 90-1050.10, 90-1050.12, 90-1050.14, 90-1050.16, and 90-1050.18, in order to eliminate Cluster Development as a “By-Right” use option in A-1, R-A, R-E, R-1, R-2 and R-3 zones with the Cluster Overlay District as shown on the map dated October 27, 2009.

Be it ordained by the Board of Supervisors of Prince George County:

§§ 90-1050, 90-1050.2, 90-1050.4, 90-1050.6, 90-1050.8, 90-1050.10, 90-1050.12, 90-1050.14, 90-1050.16, and 90-1050.18, of The Code of The County of Prince George, Virginia, 2005, was repealed.