CODE OF THE TOWN OF APPOMATTOX

Published in 2024 by Order of the Town Council

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Town Manager

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PREFACE

This Code constitutes a recodification of the general and permanent ordinances of the Town of Appomattox, Virginia.

Source materials used in the preparation of the Code were the 2003 Code and ordinances subsequently adopted by the town council. The source of each section is included in the history note appearing in parentheses at the end thereof. The absence of such a note indicates that the section is new and was adopted for the first time with the adoption of this Code. By use of the comparative tables appearing in the back of this Code, the reader can locate any section of the 2003 Code and any subsequent ordinance included herein.

Acknowledgments

This publication was under the direct supervision of Daniel F. Walker, Code Attorney, and Emma J. Cyphers, Editor, of CivicPlus, LLC, Tallahassee, Florida. Credit is gratefully given to the other members of the publisher's staff for their sincere interest and able assistance throughout the project.

The publisher is most grateful to Ms. Roxanne Casto for her cooperation and assistance during the progress of the work on this publication. It is hoped that her efforts, those of other town officials, and those of the publisher have resulted in a Code of Ordinances which will make the active law of the town readily accessible to all citizens and which will be a valuable tool in the day-to-day administration of the town's affairs.

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PART I - CHARTER

Town of Appomattox

County of Appomattox

Current charter

Incorporation and charter, 2 June 1925, granted by the Circuit Court of Appomattox County.

Footnotes:
*--- (**1**) ---*
***Editor's note—** Printed herein is the Town Charter, as contained in the order of the Circuit Court of the County of Appomattox of June 2, 1925, granting a Charter to the Town of Appomattox. The sections in the Acts of Assembly indicated below amend the Circuit Court Charter; the original is not in the Acts. The sections listed here are from the printed volume of the ordinances of the Town of Appomattox, they are not from the original court order.*
Amendments to current Charter are as follows:
1958, c. 93 (§ 16)
1978, c. 100 (§ 22)
1980, c. 43 (§§ 1, 2 [repealed], 3 [repealed], 4, 12)
1983, c. 315 (§§ 15, 18 [repealed])
2008, c. 286 (§§ 5, 7, 8 [repealed], 11)
2021 Special Session I, cc. 134, 135 (§§ 1, 4)
2022, cc. 321, 637 (§§ 1, 4)
The amendments to the Charter are indicated by parenthetical history notes following amended provisions. The absence of a history note indicates that the provision remains unchanged from the original Charter. Obvious misspellings and punctuation errors have been corrected without notation. For stylistic purposes, a uniform system of headings, catchlines and citations to state statutes has been used. Additions made for clarity are indicated by brackets.

Sec. 1. - Election and appointment of officers, etc.

There shall be elected by the qualified voters of said town one elector thereof who shall be denominated the mayor, and six electors, who shall be denominated the councilmen of said town. The mayor and six councilmen shall constitute the council of said town. The town council shall have the authority to appoint or employ a town clerk, a treasurer, a commissioner of revenue, a town manager, a health or sanitary officer, and such other officers as it may deem appropriate for the proper conduct of government of the town. The same person may serve in one or more of such capacities. The town council shall have the power to fix the salaries and compensation of said employees and appointees as necessary, but such compensation shall be fixed by said council before the individual chosen shall assume the duties of office. The town council may also appoint committees and boards and prescribe and fix their duties. (1925; 1980, c. 43; 2021 Special Session I, cc. 134, 135; 2022, cc. 321, 637)

Sec. 2. - (1925; repealed 1980, c. 43)

Sec. 3. - (1925; repealed 1980, c. 43)

Sec. 4. - Terms of office; vacancy and how filled.

The mayor and members of council in office on July 1, 2021, shall continue in office until the expiration of the terms for which they were elected or until their successors are elected and qualified. At the next election of members to the town council held on the Tuesday following the first Monday in November 2022, the three council candidates receiving the greatest number of votes shall be elected for four-year terms, and the three council candidates receiving the next greatest number of votes and the mayor shall be elected for two-year terms. Thereafter, the councilmembers shall be elected for terms of four years, and the mayor shall be elected for a term of two years, or until their successors are elected and qualified. An election shall be held on the Tuesday following the first Monday in November 2024 for the three council seats first expiring and for the mayor, and on the Tuesday following the first Monday in November 2026 for the three council seats next expiring and for the mayor. Elections thereafter shall be held every two years on the Tuesday following the first Monday in November. The term of each person elected under this section at a November election shall begin on January 1 next following the election. In case of a vacancy in the office of mayor, or councilmen, elected by the electors of said town, caused by death, resignation or otherwise, such vacancy shall be filled by a majority vote of the town council from the electors of the town for the unexpired term. (1925; 1980, c. 43; 2021 Special Session I, cc. 134, 135; 2022, cc. 321, 637)

Sec. 5. - Mayor's authority, duties and right to vote.

The mayor shall preside over the meetings of the town council and shall have the same right to speak therein as the councilmen. However, he shall not have the right to vote except in the case of a tie, in which event he shall be entitled to cast one vote. He shall be recognized as the head of the town for all ceremonial purposes, the purposes of military law, and the service of civil process. (1925; 2008, c. 286)

Sec. 6. - Enactment of ordinances and veto power of mayor.

Every ordinance, or resolution having the effect of an ordinance, shall, before it becomes operative, be presented to the mayor. If he approves, he shall sign it, but if not, he shall return it to the clerk of the council; and the council shall enter the objection at length on its journal and proceed to reconsider it. If after such reconsideration two-thirds of all the members elected to the council shall agree to pass the ordinance or resolution, it shall become operative, notwithstanding the objections of the mayor. If any ordinance or resolution shall not be returned by the mayor within five days (Sunday excepted), and after it shall have been presented to him, it shall become operative in like manner as if he had signed it, unless his term of office or that of the council shall expire within the said five days. (1925)

Sec. 7. - Appointment of town manager; powers and duties of town manager.

There shall be a town manager who shall be the chief operating officer of the town and shall be responsible to the town council for the proper administration of the town government. He shall be appointed by the town council for an indefinite period and shall hold office during the pleasure of the town

council. The town manager shall also have the following duties and powers, subject to the approval of council:

1. To see that all laws and ordinances are enforced.
2. To exercise supervision and control over all administrative departments and divisions.
3. To attend all regular meetings of the town council, with the right to take part in the discussion, but having no vote.
4. To recommend to the town council for adoption such measures as he may deem necessary or desirable.
5. To keep the town council advised as to the present and future needs of the town and as to all operations of its government.
6. To perform all such duties as may be prescribed by the charter, or be required of him by the town council. (1925; 2008, c. 286)

Sec. 8. - (1925; repealed 2008, c. 286)

Sec. 9. - Mayor's annual report to council.

The mayor shall communicate to the town council annually, at the beginning of each fiscal year, or oftener, if he be required, a general statement of the condition of the town in relation to its government, finances and improvements, with such recommendations as he may deem proper; and may from time to time communicate to the council such suggestions and recommendations as he shall deem proper. (1925)

Sec. 10. - President pro tempore.

In case of the absence or inability of the mayor, the president pro tempore of the council, to be chosen by a majority of the council present at a legal meeting or, in his absence or inability, some other member of the council chosen in the same manner, shall possess the same power and discharge the municipal duties of the mayor during such absence or inability. (1925)

Sec. 11. - Oath of office; bonds.

Every person elected a councilman of said town shall take an oath faithfully to execute the duties of his office, to the best of his judgment; the person elected mayor shall take the oath prescribed by law for state officers, and the person appointed treasurer shall likewise take the same form of oath as the mayor, and shall give bond, with corporate surety, in a penalty to be fixed by the town council, payable to the town by its corporate name, and with condition for the faithful discharge of his duties, and it shall be his especial duty to collect all taxes and levies of the town, receive all fines for the violation of the town ordinances,

receive all license fees and tax imposed by the town council, issue all licenses and keep accurate account of the same, and publish a statement of all collections and disbursements of said town, and not in conflict with the general law of the State of Virginia. (1925; 2008, c. 286)

Sec. 12. - General powers of council.

The council of said town shall have power to lay off streets, walks, and alleys, construct, alter, improve and light the same and keep the same in good order, and assess the adjacent owner or owners with such amount as it may deem best for local improvements to the extent permitted by the Constitution of Virginia and the general laws of this state, to lay off public grounds and provide all buildings proper for the town; to provide a prison house; to prescribe the time for holding markets and regulate the same; to prevent injury or annoyance from anything dangerous, offensive, or unhealthy, and cause any nuisance to be abated; to regulate the keeping of gunpowder and other combustibles, and provide magazines for the same; to provide in or without the town water works and places for the interment of the dead; to prevent the pollution of water and injury to water works; to make regulations for the protection of the public health; to make regulations for the purpose of guarding against danger from accidents by fire; to provide for the weighing or measuring of hay, coal and other articles for sale, and regulate the transportation thereof through the streets; protect the property of the town and its inhabitants, and preserve peace and good order therein. For carrying into effect these and other powers, they may make ordinances and bylaws and prescribe fines or other punishments for violation thereof as permitted by general law.

The town shall have all powers that may be conferred upon or delegated to towns under the Constitution and laws of the Commonwealth of Virginia, including, but not limited to, those powers set forth in Code of Virginia, §§ 15.1-837 through 15.1-907. (1925; 1980, c. 43)

Sec. 13. - Public streets, alleys and walkways.

All streets, cross streets, roads and walkways, which have already been laid off and opened to the public, by the proper authorities, and now used by the public as such, and all streets, cross streets, alleys, roads and walkways, which may have heretofore been opened and used as such according to law, or which may at any time be located, surveyed and opened in said town, or any extension of the same, within the corporate limits of the town, shall be and they are hereby established as public streets, alleys, roads and walkways of the town. (1925)

Sec. 14. - Dedication of streets, alleys and walkways.

Any street, alley, or walkway heretofore or hereafter reserved or laid out in the division or subdivision into lots of any portion of the territory within the corporate limits of the town, by a plan or plat of record, shall be deemed and held to be dedicated to public use as and for public streets, alleys or walkways, as the case may be, of the town, unless it appears by said record that the street, alley or walkway so reserved is

designated for private use, and whenever any street, sidewalk, alley, walkway, or lane in the town shall have been opened and used as such by the public for the period of five years the same shall thereby become a street, alley, walkway or lane for public purposes, unless notice of the contrary intention on the part of the land owner be given in writing to the mayor of the town, who shall report the receipt of such notice to the council that it may be spread on the journal; and the council shall have the same authority and jurisdiction over, and right and interest therein, as they have by law over the streets, alleys, and walkways and lanes laid out by them. (1925)

Sec. 15. - Quorum and procedure; tax and debt.

The council of the said town, four members whereof shall constitute a quorum for the transaction of business, may adopt rules for the regulation of their proceedings, but no tax shall be levied or corporate debt contracted unless by a vote of two-thirds of the council, which vote shall be taken by the yeas and nays, and recorded on the journal, and such debt shall be subject to such limitation as to amount as provided in the Constitution and general laws of the Commonwealth of Virginia. The mayor shall preside over the council, and when he is absent they may appoint one of their number president pro tempore. A journal shall be kept of their proceedings and, at the request of any member present, the yeas and nays shall be recorded on any question. At the next meeting, the proceedings shall be read and signed by the person who was presiding when the previous meeting adjourned, or, if he be not present, by the person presiding when they were read. (1925; 1983, c. 315)

Sec. 16. - Council may impose tax, require license.

In addition to the state tax on any license, the council of said town may, except when prohibited by general law, on anything for which a license is so required in said town, or deemed necessary by the council, impose a tax for the privilege of doing the same, and require a license to be obtained, and said council may, in any case in which they see fit, require from the person or corporation or firm so licensed bond, with sureties in such penalty, and with such condition as they may deem proper, or make other regulations concerning the same. They may also impose a tax and require a license to be obtained on all automobiles operated in said town, owned by persons, firms or corporations living within said town, and for the privilege of keeping in the town for hire any automobiles, autobus, truck or other wheeled carriage. (1925; 1958, c. 93)

Sec. 17. - Powers of council generally.

The council of said town shall have power and authority to organize and maintain one or more fire companies; to restrain and punish drunkards, vagrants and street beggars; to prevent vice and immorality, obscenity, and profanity; to preserve peace and good order; to prevent and quell riots, disturbances and disorderly assemblages; to suppress houses of ill fame and gambling houses; to prevent lewd, indecent, and disorderly conduct or exhibitions in said town, and to expel therefrom persons guilty of such conduct; to

prevent, forbid and punish the storing, transporting, selling, making and giving away of intoxicating liquors and beverages; to control and regulate the sale of and control the firing of guns, pistols and other firearms and fireworks in the said town; to regulate the use, speed and parking of cars and vehicles on the streets of said town, and running of horses, and the running at large in the limits of said town of hogs, cows, horses, mules and other animals, and other disorders; and may make such rules and regulations and fix such punishment for the violation thereof, and prohibit and punish the doing of all other things prohibited by state law, as may be deemed proper and not in conflict with the statute laws of the State of Virginia. (1925)

Sec. 18. - (1925; repealed 1983, c. 315)

Sec. 19. - Road district and road tax.

In consideration that the said town shall work and keep in order all streets, alleys and roads within its corporate limits, except state highways, the residents and property therein shall be exempt from the payment of all county and district road taxes heretofore or hereafter charged and levied against the same, and for this purpose the council of said town may impose a tax on all property mentioned under § 20 hereof, not to exceed thirty-five cents on the one hundred dollar value thereof, which shall be in addition to the tax levy authorized in §§ 17 and 20 hereof, and the Town of Appomattox shall constitute a separate road district in the County of Appomattox. (1925)

Sec. 20. - Special license tax on shows, etc.

The said council shall also have power to impose a special license tax on all shows, performances and exhibitions which may be given in said town (except for schools, religious and literary entertainments) and jurisdiction of the corporation authorities of said town for the purpose of imposing and collecting said license tax on shows, performances and exhibitions shall extend one mile beyond the corporate limits thereof. (1925)

Editor's note— The language in § 21 is from the copy of the charter sent from the Clerk of the Court; it is not from a copy of the court order. There was no repeal of this section in the Acts of Assembly.

Sec. 21. - Powers and jurisdiction of members of council.

The provisions of § 21, concerning the judicial powers of the mayor and town council, have been deleted since they were superseded by state law reorganizing the judicial system of the state. (1925)

Sec. 22. - How to create bonded indebtedness.

The council of the town shall have authority to create bonded debts in the name of the town as provided in the Constitution and general laws of the Commonwealth of Virginia, for such purpose. (1925; 1978, c. 100)

Sec. 23. - Enactment of ordinances.

For carrying into effect the powers granted by this Charter and general laws of this state, the town council may make ordinances and bylaws, and prescribe the fines and other punishment for violation thereof, but no general ordinance or bylaws or regulation having the effect of an ordinance shall become operative until published in some newspaper published in the town, or until publicly posted in the town at such place or places as the council may direct, but any ordinance establishing a town code shall be taken as duly published when copies thereof have been printed and made available for the public. (1925)

Sec. 24. - Use of county jail.

The Town of Appomattox shall have the use of the jail of the County of Appomattox to aid the constituted authorities of said town in maintaining peace and good order, and generally for the enforcement of its ordinances and bylaws, unless for good cause the judge of said county shall prohibit such use. (1925)

Chapter 1 - GENERAL PROVISIONS

ARTICLE I. - IN GENERAL

Footnotes:
*--- **(1)** ---*
***State Law reference—** Definitions and rules of construction, Code of Virginia, § 1-202 et seq.*

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

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

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

Code. The term "Code" refers to this Code of Ordinances, unless the context dictates otherwise.

Code of Virginia. References to the Code of Virginia or to portions thereof, unless otherwise indicated, shall be to Code of Virginia, 1950, as now or hereafter amended and currently in effect.

Commissioner of the revenue. The term "commissioner of the revenue" means the commissioner of the revenue of the county.

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

proceeding is to be had shall not be counted.

State Law reference— Computation of time, Code of Virginia, § 1-210.

Council. Wherever the term "council" is used, it shall be construed to mean the council of the Town of Appomattox.

County. The term "county" shall be construed as if the words "of Appomattox" followed it.

Gender. Words of gender include all genders.

State Law reference— Similar provisions, Code of Virginia, § 1-216.

Joint authority. All words giving a joint authority to three or more officers or other persons shall be construed as giving such authority to a majority of such officers or other persons, unless it is otherwise expressly declared in the section giving authority.

Month. The term "month" means a calendar month.

State Law reference— Similar provisions, Code of Virginia, § 1-223.

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

State Law reference— Similar provisions, Code of Virginia, § 1-227.

Oath. The term "oath" shall be construed to include an affirmation in all cases in which by law an affirmation may be substituted for an oath.

State Law reference— Similar provisions, Code of Virginia, § 1-228; when affirmation may be made, Code of Virginia, § 49-9.

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

Officer, department, board, commission. Any reference to an officer, department, board or commission shall be construed as if followed by the words "of the Town of Appomattox, Virginia."

Other terms. The rules of construction given in Code of Virginia, § 1-202 et seq., shall govern, so far as applicable, the construction of all other terms not defined in this section.

Owner. The term "owner," applied to a building or land, includes any part owner, joint owner, tenant in common, tenant in partnership, joint tenant or tenant by the entirety of the whole or a part of such building or land.

Person. The term "person" includes any individual, group, organization, firm, corporation, partnership, association, society, company, business, trust, joint venture or other legal entity.

State Law reference— Similar provisions, Code of Virginia, § 1-230.

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

Shall, may. The term "shall" is mandatory; the term "may" is permissive.

Sidewalk. The term "sidewalk" means any portion of a street between the curblines, or the lateral lines of a roadway where there is not a curb, and the adjacent property line intended for the use of pedestrians.

Signature, subscription. The terms "signature" and "subscription" include a mark when a person cannot write.

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

State Law reference— "State" defined, Code of Virginia, § 1-245.

Street. The term "street" means the entire width between the boundary lines of every way or place open to the use of the public for purposes of vehicular travel in the town, including the streets and alleys, and, for law enforcement purposes, the entire width between the boundary lines of all private roads or private streets which have been specifically designated highways by an ordinance adopted by the council.

State Law reference— "Highway" defined, Code of Virginia, § 46.2-100.

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

State Law reference— Similar provisions, Code of Virginia, § 1-250; when affirmation may be made, Code of Virginia, § 49-9.

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

Town. The term "town" means the Town of Appomattox in the State of Virginia.

State Law reference— "Town" defined, Code of Virginia, § 1-254.

VAC. The abbreviation "VAC" refers to the Virginia Administrative Code.

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

State Law reference— Similar provisions, Code of Virginia, § 1-257.

Year. The term "year" shall be construed to mean a calendar year. The term "year" alone shall be equivalent to the expression "year of our Lord."

(Code 2003, § 1-1)

Secs. 1-2—1-20. - Reserved.

ARTICLE II. - GENERAL PENALTY

Sec. 1-21. - Violations and penalties; application of mandatory penalties under state law; continuing violations.

(a) The authorized punishments for conviction of a misdemeanor are:
    (1) For Class 1 misdemeanors, confinement in jail for not more than 12 months and a fine of not more than $2,500.00, either or both.
    (2) For Class 2 misdemeanors, confinement in jail for not more than six months and a fine of not more than $1,000.00, either or both.
    (3) For Class 3 misdemeanors, a fine of not more than $500.00.
    (4) For Class 4 misdemeanors, a fine of not more than $250.00.

(b) Wherever in this Code or in any other ordinance or resolution of the town or rule or regulation promulgated by an officer or agency of the town, under authority vested in said officer or agency, any act is prohibited or is made or declared to be unlawful or an offense or misdemeanor, or the doing of any act is required, or the failure to do any act is declared to be unlawful or an offense or misdemeanor, where no specific penalty is provided therefor, the violation of any such provision of this Code, any ordinance, resolution, rule or regulation shall be a Class 1 misdemeanor; provided that such penalty shall not exceed the penalty provided by the Code of Virginia for a like offense.

(c) If the penalty provided in subsection (b) of this section is in conflict with any mandatory penalty for a similar offense under the laws and statutes of the state, the penalty provided by the laws and statutes of the state shall be enforced and not the penalty provided in subsection (b) of this section.

(d) Each day any violation of this Code or of any other such ordinance, resolution, rule or regulation of the town shall continue shall constitute a separate offense, except where otherwise provided.

(Code 2003, § 1-2)

Secs. 1-22—1-46. - Reserved.

ARTICLE III. - ADOPTION OF CODE

Footnotes:
*--- (**2**) ---*
***State Law reference—** Authority to codify ordinances, Code of Virginia, § 15.2-1433.*

Sec. 1-47. - Continuation of existing provisions.

The provisions of this Code, insofar as they are substantively the same as those of ordinances and resolutions in force immediately prior to the enactment of this Code, are intended as a continuation of such ordinances and resolutions and not as new enactments, and the effectiveness of such provisions shall date from the date of adoption of the prior ordinance or resolution. All such provisions are hereby continued in full force and effect and are hereby reaffirmed as to their adoption by the council, and it is the intention of said council that each such provision contained within this Code is hereby reaffirmed as it appears in said Code. Only such provisions of former ordinances as are omitted from this Code shall be deemed repealed or abrogated by the provisions of section 1-48.

(Code 2003, § 1-4; Ord. of 2-28-2006)

Sec. 1-48. - Repeal of enactments not included in Code.

All ordinances of a general and permanent nature of the town in force on the date of the adoption of this Code, and not contained in such Code or recognized and continued in force by reference therein, are hereby repealed from and after the effective date of this Code.

(Code 2003, § 1-5; Ord. of 2-28-2006)

Sec. 1-49. - Enactments saved from repeal; matters not affected.

The repeal of ordinances provided for in section 1-48 shall not affect the following classes of ordinances, rights and obligations, which are hereby expressly saved from repeal:

(1) Any right or liability established, accrued or incurred under any legislative provision of the town prior to the effective date of this Code or any action or proceeding brought for the enforcement of such right or liability.

(2) Any offense or act committed or done before the effective date of this Code in violation of any legislative provision of the town or any penalty, punishment or forfeiture which may result therefrom.

(3) Any prosecution, indictment, action, suit or other proceeding pending or any judgment rendered prior to the effective date of this Code brought pursuant to any legislative provision of the town.

(4) Any agreement entered into or any franchise, license, right, easement or privilege heretofore granted or conferred by the town.

(5) Any ordinance of the town providing for the laying out, opening, altering, widening, relocating, straightening, grade establishing, name changing, improvement, acceptance or vacation of any right-of-way, easement, street, road, highway, park or other public place within the town or any portion thereof.

(6) Any ordinance of the town appropriating money or transferring funds, promising or guaranteeing the payment of money or authorizing the issuance and delivery of any bond of the town or other instruments or evidence of the town's indebtedness.

(7) Ordinances authorizing the purchase, sale, lease or transfer of property or any lawful contract, agreement or obligation.

(8) The levy or imposition of special assessments or charges.

(9) The annexation or dedication of property.

(10) Any ordinance relating to salaries and compensation.

(11) Any ordinance amending the zoning map.

(12) Any ordinance relating to or establishing a pension plan or pension fund for town employees.

(13) Any ordinance or portion of an ordinance establishing a specific fee amount for any license, permit or service obtained from the town.

(14) Any ordinance adopted subsequent to the date of adoption of the last ordinance used in this Code adopted in 2023.

(Code 2003, § 1-6; Ord. of 2-28-2006)

Sec. 1-50. - Severability.

If any clause, sentence, paragraph, section, article, chapter or part of this Code or of any ordinance or resolution included in this Code now or through supplementation shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof but shall be confined in its operation to the clause, sentence, paragraph, section, article, chapter or part thereof directly involved in the controversy in which such judgment shall have been rendered.

(Code 2003, § 1-7; Ord. of 2-28-2006)

Sec. 1-51. - Copy of Code on file.

A copy of this Code, in loose-leaf form, has been filed in the office of the town clerk and shall remain there for use and examination by the public until final action is taken on this Code; and, if this Code shall be adopted, such copy shall be certified by the town clerk by impressing thereon the seal of the town, and such certified copy shall remain on file in the office of said town clerk to be made available to persons desiring to

examine the same during all times while said Code is in effect. The enactment and publication of this Code, coupled with the availability of a copy of this Code for inspection by the public, shall be deemed, held and considered to be due and legal publication of all provisions of this Code for all purposes.

(Code 2003, § 1-8; Ord. of 2-28-2006)

Sec. 1-52. - Designation and citation of Code; amendments to Code.

Any and all additions, deletions, amendments or supplements to any of the ordinances and resolutions known collectively as the "Code of the Town of Appomattox" or any new ordinances or resolutions, when enacted or adopted in such form as to indicate the intention of the council to be a part thereof, shall be deemed to be incorporated into such Code so that reference to this Code shall be understood and intended to include such additions, deletions, amendments or supplements. Whenever such additions, deletions, amendments or supplements to this Code shall be enacted or adopted, they shall thereafter be printed and, as provided hereunder, inserted in the loose-leaf book containing said Code as amendments and supplements thereto. Nothing contained in this Code shall affect the status of any ordinance or resolution contained herein, and such ordinances or resolutions may be amended, deleted or changed from time to time as the council deems desirable.

(Code 2003, § 1-9; Ord. of 2-28-2006)

Sec. 1-53. - Code book to be kept up to date.

It shall be the duty of the town clerk to keep up to date the certified copy of the book containing this Code required to be filed in the office of the town clerk for use by the public. All changes in said Code and all ordinances and resolutions adopted by the council subsequent to the enactment of this Code in such form as to indicate the intention of said council to be a part of said Code shall, when finally enacted or adopted, be included therein by temporary attachment of copies of such changes, ordinances or resolutions until such changes, ordinances or resolutions are printed as supplements to said Code book, at which time such supplements shall be inserted therein.

(Code 2003, § 1-10; Ord. of 2-28-2006)

Sec. 1-54. - Sale of Code book; supplementation.

Copies of this Code, or any chapter or portion of it, may be purchased from the town clerk, or an authorized agent of the clerk, upon the payment of a fee to be set by resolution of the council. The clerk may also arrange for procedures for the periodic supplementation of this Code.

(Code 2003, § 1-11; Ord. of 2-28-2006)

Sec. 1-55. - Penalties for tampering with Code.

Any person who alters or tampers with this Code in any manner whatsoever which will cause the legislation of the town to be misrepresented thereby or who violates any other provision of this Code shall be guilty of an offense and shall, upon conviction thereof, be guilty of a Class 4 misdemeanor.

(Code 2003, § 1-12; Ord. of 2-28-2006)

Sec. 1-56. - Changes in previously adopted legislation; new provisions.

In compiling and preparing the ordinances and resolutions for publication as this Code, no changes in the meaning or intent of such ordinances and resolutions have been made. In addition, certain grammatical changes and other minor non-substantive changes were made in one or more of said pieces of legislation. It is the intention of the council that all such changes be adopted as part of this Code as if the ordinances and resolutions had been previously formally amended to read as such.

(Code 2003, § 1-13; Ord. of 2-28-2006)

Chapter 2 - ADMINISTRATION

Footnotes:
*--- (**1**) ---*
State Law reference— *The Virginia Freedom of Information Act, Code of Virginia, § 2.2-3700 et seq.; State and Local Government Conflict of Interests Act, Code of Virginia, § 2.2-3100 et seq.; Virginia Public Procurement Act, Code of Virginia, §§ 2.2-4300, 2.2-4343; liability insurance or self-insurance for officers, employees, etc., Code of Virginia, § 15.2-1518; photographing, recording, etc., of records, Code of Virginia, § 15.2-1412; purchase of recycled paper, Code of Virginia, § 15.2-938; municipal ordinances generally, Code of Virginia, § 15.2-1307; fiscal year for certain local governments, Code of Virginia, §§ 15.2-2500, 15.2-2503; creation of service districts, Code of Virginia, §§ 15.2-2400, 15.2-2401, 15.2-2402 and 15.2-2403; fee for bad checks, Code of Virginia, § 15.2-105; oath of local officers, Code of Virginia, §§ 15.2-1522, 49-1; budget procedures, Code of Virginia, § 15.2-2500 et seq.; Public Finance Act of 1991, Code of Virginia, § 15.2-2600 et seq.; Virginia Public Records Act, Code of Virginia, § 42.1-76 et seq.*

ARTICLE I. - IN GENERAL

Sec. 2-1. - Execution of deeds and instruments.

All deeds for the conveyance or exchange of the property of the town and all agreements or other instruments requiring the seal of the town to be affixed thereto shall be, when authorized by the mayor and council, signed in the name of the town by the mayor, and the seal of the town shall be affixed thereto and attested by the clerk of the council.

(Code 2003, § 5-1; Ord. of 12-8-2008)

State Law reference— Affixing seals to papers, Code of Virginia, §§ 1-241, 11-3.

Secs. 2-2—2-20. - Reserved.

ARTICLE II. - TOWN COUNCIL

DIVISION 1. - GENERALLY

Secs. 2-21—2-43. - Reserved.

DIVISION 2. - COMMITTEES

Sec. 2-44. - Standing committees; appointment.

The mayor shall appoint, at the first meeting after the election of the mayor and council, or as soon thereafter as practical, the following standing committees of the council:

(1) Finance and planning committee.

(2) Physical development committee.

(Code 2003, § 5-3; Ord. of 12-8-2008; Ord. of 6-13-2011)

Sec. 2-45. - Standing committees; composition; chairperson.

Each standing committee of the council, appointed as provided in section 2-44, shall be composed of three members of the council, one of whom shall be designated by the mayor as chairperson. The mayor shall serve as an ex officio member of each committee.

(Code 2003, § 5-4; Ord. of 12-8-2008; Ord. of 6-13-2011)

Sec. 2-46. - Standing committees; examinations and reports.

The standing committees shall examine such matters as come within their respective jurisdictions and also any matter referred to any such committee. Upon request, the committee shall report thereon to the mayor and council.

(Code 2003, § 5-5; Ord. of 12-8-2008)

Sec. 2-47. - Recommendation of ordinances levying taxes and assessments.

The finance committee of the council shall recommend to the council all ordinances levying taxes, assessments or license taxes.

(Code 2003, § 5-6; Ord. of 12-8-2008)

Sec. 2-48. - Special committees.

It shall be the duty of the mayor, unless otherwise directed, to appoint any special committee that the council may order.

(Code 2003, § 5-7; Ord. of 12-8-2008)

Secs. 2-49—2-69. - Reserved.

DIVISION 3. - MEETINGS

Sec. 2-70. - Time and place.

The mayor and council shall meet on the second Monday of each month in the town office and shall also meet at any other time to which the council may adjourn or be regularly called. If the second Monday of the month is a holiday, the meeting shall be held on the following day.

(Code 2003, § 5-8; Ord. of 12-8-2008)

State Law reference— The Virginia Freedom of Information Act, Code of Virginia, § 2.2-3700 et seq.; council convened by mayor or three members, Code of Virginia, title 15.2, ch. 14.

Sec. 2-71. - Robert's Rules of Order.

The proceedings of the council, except as otherwise provided in this article, shall be governed by Robert's Rules of Order.

(Code 2003, § 5-9; Ord. of 12-8-2008)

Sec. 2-72. - Procedure in absence of quorum.

If a quorum fails to attend within 30 minutes after the time appointed for meeting, the clerk of the council shall enter on the journal the names of those in attendance and the fact of adjournment for want of a quorum. If a quorum fails to attend on the day of any regular meeting, the meeting shall stand adjourned to the next day of meeting, or at such other time as those present may designate.

(Code 2003, § 5-10; Ord. of 12-8-2008)

Sec. 2-73. - Minutes of meeting.

The proceedings at any meeting shall be read at the next meeting and, after the errors appearing therein, if any, are corrected, such minutes shall be signed by the person who was presiding when the previous meeting adjourned or, if said person is not present, by the person presiding when they were read.

(Code 2003, § 5-11; Ord. of 12-8-2008)

Sec. 2-74. - Propositions to be seconded; withdrawal of seconded propositions.

No proposition shall be entertained by the mayor until it has been seconded. No proposition, after it has been seconded, shall be withdrawn without the consent of the member proposing and the member seconding such proposition.

(Code 2003, § 5-12; Ord. of 12-8-2008)

Sec. 2-75. - Mayor to preserve order; appeal from mayor on ruling on question of order.

The mayor shall preserve order and decide all questions of order. Any member may appeal to the council from the decision of the mayor on any question of order. A majority vote of those present shall decide the issue.

(Code 2003, § 5-13; Ord. of 12-8-2008)

Sec. 2-76. - Calling the previous question.

The previous question may be called at any time by two members of the council.

(Code 2003, § 5-14; Ord. of 12-8-2008)

Sec. 2-77. - Motions while question is under debate.

When a question is under debate, no motion shall be received unless it is one to amend, to commit, to postpone, for the previous question, to table or to adjourn.

(Code 2003, § 5-15; Ord. of 12-8-2008)

Sec. 2-78. - Members to vote on question.

Every member present when a question is put on an ordinance or resolution shall, unless interested or excused from voting by the mayor and council, vote on one or the other side of such question.

(Code 2003, § 5-16; Ord. of 12-8-2008)

Sec. 2-79. - Recording of vote.

At the request of any member present, the ayes and nays on any question shall be recorded.

(Code 2003, § 5-17; Ord. of 12-8-2008)

Sec. 2-80. - Voting on money and election measures.

There shall be a recorded vote on every ordinance having for its object the levying of taxes, appropriating of money or elections. Levies, taxes, appropriations of money and contracting a corporate debt must be by a vote of at least two-thirds of the entire council.

(Code 2003, § 5-18; Ord. of 12-8-2008)

Sec. 2-81. - Reconsidering decided questions.

A question, being once decided by the mayor and council, shall not be again drawn into debate unless, on motion for reconsideration, there shall be in favor of it a number of votes equal to a majority of the members present when the question was previously decided, or unless one year has passed since the question was previously decided.

(Code 2003, § 5-19; Ord. of 12-8-2008)

Sec. 2-82. - Member absenting from meeting prior to adjournment.

After the name of a member has been recorded as present at any meeting of the mayor and council, the member shall not absent the member's self from such meeting previous to adjournment without permission of the council.

(Code 2003, § 5-20; Ord. of 12-8-2008)

Sec. 2-83. - Nonmembers addressing mayor and council.

No person who is not a member of the council shall orally address the mayor and council unless leave to do so has been applied for through a member and granted by the mayor and council.

(Code 2003, § 5-21; Ord. of 12-8-2008)

Sec. 2-84. - Form of petitions, communications and addresses.

Every petition, communication or address to the mayor and council shall be in respectful language and, except in cases where it is otherwise allowed, shall be in writing.

(Code 2003, § 5-22; Ord. of 12-8-2008)

Sec. 2-85. - Motion to adjourn.

A motion to adjourn shall always be in order and shall be decided without debate.

(Code 2003, § 5-23; Ord. of 12-8-2008)

Sec. 2-86. - Suspension of rules.

No rule of the mayor and council shall be suspended without the concurrence of two-thirds of the members present.

(Code 2003, § 5-24; Ord. of 12-8-2008)

Secs. 2-87—2-115. - Reserved.

ARTICLE III. - OFFICERS AND EMPLOYEES

DIVISION 1. - GENERALLY

Sec. 2-116. - Oath of office.

The mayor and councilmembers and all officers appointed or elected for the town shall take and subscribe the oath of office set forth in this section before some officer authorized by law to administer an oath. This shall be done on or before the days upon which their respective terms of office begin. The oath is as follows:

"_____20___

"I do solemnly swear (or affirm) that I will support the Constitution of the United States, and the Constitution of the Commonwealth of Virginia, and that I will faithfully and impartially discharge all the duties incumbent upon me as _____ according to the best of my ability (, so help me God).

"The foregoing oath was sworn to and subscribed by _____ before me this ___ day of _____, 20___.

_____."

(Code 2003, § 5-25; Ord. of 12-8-2008)

Sec. 2-117. - Councilmembers and town officers standing surety.

No member of the council or officer of the town shall become a surety for any person who is required to give bond before any judicial officer.

State Law reference— Bondsman and family members not to hold office as magistrate, clerk or deputy clerk of a court, Code of Virginia, § 9.1-185 et seq.

(Code 2003, § 5-26; Ord. of 12-8-2008)

Secs. 2-118—2-147. - Reserved.

DIVISION 2. - TOWN MANAGER

Sec. 2-148. - Creation of office.

There is hereby created the office of town manager, chief operating officer of the town, as provided for by state law.

(Code 2003, § 5-27; Ord. of 12-8-2008)

Sec. 2-149. - Appointment.

The town manager shall be appointed by the council.

(Code 2003, § 5-28; Ord. of 12-8-2008)

Sec. 2-150. - Bond.

The town manager shall furnish a surety company bond to be approved by the council. The council shall appropriate funds for the payment of the premium on such bond.

(Code 2003, § 5-29; Ord. of 12-8-2008)

State Law reference— Bonds of municipal officers and employees, Code of Virginia, title 15.2, ch. 15; payment of premiums on bonds for more than one year in advance, Code of Virginia, § 15.2-1532.

Sec. 2-151. - Salary.

The salary of the town manager shall be fixed by the council and shall be payable twice each month.

(Code 2003, § 5-30; Ord. of 12-8-2008)

Sec. 2-152. - Removal.

The town manager may be removed by a majority vote of the council.

(Code 2003, § 5-31; Ord. of 12-8-2008)

Sec. 2-153. - Responsibility for affairs of town.

The town manager shall be responsible to the council for the proper administration of the affairs of the town.

(Code 2003, § 5-32; Ord. of 12-8-2008)

Sec. 2-154. - Authority to employ labor, purchase or lease materials.

The town manager shall have authority to employ the necessary labor and to purchase, acquire, hire or lease materials, tools, machinery, equipment, vehicles and such other things as may be requisite to the performance of duty of the town manager.

(Code 2003, § 5-33; Ord. of 12-8-2008)

State Law reference— Virginia Public Procurement Act, Code of Virginia, title 2.2, ch. 43.

Sec. 2-155. - Care and management of town real estate.

The town manager shall be charged with the care and management of all of the real estate belonging to the town.

(Code 2003, § 5-34; Ord. of 12-8-2008)

Sec. 2-156. - Insurance on municipal property.

All municipal buildings and personal property shall be adequately insured as the town manager may direct.

(Code 2003, § 5-35; Ord. of 12-8-2008)

State Law reference— Local government group self-insurance pools, Code of Virginia, § 15.2-2700 et seq.

Sec. 2-157. - Employment, direction and discharge of town employees.

The town manager shall have the power to employ, manage, direct and discharge all employees, except those appointed by council.

(Code 2003, § 5-36; Ord. of 12-8-2008)

Sec. 2-158. - Map of town showing streets, water and sewer mains, fire hydrants and other information.

The town manager shall keep current a large and accurate map of the town, on which map shall be located, with engineering accuracy, streets, alleys, water mains, sewer mains, fire hydrants and valves and such other information as may be directed by the mayor and council.

(Code 2003, § 5-37; Ord. of 12-8-2008)

Sec. 2-159. - Information as to town's financial condition and future needs.

The town manager shall keep the council informed as to the financial condition and future needs of the town.

(Code 2003, § 5-38; Ord. of 12-8-2008)

Sec. 2-160. - Reports to council.

The town manager shall prepare and submit to the council such reports as it may require.

(Code 2003, § 5-39; Ord. of 12-8-2008)

Sec. 2-161. - Attendance at meetings.

The town manager shall attend all meetings of the council and such meetings of committees and boards as the council may direct.

(Code 2003, § 5-40; Ord. of 12-8-2008)

Sec. 2-162. - Additional duties.

The town manager shall perform, in addition to those duties imposed upon the town manager by this Code, such duties as the mayor and council may prescribe by ordinance or resolution.

(Code 2003, § 5-41; Ord. of 12-8-2008)

Secs. 2-163—2-192. - Reserved.

DIVISION 3. - MAYOR

Sec. 2-193. - Procurement of goods and services.

(a) The provisions of Code of Virginia, title 2.2, ch. 43, the Virginia Public Procurement Act, are hereby adopted and incorporated by reference as if fully set forth herein.

(b) Pursuant to the provisions of Code of Virginia, § 2.2-4303, the mayor is authorized to adopt policies not requiring competitive sealed bids or competitive negotiation for single or term contracts not expected to exceed $30,000.00, such small purchase procedures to provide for competition wherever practicable.

(Code 2003, § 5-42; Ord. of 12-8-2008)

Secs. 2-194—2-223. - Reserved.

DIVISION 4. - CLERK OF COUNCIL

Sec. 2-224. - Appointment.

The clerk of the council shall be appointed by the council.

(Code 2003, § 5-43; Ord. of 12-8-2008)

Sec. 2-225. - Indexing and storing books and records.

All books and papers filed with or kept by the clerk of the council shall be kept in a systematic manner in order to facilitate reference to such books and papers, and shall be stored in a fireproof safe.

(Code 2003, § 5-44; Ord. of 12-8-2008)

Sec. 2-226. - Report on action of mayor and council.

The clerk of the council shall communicate in writing to all persons presenting petitions, communications, etc., to the mayor and council concerning the final action of the mayor and council upon such petitions, communications, etc.

(Code 2003, § 5-45; Ord. of 12-8-2008)

Sec. 2-227. - Keeping of minutes; ordinance book; certificates of publication.

(a) The clerk of the council shall keep the minutes of the council so as to indicate with certainty each ordinance which is passed. The ordinance itself shall be safely kept and recorded in an ordinance book and accurately indexed. At the foot of the ordinance so recorded, the town manager shall append and sign a certificate of posting, with dates thereof. In case of publication in a town newspaper, the clerk shall make such certificate.

(b) When any ordinance or part thereof is amended or repealed, the clerk shall note such fact and the date of amendment or repeal in the book of ordinances on the margin opposite such ordinance or part of such ordinance amended or repealed.

(Code 2003, § 5-46; Ord. of 12-8-2008)

Sec. 2-228. - Notice of council meetings.

The clerk of the council shall notify, in writing, the mayor and each councilmember or officer, concerning the time of every general meeting and shall write the call for special meetings, specifying the time, place and purpose of the special meeting. When a call for a special meeting is signed by the mayor or three councilmembers, the clerk shall send a notice by U.S. mail to the mayor, councilmembers and officers.

(Code 2003, § 5-47; Ord. of 12-8-2008)

State Law reference— Council convened by mayor or three members, Code of Virginia, title 15.2, ch. 14.

Sec. 2-229. - Filing of official bonds and oaths.

It shall be the duty of the clerk of the council to enter of record and file all bonds required of the mayor, councilmembers or officers. The clerk of the council shall also file all oaths required to be taken and subscribed by the mayor, councilmembers and officers.

(Code 2003, § 5-48; Ord. of 12-8-2008)

Sec. 2-230. - Surrender of books, papers, seal and other property at expiration of term.

At the expiration of the clerk of the council's term of office, the clerk of the council shall forthwith deliver to the successor of said clerk in office all books, papers, documents, town seal, and town property in custody of said clerk of the council.

(Code 2003, § 5-49; Ord. of 12-8-2008)

Secs. 2-231—2-253. - Reserved.

DIVISION 5. - COMMISSIONER OF THE REVENUE

Sec. 2-254. - Powers and duties generally.

The commissioner of the revenue shall have and exercise the power and authority and undertake, perform and discharge the duties of the offices of commissioner of the revenue and of assessor of taxes, as provided by the constitution and laws of the state and the Charter, as well as the ordinances, resolutions, rules and regulations of the council made in pursuance of the constitution and the laws of the state and the Charter and not inconsistent therewith.

(Code 2003, § 5-50; Ord. of 12-8-2008)

State Law reference— Commissioner of the revenue performs duties of assessor, Code of Virginia, title 15.2, ch. 15.

Sec. 2-255. - Office, books, schedules and records generally.

The commissioner of the revenue shall keep the office of said commissioner at some convenient place in the town and shall keep therein such books, schedules and records as may be directed and prescribed by the general law or mayor and council. Such books, schedules, records and other papers shall be subject at all reasonable times to inspection and examination by the mayor and council or the duly authorized agent of the mayor and council.

(Code 2003, § 5-51; Ord. of 12-8-2008)

State Law reference— Books and forms furnished by department of taxation, Code of Virginia, § 58.1-3114.

Sec. 2-256. - Use of books, forms, other material.

The commissioner of the revenue shall use the land and personal property books, forms and similar material sent to the commissioner by the state department of taxation, as provided by law, unless lawful changes in such books, forms, etc., are directed by the council, in which case said commissioner shall use the books, forms, etc., prescribed by the council.

(Code 2003, § 5-52; Ord. of 12-8-2008)

Sec. 2-257. - Annual assessments.

It shall be the duty of the commissioner of the revenue, as of January 1, to annually ascertain the value of all real and personal property and choses in action which are the subject of taxation and license, and the commissioner shall list the same, based upon the last general assessments made prior to such year, subject to such changes as may have been lawfully made.

(Code 2003, § 5-53; Ord. of 12-8-2008)

Sec. 2-258. - Address of taxpayer in assessment book.

It shall be the duty of the commissioner of the revenue, in preparing the land and personal property books, to give the address of the taxpayer, as well as the location of the property.

(Code 2003, § 5-54; Ord. of 12-8-2008)

State Law reference— Similar provisions, Code of Virginia, § 58.1-3115.

Sec. 2-259. - Locating real estate for assessment.

In making up the land books for assessment purposes, the commissioner of the revenue shall locate the real estate assessed by designating the street on which the real estate is located and the number of the real estate involved. Where no number is available, the commissioner shall describe the property with sufficient certainty to definitely locate such property.

(Code 2003, § 5-55; Ord. of 12-8-2008)

Sec. 2-260. - Reassessment of subdivisions.

When a tract of land is subdivided into several parcels, it shall be the duty of the commissioner of the revenue to reassess such tract of land for the next annual assessment, having due consideration for the increase in value, if any, by reason of improvements or otherwise.

(Code 2003, § 5-56; Ord. of 12-8-2008)

State Law reference— Reassessment of lots when subdivided, Code of Virginia, § 58.1-3285.

Sec. 2-261. - Duty with reference to licenses generally.

It shall be the duty of the commissioner of the revenue to assess the tax on licenses to carry on or practice any business, trade, occupation, calling or profession for which a license is required or allowed by the Charter, this Code or other ordinances of the town.

(Code 2003, § 5-57; Ord. of 12-8-2008)

Secs. 2-262—2-285. - Reserved.

DIVISION 6. - TOWN TREASURER

Sec. 2-286. - Bond.

The town treasurer, before entering upon the duties of the office of the town treasurer, shall annually, at the cost of the town, give a bond with surety approved by the council in such sum and upon such conditions as the council may direct. This bond shall be filed with the clerk of the council and entered of record by the clerk of the council.

(Code 2003, § 5-58; Ord. of 12-8-2008)

State Law reference— Bonds of municipal officers and employees, Code of Virginia, title 15.2, ch. 15; payment of premiums on bonds for more than one year in advance, Code of Virginia, § 15.2-1532.

Sec. 2-287. - Duties generally.

(a) The town treasurer shall perform all the duties in regard to the town taxes, levies and assessments for the town and be subject to all the duties and penalties as are prescribed for a county treasurer in respect to state revenue, county taxes and assessments, so far as applicable and not inconsistent with the Charter, this Code and other ordinances of the town.

(b) The town treasurer shall perform all duties of the treasurer as provided in the Charter, in this Code and the ordinances, resolutions or orders promulgated by the mayor and council. The town treasurer shall strictly enforce the provisions of the Charter, this Code and other ordinances of the town with reference to the nonpayment of taxes, licenses, special assessments and water and sewer charges.

(Code 2003, § 5-59; Ord. of 12-8-2008)

Sec. 2-288. - Receipt of money belonging to town.

Except as otherwise provided, all money belonging to the town shall be received by the town treasurer.

(Code 2003, § 5-60; Ord. of 12-8-2008)

State Law reference— Treasurer to collect and pay over taxes, Code of Virginia, § 58.1-3910.

Sec. 2-289. - Books and accounts.

The town treasurer shall keep accurate books and accounts in such manner as the council may direct. Such books and accounts shall always be subject to the inspection of the mayor and council or any committee thereof. The books, papers and accounts concerning the office of the town treasurer shall be kept in a fireproof safe, all of which shall be the property of the town.

(Code 2003, § 5-61; Ord. of 12-8-2008)

Sec. 2-290. - Financial report.

The town treasurer shall make to the mayor and council, at such times as may be required of the town treasurer, a statement or balance sheet setting forth the indebtedness of the town, such statement to include all unsettled balances, from whom due and of how long standing; all appropriations as well as receipts; all collectible assets, whether in taxes or otherwise; the amount due the sinking fund; and all other matters pertaining to the finances of the town. Such statement, if especially requested, shall also show, under the proper heading, to what department the outlay is chargeable.

(Code 2003, § 5-62; Ord. of 12-8-2008)

State Law reference— Annual statement filed with auditor of public accounts, Code of Virginia, § 15.2-2510.

Sec. 2-291. - Investment of town funds.

The council authorizes the treasurer to invest any available funds of the town with notification to council as provided in Code of Virginia, § 2.2-4500 et seq., and is authorized to liquidate any of such investments in order to reinvest such funds or to pay the debts of the town.

(Code 2003, § 5-63; Ord. of 12-8-2008)

Sec. 2-292. - When receipt of taxes to commence.

The town treasurer shall commence to receive the town taxes as soon as the treasurer may receive the real property books with the taxes extended thereon from the commissioner of the revenue.

(Code 2003, § 5-64; Ord. of 12-8-2008)

Sec. 2-293. - Segregation of money received on special assessment.

All money received on any special assessment shall be held by the town treasurer as a special fund to be applied to the payment for which the assessment was made, and the money shall be used for no other purpose whatsoever.

(Code 2003, § 5-65; Ord. of 12-8-2008)

State Law reference— Assessments for local improvements, Code of Virginia, § 15.2-2404 et seq.

Sec. 2-294. - Collection of taxes from taxpayer leaving town or absconding.

The town treasurer shall have full power and authority for the collection of taxes, by distress or otherwise, against any taxpayer leaving the town or absconding before the tax books are given into the hands of said town treasurer.

(Code 2003, § 5-66; Ord. of 12-8-2008)

State Law reference— Similar provisions, Code of Virginia, § 58.1-3919.

Secs. 2-295—2-321. - Reserved.

DIVISION 7. - TOWN ATTORNEY

Footnotes:
*--- (**2**) ---*
***State Law reference—** Employment of counsel to defend town in certain proceedings, Code of Virginia, § 15.2-1520; attorneys generally, Code of Virginia, § 54.1-3900 et seq.*

Sec. 2-322. - Qualifications.

The town attorney shall have been admitted to practice in the courts of the state.

(Code 2003, § 5-67; Ord. of 12-8-2008)

Sec. 2-323. - Duties generally.

The town attorney shall attend all council meetings as may be requested by the council and be the legal advisor of the mayor and council.

(Code 2003, § 5-68; Ord. of 12-8-2008)

Sec. 2-324. - Compensation.

The town attorney shall have compensation for all services rendered the council in such amount as may be agreed upon by the town attorney and the council.

(Code 2003, § 5-69; Ord. of 12-8-2008)

Sec. 2-325. - Reimbursement for expenses.

From time to time, the town attorney shall present for payment any actual outlay or expense which the performance of the duties of the town attorney has entailed.

(Code 2003, § 5-70; Ord. of 12-8-2008)

Secs. 2-326—2-353. - Reserved.

ARTICLE IV. - FINANCE

Sec. 2-354. - Control and management of town financial matters.

The finance committee and the town manager, subject to the supervision of the council, shall have exclusive control of the financial matters of the town.

(Code 2003, § 5-71; Ord. of 12-8-2008)

Sec. 2-355. - Preparation of budget estimate.

The finance committee and the town manager shall annually prepare and present to the council a budget estimate for the next fiscal year for the assistance of the council in preparation of the budget required by state law.

(Code 2003, § 5-72; Ord. of 12-8-2008)

State Law reference— Budgets, Code of Virginia, § 15.2-2500 et seq.

Secs. 2-356—2-383. - Reserved.

ARTICLE V. - PLANNING COMMISSION

Sec. 2-384. - Objectives; title; additional duties.

(a) The planning commission, established in conformance with the resolution adopted by the council on August 13, 2012, has adopted this article in order to facilitate its powers and duties in accordance with the provisions of Code of Virginia, § 15.2-2210 et seq.

(b) The official title of this commission shall be the town planning commission.

(c) Additional duties of the commission shall be those required in the state code.

(Code 2003, § 31-1; Ord. of 12-8-2008; Ord. of 8-13-2012)

Sec. 2-385. - Members.

(a) The planning commission shall consist of five voting members that are residents of the town, qualified by knowledge and experience to make decisions on questions of town growth and development, provided that at least one-half are owners of real property in the town and one of whom is a member of the council.

(b)

The term of the planning commission representative from the council shall be coextensive with the term of office to which the planning commission representative has been elected or appointed on the council, unless the council, at its first regular meeting for a year, appoints others to serve as its representative. The remaining members of the commission first appointed shall serve respectively for terms of one year, two years, three years or four years. Subsequent appointments shall be for terms of two years each. Names of candidates for reappointment or appointment will be considered by the council 60 days before the term expires with approval due before the expiration date. Any vacancy in membership shall be filled by appointments by the council for the unexpired term only. A commissioner may be removed in the discretion of the council for not attending three consecutive meetings of the commission, missing four meetings of the commission in any 12-month period, or malfeasance. The council may provide for the payment of expenses incurred by the commissioners in the performance of their official duties.

(c) A commissioner's term shall expire immediately prior to the beginning of the regular January meeting of the planning commission, at which meeting the successor's term of office shall begin.

(Code 2003, § 31-2; Ord. of 12-8-2008; Ord. of 8-13-2012)

Sec. 2-386. - Officers and their selection.

(a) The officers of the planning commission shall consist of a chairperson, a vice-chairperson, and a secretary.

(b) Nomination of officers shall be made from the floor at the regular January meeting each year. Election of officers shall follow immediately.

(c) A candidate receiving a majority vote of the entire membership of the planning commission shall be declared elected. Said candidate shall take office immediately and serve for one year or until the successor of the candidate shall take office.

(d) Vacancies in office shall be filled immediately by regular election procedures.

(Code 2003, § 31-3; Ord. of 12-8-2008; Ord. of 8-13-2012)

Sec. 2-387. - Duties of officers.

(a) The chairperson shall be a citizen member of the commission and shall:

(1) Preside at all meetings.

(2) Appoint committees, special and/or standing.

(3) Rule on all procedural questions (subject to a reversal by a two-thirds majority vote by the members present).

(4) Be informed immediately of any official communication and report the same at next regular meeting.

(5) Carry out other duties as assigned by the commission.

(b) The vice-chairperson shall be a citizen member of the commission and shall act in the absence or inability of the chairperson to act with all the same rights and responsibilities.

(c) The secretary shall:

(1) Keep a written record of all business transacted by the commission.

(2) Notify all members of all meetings.

(3) Keep a file of all official records and reports of the commission.

(4) Certify all maps, records, and reports of the commission.

(5) Give notice of all hearings and public meetings.

(6) Attend to the correspondence of the commission.

(7) Prepare and be responsible for the publishing of advertisements relating to public hearings.

(Code 2003, § 31-4; Ord. of 12-8-2008; Ord. of 8-13-2012)

Sec. 2-388. - Duties of planning commission.

(a) *Generally.* The following shall be the duties of the planning commission:

(1) *Comprehensive planning.* Coordinate the overall work of the commission in the development of a realistic and reasonable community comprehensive plan.

(2) *Land use.* Initially determine, and then continue to maintain, an inventory of land uses. It shall also be responsible for the preparation of land use maps.

(3) *Subdivisions.* Draft subdivision regulations and any subsequent amendments. The commission shall examine all applications for subdivisions and receive the views of the staff pertaining to them.

(4) *Zoning.* Draft a zoning ordinance and/or any subsequent amendments, which shall be subject to review and approval by the council. The commission shall review all applications for rezoning or for special use permit. When authorized or required by law, they shall hold public or private hearings and receive the views of the staff pertaining to the issue. The board of zoning appeals functions in a different capacity.

(5) *Capital improvements.* Study the economics of capital improvements as they relate to the use of land to be made by the town. This may be done independently or in conjunction with affected governmental agencies. Such study shall include need, priority of need, cost financing, joint use and participation, location, and relative status either within or without the comprehensive plan of the town. The commission shall initiate or review applications and receive the views of the staff relative to the issues.

(b) *Appointment of special committees.* Special committees may be appointed by the chairperson for the purposes and terms approved by the commission.

(c)

Chairperson as ex officio committee member. The chairperson shall be an ex officio member of every committee.

(Code 2003, § 31-5; Ord. of 12-8-2008; Ord. of 8-13-2012)

Sec. 2-389. - Meetings.

(a) Meetings shall be held the first Tuesday of each month at 6:00 p.m., or at such other times selected by a majority of the commission. Should there be no business before the commission, there will be no meeting, provided that a minimum of four meetings shall be held in a calendar year. An annual meeting shall be held in January for the purpose of electing the chairperson and vice-chairperson by the majority of the commissioners present.

(b) Special meetings shall be called at the request of the chairperson or at the request of a quorum of the membership.

(c) All regular meetings, hearings, records, and accounts shall be open to the public, except to the extent the commission exercises its discretion to conduct a closed meeting or withhold records as expressly permitted by the Virginia Freedom of Information Act.

(d) A majority of the membership of the commission shall constitute a quorum. The number of votes necessary to transact business shall be a majority of the entire membership. Voting may be by roll call, in which case a record shall be kept as a part of the minutes.

(Code 2003, § 31-6; Ord. of 12-8-2008; Ord. of 8-13-2012)

State Law reference— Freedom of Information Act, Code of Virginia, § 2.2-3700 et seq.

Sec. 2-390. - Order of business.

(a) The order of business for a regular meeting shall be:

(1) Call to order by chairperson.

(2) Roll call.

(3) Determination of a quorum.

(4) Reading of minutes.

(5) Report of secretary.

(6) Report of standing committees.

(7) Report of special committees.

(8) Unfinished business.

(9) New business.

(10) Adjournment.

(b)

Parliamentary procedure in commission meetings shall be governed by Robert's Rules of Order, revised.

(c) The planning commission shall keep a set of minutes of all meetings, and these minutes shall become a public record.

(d) The secretary shall sign all minutes, and at the end of the year shall certify that the minutes of the preceding year are a true and correct copy.

(Code 2003, § 31-7; Ord. of 12-8-2008; Ord. of 8-13-2012)

Sec. 2-391. - Hearings.

(a) In addition to those required by law, the commission, at its discretion, may hold public hearings when it decides that a hearing will be in the public interest.

(b) Notice of a hearing shall be published once a week for two successive weeks in a newspaper of general circulation in the area. Such notice shall specify the time and place of hearing at which persons affected may appear and present their views, not less than five days nor more than 21 days after final publication. The local commission and council may hold a joint public hearing after public notice as set forth in this subsection. If such joint hearing is held, then public notice as set forth above need be given only by the council. All public hearings shall comply with state law as to notification of such hearings.

(c) The request before the commission shall be summarized by the chairperson/staff or other members delegated by the chairperson. Interested parties shall have the privilege of the floor. Records or statements shall be recorded or sworn to, as evidence for any court of law, only after notice is given to the interested parties.

(d) A record shall be kept of those speaking before the hearing.

(Code 2003, § 31-8; Ord. of 12-8-2008; Ord. of 8-13-2012)

Sec. 2-392. - Correspondence.

(a) It shall be the duty of the secretary, appointed by council, to draft and sign all correspondence necessary for the execution of the duties and functions of the planning commission.

(b) It shall be the duty of the secretary to communicate by telephone, e-mail or facsimile when necessary to make communications that cannot be carried out as rapidly as required by mail.

(c) All official papers and plans involving the authority of the commission shall bear the signature of the chairperson and vice-chairperson together with the certification signed by the secretary and chairperson.

(Code 2003, § 31-9; Ord. of 12-8-2008; Ord. of 8-13-2012)

Sec. 2-393. - Amendments.

These bylaws may be amended by two-thirds majority vote of the commissioners present. Such amendments shall only become effective upon approval by a majority vote of the entire council.

(Code 2003, § 31-10; Ord. of 12-8-2008; Ord. of 8-13-2012)

Secs. 2-394—2-414. - Reserved.

ARTICLE VI. - ECONOMIC DEVELOPMENT AUTHORITY

> *Footnotes:*
> *--- (**3**) ---*
> ***State Law reference—** Authority for creation of economic development authority, Code of Virginia, § 15.2-4900 et seq.*

Sec. 2-415. - Creation.

There is hereby created, pursuant to the provisions of Code of Virginia, §§ 15.2-4900 through 15.2-4920, inclusive, a political subdivision of the commonwealth, to be known as an economic development authority, with such public and corporate powers as are set forth in such sections of the Code of Virginia.

(Code 2003, § 32-1; Ord. of 12-8-2008; Ord. of 10-16-2013)

Sec. 2-416. - Name.

The name of the authority shall be the "Economic Development Authority of the Town of Appomattox."

(Code 2003, § 32-2; Ord. of 12-8-2008; Ord. of 10-16-2013)

Sec. 2-417. - Powers and duties.

The authority shall have the same powers, duties and obligations as set forth in Code of Virginia, §§ 15.2-4900 through 15.2-4920.

(Code 2003, § 32-3; Ord. of 12-8-2008; Ord. of 10-16-2013)

Sec. 2-418. - Authority; appointment; number.

The authority shall be governed by a board of directors in which all powers of the authority shall be vested and which board shall be composed of seven directors, appointed by the council.

(Code 2003, § 32-4; Ord. of 12-8-2008; Ord. of 10-16-2013)

Sec. 2-419. - Terms of office; oath; residence; removal from office.

(a) The seven directors shall be appointed initially for terms of one, two, three, and four years; two being appointed for one-year terms; two being appointed for two-year terms; two being appointed for three-year terms and one being appointed for a four-year term. Subsequent appointments shall be for terms of four years, except appointments to fill vacancies which shall be for the unexpired terms. All terms of office shall be deemed to commence upon the date of the initial appointment to the authority and, thereafter, in accordance with the provisions of the preceding sentence. If at the end of any term of office of any director a successor thereto has not been appointed, then the director whose term of office has expired shall continue to hold office until the successor of said director is appointed and qualified. Each director shall, upon appointment or reappointment, before entering upon the duties of said director, take and subscribe the oath prescribed by Code of Virginia, § 49-1. No director shall be an officer or employee of the town, except that members of the council may serve as directors, provided they do not comprise a majority of the board.

(b) Every director shall, at the time of appointment and thereafter, reside in the town or an adjoining locality. When a director ceases to be a resident of the town or an adjoining jurisdiction, the director's office shall be vacant and a new director may be appointed for the remainder of the term.

(c) A member of the board of directors of the authority may be removed from office by the council, without limitation, in the event that the board member is absent from any three consecutive meetings of the authority, or is absent from any four meetings of the authority within any 12-month period. In either such event, a successor shall be appointed by the council for the unexpired portion of the term of the member who has been removed.

(Code 2003, § 32-5; Ord. of 12-8-2008; Ord. of 10-16-2013)

Sec. 2-420. - Positions; compensation.

The directors shall elect from their membership a chairperson, a vice-chairperson and, from their membership or not, as they desire, a secretary and treasurer, or a secretary-treasurer, who shall continue to hold such office until their respective successors shall be elected. The directors shall receive no salary but may be compensated such amount per regular, special or committee meeting or per each official representation as may be approved by the council, not to exceed $200.00 per meeting or official representation, and shall be reimbursed for necessary traveling and other expenses incurred in the performance of their duties.

(Code 2003, § 32-6; Ord. of 12-8-2008; Ord. of 10-16-2013)

Sec. 2-421. - Board meetings; quorum.

Four members of the board of directors shall constitute a quorum of the board for the purposes of conducting its business and exercising its powers and for all other purposes, except that no facilities owned by the authority shall be leased or disposed of in any manner without a majority vote of the members of the board of directors. No vacancy in the membership of the board shall impair the right of a quorum to exercise all the powers and perform all the duties of the board.

(Code 2003, § 32-7; Ord. of 12-8-2008; Ord. of 10-16-2013)

Sec. 2-422. - Board records.

The board shall keep detailed minutes of its proceedings, which shall be open to public inspection at all times. It shall keep suitable records of all its financial transactions and, unless exempted by Code of Virginia, § 30-140, it shall arrange to have the records audited annually. Copies of each such audit shall be furnished to the council and shall be open to public inspection.

(Code 2003, § 32-8; Ord. of 12-8-2008; Ord. of 10-16-2013)

Sec. 2-423. - Copies of Internal Revenue Service reports.

Two copies of the report concerning issuance of bonds required to be filed with the United States Internal Revenue Service shall be certified as true and correct copies by the secretary or assistant secretary of the authority. After January 1, 2014, one copy shall be furnished to the council and the other copy mailed to the department of small business and supplier diversity.

(Code 2003, § 32-9; Ord. of 12-8-2008; Ord. of 10-16-2013)

Secs. 2-424—2-444. - Reserved.

ARTICLE VII. - PROCUREMENT POLICY

Footnotes:
*--- (**4**) ---*
State Law reference— *Virginia Public Procurement Act, Code of Virginia, § 2.2-4300 et seq.*

Sec. 2-445. - Intent.

(a) The purpose of this article is to promulgate the policies of the town pertaining to procurement of goods and services. This policy will ensure conformance with the public procurement provisions of the state code.

(b)

To the end that the town obtain high quality goods and services at a reasonable cost, that all procurement procedures be conducted in a fair and impartial manner with avoidance of any impropriety, that all qualified vendors have access to town business and that no offerer be arbitrarily or capriciously excluded, it is the intent of the council that competition be sought to the maximum practical degree, that the rules governing contract award be made clear in advance of the competition, that specifications reflect the needs of the town rather than being drawn to favor a particular vendor, and that the town and vendor freely exchange information concerning what is to be procured and what is offered.

(c) This policy is intended to supersede and override any earlier purchase or spending policy adopted by the council.

(Code 2003, § 33-1; Ord. of 12-8-2008; Ord. of 6-10-2013)

Sec. 2-446. - General applicability and responsibility.

(a) The town manager is designated as the purchasing agent for the town and as such it shall be the purchasing agent's responsibility to ensure that the provisions of this policy are followed.

(b) The provisions of Code of Virginia, title 2.2, ch. 43, otherwise known as the Virginia Public Procurement Act, are hereby incorporated by reference and shall apply to purchases over $30,000.00 made by the town as the context indicates.

(c) The value of a purchase is defined as the total obligation of the town to a vendor as represented by a single invoice or series of related invoices in a given calendar month, except for utility services or contracts existing as of the date of passage of the ordinance from which this article is derived, in return for goods or services.

(Code 2003, § 33-2; Ord. of 12-8-2008; Ord. of 6-10-2013)

Sec. 2-447. - Additional methods of procurement.

(a) *Generally.* Due to the need for expediency in allowing for the efficient administration of the town's operations, it is recognized that procedures and methods employed in the procurement of higher-valued goods and services are not appropriate for the purchase of lower-valued items. Therefore, separate rules for the procurement of items expected to cost $30,000.00 or less are hereby established as indicated by section 2-446 (See Code of Virginia, § 2.2-4303). Where different categories of purchases are established, the least restrictive may apply.

(b) *Emergency purchases.* Emergency purchases are exempt from the requirements of this section and require no prior council approval. However, the purchasing agent shall attempt to report an emergency purchase to the mayor and a member of the council before making the purchase. If such report is not reasonably practical, the purchasing agent shall notify the mayor and a member of the council no later than 24 hours after occurrence of the emergency. The term "emergency purchase" is defined as a purchase of goods or services required by a sudden

occurrence rendering a part of the water and sewer utility system inoperable or creating another immediate safety hazard or immediate risk of significant damage to town property that did not previously exist.

(c) *Limitations on spending authority and supporting provisions.*

(1) *Less than $10,000.00.* The purchasing agent is authorized to purchase needed items and services with a price of less than $10,000.00 without prior approval after taking reasonable steps to ensure competitive pricing given the nature of the item.

(2) *Between $10,000.00 and $20,000.00.* The purchasing agent, with the prior written approval of the mayor and one councilmember or two councilmembers, is authorized to purchase needed items and services with a price between $10,000.00 and $20,000.00, after taking reasonable steps to ensure competitive pricing given the nature of the item, which shall include obtaining a minimum of two informal verbal bids. Any such purchase shall be reported to the council at its next regular meeting.

(3) *$20,000.00 or more.* The purchasing agent shall obtain prior approval of the council before purchasing needed items and services with a price of $20,000.00 or more. The purchasing agent shall also take reasonable steps to ensure competitive pricing given the nature of the item, which shall include obtaining a minimum of two informal written bids.

(4) *Exemptions.* In the case of any purchase, the council may authorize an exception to the procurement requirements of this subsection where doing so is deemed appropriate, in the sole discretion of the council.

(Code 2003, § 33-3; Ord. of 12-8-2008; Ord. of 6-10-2013)

Sec. 2-448. - Preference for locally produced goods and services.

In the case of a tie, bid preference shall be given to goods, services, and construction produced by firms and/or citizens of the following jurisdictions in the following order:

(1) The town.

(2) The county.

(Code 2003, § 33-4; Ord. of 12-8-2008; Ord. of 6-10-2013)

Chapter 4 - ALCOHOLIC BEVERAGES

Sec. 4-1. - Licenses and fees.

The provisions of section 10-195 to the contrary notwithstanding, the following licenses shall be obtained and paid annually:

(1) A bed and breakfast establishment license: $40.00.

(2) A retail on-premises beer license for a hotel, restaurant or club and for each retail off-premises beer license: $25.00.

(3) A retail on-premises wine and beer license for a hotel, restaurant or club; and for each retail off-premises wine and beer license, including each gift shop, gourmet shop and convenience grocery store: $37.50.

(Code 2003, § 46-1)

State Law reference— Local alcoholic beverage licenses and taxes, Code of Virginia, § 4.1-205.

Sec. 4-2. - Violations and penalties.

Any violation of this chapter shall constitute a misdemeanor and be punishable as provided in section 1-21.

(Code 2003, § 46-2)

Chapter 6 - ANIMALS

Footnotes:
*--- (**1**) ---*
***State Law reference—** Comprehensive animal laws, Code of Virginia, § 3.2-6500 et seq.; offenses involving animals, Code of Virginia, §§ 3.2-6587, 18.2-403.1 et seq.; inoculation of cats against rabies, Code of Virginia, § 3.2-6521; cruelty to animals, Code of Virginia, § 3.2-6570; regulation of animals by municipalities, Code of Virginia, § 3.2-6543; diseased animals, dead animals, etc., Code of Virginia, §§ 18.2-323, 18.2-510; hunting near public schools and public parks, Code of Virginia, § 29.1-527*

ARTICLE I. - IN GENERAL

Sec. 6-1. - Bird sanctuary; destruction of birds constituting health hazard or nuisance.

The entire area within the town is hereby designated as a bird sanctuary. It shall be unlawful to trap, hunt, shoot or to rob nests of birds, provided that this shall not apply to pigeons or to instances where authorized under section 22-56. If any birds become a nuisance or menace to health or property in the opinion of the town manager, the town manager is authorized to designate employees or agents to take all appropriate and lawful steps to abate the nuisance and remove the threat, and such designated employees or agents shall not be in violation of the provisions of this section.

(Code 2003, § 54-1)

State Law reference— Nuisance birds, Code of Virginia, § 3.2-900.

Sec. 6-2. - Keeping of livestock, pigs, llamas, fowl, etc., prohibited.

It shall be unlawful for any person to keep in the town any pigs, fowl, peacocks, llamas or livestock.

(Code 2003, § 54-2)

Sec. 6-3. - Dangerous animals.

No person shall suffer or permit any animal belonging to said person or under the control of said person, and known to be dangerous or reasonably suspected of being dangerous, to go at large within the town. If the owner, etc., upon notice that the animal is at large, fails to take it into custody forthwith and its running at large creates an emergency, the animal shall be killed forthwith by order of the chief of police when deemed necessary for public safety. If a sworn complaint is made that a dangerous animal is being allowed to run at large or is not confined in such a manner as to be safe for the public, the proper judicial officer shall summons before said officer the owner or person exercising ownership or control over such animal and the case shall be heard. If the complaint is sustained, such judicial officer may order such animal killed forthwith by the police or make such other disposition of the case as will ensure the safety of the public. In addition to such penalty as may be imposed upon the owner or person exercising the right of ownership or control, any costs or expenses incident to the apprehension and safekeeping of the animal shall be collected as other fines are collected.

(Code 2003, § 54-3)

State Law reference— Regulations to prevent running at large of vicious dogs, Code of Virginia, § 3.2-6538; dogs killing other domestic animals, Code of Virginia, § 3.2-6552 et seq.

Sec. 6-4. - Keeping dogs.

All dog lots, doghouses, kennels or other facilities for keeping dogs, kept or maintained within the town, shall be expressly under the supervision and regulations of the county health department. Such facilities shall be kept in a clean and sanitary condition for the protection of health and shall be so kept as not to give rise to objectionable odors upon any public highway or upon any premises owned or occupied by any person other than the person maintaining such facilities. Any condition in violation of this section shall be abated by the town as a nuisance.

(Code 2003, § 54-4)

State Law reference— Local health departments, Code of Virginia, § 32.1-30 et seq.

Sec. 6-5. - Violations and penalties.

Any violation of this chapter shall constitute a misdemeanor and be punishable as provided in section 1-21.

(Code 2003, § 54-5)

Secs. 6-6—6-28. - Reserved.

ARTICLE II. - REGULATION OF RESIDENTIAL CHICKEN KEEPING

Sec. 6-29. - 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:

Capon means a neutered male chicken.

Chicken means a domestic fowl.

Chicken enclosure means a fenced or wired area, in addition to a coop, that provides chickens with a predator-resistant, outside space.

Coop means a building or enclosed structure that houses chickens and provides shelter from the elements and from predators.

Hen means a female chicken.

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

Poultry nuisance. A poultry nuisance occurs when any poultry endangers the life or health of other animals or persons or substantially interferes with the rights of citizens, other than their owners, to the enjoyment of life or property. Such acts of nuisance shall include, but are not limited to, the following:

(1) Damaging property other than that of the animal's owner;

(2) Attacking other animals, persons or vehicles;

(3) Creating noxious or offensive odors; and

(4) Creating an unsanitary condition or insect breeding site due to an accumulation of excreta or filth.

Rooster means a nonneutered male chicken.

(Code 2003, § 117-28; Ord. of 6-14-2021)

Sec. 6-30. - Standards for residential chicken keeping.

The keeping of up to six hens shall be permitted in non-agriculturally zoned areas of the town on properties which meet and maintain all of the following standards:

(1) The principal use of the property shall be for a single-family dwelling.

(2) Hens shall be kept within a coop or chicken enclosure at all times and shall not be permitted to run at large.

(3) Coops and chicken enclosures shall be set back at least ten feet from side and rear property lines and at least 50 feet from any residential dwelling on an adjacent lot. Coops and chicken enclosures shall also be located behind the front building line of the principal structure.

(4) Coops shall provide at least two square feet of interior space per chicken and chicken enclosures shall provide at least ten square feet of exterior space per chicken with a maximum total area of 150 square feet for both the coop and chicken enclosure. Neither the coop or chicken enclosure shall exceed ten feet in height.

(5) Coops and chicken enclosures shall be well-ventilated and kept in a clean, dry and sanitary condition at all times.

(6) Provisions shall be made by the property owner for the safe storage and removal of chicken waste. Such waste shall not create a nuisance or health hazard.

(7) All chicken feed or other material intended for consumption by chickens shall be kept in containers impenetrable by rodents, insects or predators.

(8) The keeping of roosters, capons and crowing hens is prohibited.

(9) The outdoor slaughtering of chickens is prohibited.

(Code 2003, § 117-29; Ord. of 6-14-2021; Ord. of 6-13-2022, § 1)

Sec. 6-31. - Violations and penalties.

(a) Violations of any provision of this article shall be punishable as follows:

(1) For a first offense within one year, a Class 4 misdemeanor.

(2) For a second offense within one year, a Class 3 misdemeanor.

(3) For a third offense within one year, a Class 2 misdemeanor.

(b) In addition, any such violation is hereby declared a public nuisance, and any person suffering injury or damage therefrom shall be entitled to seek the correction, removal or abatement of such nuisance through an appropriate suit in equity.

(Code 2003, § 117-30; Ord. of 6-14-2021)

Chapter 8 - BUILDINGS AND BUILDING REGULATIONS

Footnotes:

*--- **(1)** ---*

Federal law references—Compliance of federal buildings with local building codes and zoning laws, consideration of local laws and cooperation with local officials required, 40 USC 3312; drain cover entrapment protection standards, Graeme Baker Pool and Spa Safety Act, 15 USC 8001 et seq., 16 CFR 1450.3.

***State Law reference—** Access to and use of buildings by persons with physical disabilities, Code of Virginia, § 2.2-1159C; dangerous buildings and other structures, Code of Virginia, § 15.2-906; fences around swimming pools, Code of Virginia, § 15.2-921; buildings, monuments and lands of local governments, Code of Virginia, § 15.2-1638 et seq.; light, ventilation and sanitation of buildings and premises, Code of Virginia, § 15.2-1117; Virginia Industrialized Building Safety Law, Code of Virginia, § 36-70 et seq.; Uniform Statewide Building Code, Code of Virginia, § 36-97 et seq., 13VAC5-63-10 et seq.; municipal building codes superseded by Uniform Statewide Building Code, Code of Virginia, § 36-98; enforcement of Uniform Statewide Building Code, Code of Virginia, § 36-105; local licensing of certain contractors, Code of Virginia, § 54.1-1117.*

ARTICLE I. - IN GENERAL

Sec. 8-1. - Applicability of Uniform Statewide Building Code.

Volumes I and II of the Virginia Uniform Statewide Building Code shall control all matters concerning the design, construction, alteration, addition, enlargement, repair, removal, demolition, conversion, use, location, occupancy and maintenance of buildings, and all other functions which pertain to the installation of systems vital to buildings and structures in their service equipment as defined by the Virginia Uniform Statewide Building Code, and shall apply to buildings or other structures in the town.

(Code 2003, § 62-1)

Sec. 8-2. - Enforcement.

In that the council is responsible for the enforcement of the Virginia Uniform Statewide Building Code by hiring building officials, or by contracting with other localities for the enforcement thereof, the county shall enforce the Virginia Uniform Statewide Building Code in the town.

(Code 2003, § 62-2)

Sec. 8-3. - Copper pipes prohibited.

No new building constructed within the town limits shall incorporate copper pipes for the purpose of transporting water into, out of or within the building. This section shall not prohibit the incorporation of small incidental sections of copper pipe in new buildings, provided that such sections are integral components of appliances or fixtures connected to the plumbing system and do not exceed in the aggregate five linear feet of copper pipe for the entire building, nor shall this section prohibit the use of copper fittings for the purpose of joining sections of pipe where the pipe changes direction, branches or connects to other

sections of pipe, appliances or fixtures. For good cause shown and in extraordinary circumstances, the council may grant, in its sole discretion, exceptions to the requirements of this section. Any decision made by the council regarding a request for an exception shall be final and not subject to appeal.

(Code 2003, § 62-3; Ord. of 5-14-2007)

Secs. 8-4—8-21. - Reserved.

ARTICLE II. - NUMBERING OF BUILDINGS

Sec. 8-22. - Display; location and size of numbers.

All owners of the buildings or houses within the town shall, within 60 days from the date of assignment of a house number by the town office, place or cause to be placed, and thereafter maintained on the front of their respective buildings or houses (or at the street entrance to the same), the proper house number. Such number shall be firmly affixed in a conspicuous place and the numbers shall not be less than three inches in height and shall be clearly visible from the street.

(Code 2003, § 67-1)

State Law reference— Display of numbers on buildings, Code of Virginia, § 15.2-2024.

Sec. 8-23. - Violations and penalties.

Upon notice by the town to the owner of a violation of section 8-22, the owner must correct the violation within 15 days. If the violation is not corrected within 15 days, the town may impose a civil penalty of $100.00 for the violation.

(Code 2003, § 67-2)

Secs. 8-24—8-40. - Reserved.

ARTICLE III. - UNSAFE BUILDINGS

> *Footnotes:*
> *--- (**2**) ---*
> ***State Law reference—** Authority of town to require buildings and other structures to be removed, repaired or secured, Code of Virginia, § 15.2-906.*

Sec. 8-41. - Definitions; nuisance declared.

(a) 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:

Dangerous building means and includes:

(1) Any building, shed, fence or other manmade structure which is dangerous to the public health because of its condition, and which shall cause or aid in the spread of disease or injury to the health of the occupants of it or neighboring structures;

(2) Any building, shed, fence or other manmade structure which because of faulty construction, age, lack of proper repair or any other cause is especially liable to fire and constitutes or creates a fire hazard;

(3) Any building, shed, fence or other manmade structure which by reason of faulty construction or any other cause is liable to cause injury or damage by collapsing or by a collapse or fall of any part of such structure; and

(4) Any building, shed, fence, or other manmade structure, which because of its condition or because of lack of doors or windows is available to and frequented by malefactors or disorderly persons who are not lawful occupants of such structure.

(b) Any dangerous building in the town is hereby declared to be a nuisance.

(Code 2003, § 71-1)

Sec. 8-42. - Maintaining or occupying prohibited.

It shall be unlawful to maintain or permit the existence of any dangerous building in the town, and it shall be unlawful for the owner, occupant or person in custody of any dangerous building to permit such building to remain in a dangerous condition, or to occupy such building or permit it to be occupied while it is or remains in a dangerous condition.

(Code 2003, § 71-2)

Sec. 8-43. - Building maintenance.

(a) *Building maintenance policy.* The owners of property in the town shall remove, repair or secure any building, wall or any other structure which might endanger the public health or safety of other residents of the town.

(b) *Procedure for requiring building maintenance.* Any person who has reason to believe that the condition of any building, wall or any other structure might endanger the public health or safety of other residents of the town may petition the council to remedy the perceived problem. Upon receiving a complaint, the council may empanel a property maintenance investigation board and request that it inspect the premises and give a report on the condition of the building.

(c) *Property maintenance investigation board.* When empaneled, the property maintenance investigation board shall contain three members, each of whom shall be appointed for one-year terms. It shall be a temporary body established on a complaint-by-complaint basis. Preference for membership shall be given to contractors, engineers, architects, residents of the neighborhood in which the building in question is located and members of the planning commission and council. The body shall meet as soon as possible, perform site inspections as appropriate, and prepare a written recommendation regarding the complaint to the council as soon as is practical after being established. The town manager shall act as the clerk for the board and shall organize the first meeting of the body. Funds may be made available to support the board as allocated by the council.

(d) *Notice requirement.*

(1) For purposes of this subsection (d), the term "reasonable notice" includes a written notice:

a. Mailed by certified or registered mail, return receipt requested, sent to the last known address of the property owner; and

b. Published once a week for two successive weeks in a newspaper that has a general circulation in the town.

(2) Upon receipt of a report from the property maintenance investigation board, the council may order the removal, repair or securing of any building, wall or any other structure which might endanger the public health or safety of other residents of the town, if the owner and lienholder of such property after a reasonable notice and a reasonable time to do so has failed to remove, repair or secure the building, wall or other structure.

(3) No action shall be taken by the council to remove, repair, or secure any building, wall or structure for at least 30 days following the later of the return of the receipt or newspaper publication.

(e) *Reimbursement for town expenses.* In the event the council removes, repairs, or secures any building, wall or other structure after complying with the notice provisions of this section, the cost or expenses thereof shall be chargeable to and paid by the owners of such property and may be collected by the town as taxes are collected. Every charge authorized by this section with which the owner of any such property has been assessed and which remains unpaid shall constitute a lien against such property ranking on a parity with liens for unpaid town taxes and enforceable in the same manner as provided in Code of Virginia, title 58.1, ch. 39, arts. 3, 4 (reference Code of Virginia, § 15.2-906).

(Code 2003, § 71-3; Ord. of 9-13-1999)

Sec. 8-44. - Emergencies.

Where it reasonably appears that there is present a clear and imminent danger to the life, safety or health of any person or property unless an unsafe building is immediately repaired and secured or demolished, the council may authorize the immediate repair or demolition of such unsafe building. The expenses of such repair or demolition shall be a charge against the land on which it is located and shall be assessed, levied and collected as provided in section 8-43.

(Code 2003, § 71-4)

Chapter 10 - BUSINESSES AND BUSINESS REGULATIONS

> *Footnotes:*
> *--- (**1**) ---*
> ***State Law reference—** Authority of council to protect property and preserve peace and good order, Code of Virginia, § 15.2-1700; charitable gaming, Code of Virginia, § 18.2-340.15 et seq.; minors in public places of amusement, Code of Virginia, §§ 15.2-926, 40.1-100; public dance halls, Code of Virginia, § 15.2-912.3.*

ARTICLE I. - IN GENERAL

Secs. 10-1—10-20. - Reserved.

ARTICLE II. - FESTIVALS OR OUTDOOR ENTERTAINMENT

> *Footnotes:*
> *--- (**2**) ---*
> ***State Law reference—** Authority of town to promote general welfare, Code of Virginia, § 15.2-1102.*

DIVISION 1. - GENERALLY

Sec. 10-21. - 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:

Musical or entertainment festival means any gathering, publicly advertised by newspaper, radio, television or handbill, for the purpose of listening to or participating in entertainment which consists primarily of musical entertainment conducted for compensation in open spaces.

Outdoor entertainment means any gathering of the general public which is publicly advertised by newspaper, radio, television, handbills or signs and for which an admission fee is charged.

(Code 2003, § 50-1)

Sec. 10-22. - Construal of provisions.

The provisions of this article shall be strictly construed in order to effectively carry out the purpose of this article in the interest of the public health, welfare and safety of the citizens and residents of the town.

(Code 2003, § 50-2)

Sec. 10-23. - Music prohibited during certain hours.

No music shall be rendered at any festival or outdoor entertainment between the hours of 12:00 midnight and 8:00 a.m.

(Code 2003, § 50-3)

Sec. 10-24. - Sound level of music.

No music shall be played, either by mechanical devices or live performance, in such manner that the sound emanating therefrom shall be unreasonably audible beyond the property on which the festival or outdoor entertainment is located.

(Code 2003, § 50-4)

Sec. 10-25. - Persons under 16 years of age.

No person under 16 years of age shall be admitted to any festival or outdoor entertainment unless accompanied by a parent or guardian.

(Code 2003, § 50-5)

Sec. 10-26. - Bond required; waiver.

A bond in the amount of $15,000.00 shall be required and shall be conditioned to the removal and clearing of the premises so as to leave them in the same condition as they were found and further conditioned to the full and satisfactory execution and compliance with the terms of the permit under this article when issued. Such bond shall be payable to "Town of Appomattox." This bond requirement shall be waived for private property.

(Code 2003, § 50-6)

Sec. 10-27. - Exemption from fees and bond.

The daily fees and bond provided for in this article may be waived by the council for established churches, chartered civic organizations or established schools, provided that all other provisions of this article shall be fully enforceable.

(Code 2003, § 50-7)

Sec. 10-28. - Violations and penalties; additional remedies.

(a) Any person who violates any provision of this article shall be guilty of a Class 1 misdemeanor. Each day such violation continues shall be construed a separate offense.

(b) The council may bring suit in the circuit court to restrain, to enjoin or otherwise to prevent violation of this article.

(Code 2003, § 50-8)

Secs. 10-29—10-48. - Reserved.

DIVISION 2. - PERMIT

Sec. 10-49. - Scope; fee; violations.

All outdoor entertainment shall be subject to a permit requirement. This permit shall be issued by the county sheriff's department, subject to the rules and regulations and duration established by the county sheriff for each individual permit. A fee of $25.00 per day will be charged for issuance of this permit. The fee provided for in this section may be waived for established churches, chartered civic organizations, schools or school organizations. Violations of the terms of the permit or a failure to obtain a permit under the terms of this article shall be punishable as provided in section 10-28.

(Code 2003, § 50-9)

Sec. 10-50. - Required; application procedure; duties of town manager; appeals to council.

(a) No person shall stage, promote or conduct any musical or entertainment festival or outdoor entertainment in the town unless there shall have been first obtained from the council a special entertainment permit for such festival or outdoor entertainment.

(b) Application for a special entertainment permit shall be in writing on forms provided for the purpose and shall be filed in duplicate with the town clerk at least 30 days before the date of such festival or outdoor entertainment and at least 21 days prior to a regular meeting of the council.

The application shall have attached thereto and made a part thereof the plans, statements, approvals and other documents required by this article. A copy of the application shall be sent by the town clerk to each member of the council.

(c) It shall be the duty of the town manager, who is hereby designated as the agent of the town for the purposes provided in this article, to inquire into the application for a permit under this article and, after diligent study of the nature of the application, so advise the applicant if the application falls within the exempt status provided for under section 10-27. Whenever the town manager determines that the application is not exempt from the requirements of this article, the applicant shall have the right of appeal to the council at its next regularly scheduled meeting.

(Code 2003, § 50-10)

Sec. 10-51. - Conditions on issuance of permit; required documents.

The permit required by section 10-50 shall not be issued unless the following conditions are met and the plans, statements and approvals are submitted to the council with the application:

(1) *Tickets.* Such application for special entertainment shall have attached to it a copy of the ticket or badge of admission to such festival or outdoor entertainment containing the date and time of such festival or outdoor entertainment, together with a statement by the applicant of the total number of tickets to be offered for sale and the best reasonable estimate by the applicant of the number of persons expected to be in attendance.

(2) *Promoters and backers; performers.* A statement of the names and addresses of the promoters of the festival or outdoor entertainment, the financial backing of the festival or outdoor entertainment, and the names of all persons or groups who have been invited to perform at such festival or outdoor entertainment.

(3) *Location.* A statement of the location of the proposed festival or outdoor entertainment, the name and address of the owner of the property on which such festival or outdoor entertainment is to be held and the nature and interest of the applicant therein.

(4) *Sanitation facilities; garbage, trash and sewer disposal.* A plan for adequate sanitation facilities and garbage, trash and sewage disposal for persons at such festival or outdoor entertainment. This plan shall meet the requirements of all state and local statutes, ordinances and regulations and shall be approved by the county health officer.

(5) *Food, water and shelter.* A plan for providing food, water and lodging for the persons at the festival or outdoor entertainment. This plan shall meet the requirements of all state and local statutes, ordinances and regulations and shall be approved by the county health officer.

(6) *Medical facilities.* A plan for adequate medical facilities for persons at the festival or outdoor entertainment. This plan shall be approved by the county health officer.

(7)

Parking, crowd and traffic control. A plan for adequate parking facilities, crowd control and traffic control in and around the festival or outdoor entertainment area approved by the county sheriff.

(8) *Fire protection.* A plan for adequate fire protection. This plan shall meet the requirements of all state and local statutes, ordinances and regulations and shall be approved by the county's representative of the state division of forestry.

(9) *Lighting.* A statement specifying whether any outdoor lights or lighting is to be utilized and, if so, a plan showing the location of such lights and shielding devices or other equipment to prevent unreasonable glow beyond the property on which the festival or outdoor entertainment is located, and such lighting shall comply with the Uniform Statewide Building Code.

(Code 2003, § 50-11)

State Law reference— Sanitary requirements as to food and drink, Code of Virginia, § 3.2-5105 et seq.; health regulations pertaining to sewage disposal, Code of Virginia, § 32.1-163 et seq.; health regulations as to public water supplies, Code of Virginia, § 32.1-167 et seq.

Sec. 10-52. - Revocation.

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

(Code 2003, § 50-12)

Sec. 10-53. - Permit fee; refund; issuance.

A fee in the amount of $25.00 per day for each day during which entertainment is to be presented shall be payable by the applicant to the county for the issuance of the permit. If for any reason other than the revocation of the permit provided for in this article the entertainment is presented for fewer than the number of days stipulated, the applicant shall be entitled to a refund of the unearned portions of the moneys collected. Upon compliance with the terms of this article, the agent of the council shall issue a permit to the applicant for the days designated in the application.

(Code 2003, § 50-13)

Secs. 10-54—10-73. - Reserved.

ARTICLE III. - DANCE HALLS

Footnotes:
*--- **(3)** ---*
***State Law reference—** Local regulation of dance halls, Code of Virginia, § 15.2-912.3.*

DIVISION 1. - GENERALLY

Sec. 10-74. - Definitions.

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

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

(Code 2003, § 50-14)

Sec. 10-75. - Hours of operation.

It shall be unlawful for any person to operate a public dance hall in the town between the hours of 2:00 a.m. and 6:00 p.m. on any day and, except when New Year's Eve falls on a Sunday, from 12:00 midnight on each Saturday night until 6:00 a.m. the following Monday.

(Code 2003, § 50-15; Ord. of 2-12-1996)

Sec. 10-76. - Age requirement for patrons.

It shall be unlawful for any person conducting a public dance hall to allow any person under the age of 16 years to enter or to remain in such public dance hall while dancing is being conducted therein unless accompanied by a parent or legal guardian or by a brother or sister over the age of 21 years or except upon the written consent of such parent or legal guardian.

(Code 2003, § 50-16)

Sec. 10-77. - Violations and penalties.

Any person found guilty of a violation of the provisions of this article shall be guilty of a Class 3 misdemeanor.

(Code 2003, § 50-17)

Secs. 10-78—10-98. - Reserved.

DIVISION 2. - PERMIT

Sec. 10-99. - Required; conditions of issuance.

No person shall operate a public dance hall in the town unless such person has obtained a written permit from the council. No permit shall be issued unless the person desiring to obtain a public dance hall permit provides satisfactory evidence that said person has complied with all applicable provisions of the Virginia Uniform Statewide Building Code and the Virginia Fire Hazards Law (Code of Virginia, title 27).

(Code 2003, § 50-18)

Sec. 10-100. - Revocation.

Any permit issued pursuant to the provisions of this article shall be revoked for any violation of the provisions of this article. No permit shall be revoked prior to reasonable notice being given to the permittee and without a hearing for cause before the council. Revocation of such permit shall not bar prosecution for a violation of the provisions of this article.

(Code 2003, § 50-19)

Secs. 10-101—10-128. - Reserved.

ARTICLE IV. - BILLIARD ROOMS AND POOL HALLS

Sec. 10-129. - Prohibited hours of operation.

It shall be unlawful for any owner, person, keeper or agent to allow any billiard room, pool hall or pool room, whether the pool tables are coin-operated or not and whether the pool tables are regulation size or not, to operate in the town between the hours of 11:00 p.m. Saturday and 7:00 a.m. the following Monday morning of each week and from 12:00 midnight until 7:00 a.m. each weekday. A violation of this section shall constitute a Class 1 misdemeanor.

(Code 2003, § 50-20)

Sec. 10-130. - Visibility into interior.

The interiors of all billiard rooms and pool halls must be plainly visible from the street.

(Code 2003, § 50-21)

Sec. 10-131. - Persons under 16 years of age not permitted.

It shall be unlawful for any owner or employee or agent of the owner to allow any person under the age of 16 years to enter a billiard room, pool room or pool hall. Any person violating this section shall be guilty of a Class 3 misdemeanor.

(Code 2003, § 50-22)

State Law reference— Employment of child under 16 years of age in pool hall, Code of Virginia, § 40.1-100.

Secs. 10-132—10-160. - Reserved.

ARTICLE V. - GAME ROOMS

Sec. 10-161. - Definitions.

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

Public game room means any place open to the general public where there is located either coin-operated or otherwise electrically operated machines, amusements or video games and nonelectrically operated games or amusements.

(Code 2003, § 50-23)

Sec. 10-162. - Location.

All public game rooms must be attached to and be a part of a separate operating business that is the main enterprise, and such game rooms shall be physically attached to and opening upon such established and operating business and have the entrance to the public game room opening into the public game room for access to the business.

(Code 2003, § 50-24)

Sec. 10-163. - Hours of operation.

The public game room shall have the same operating hours as the business to which it is attached, but in no case shall the public game room operate past 12:00 midnight on Saturday night of any week and after 1:00 a.m. during the other nights of the week, and such public game room may begin its operations each day at the same time that the business to which it is attached shall begin its operations.

(Code 2003, § 50-25)

Sec. 10-164. - Visibility into interior.

The interiors of all public game rooms must be plainly visible from the street.

(Code 2003, § 50-26)

Sec. 10-165. - General restrictions.

(a) In any business establishment having a public game room attached to it and permitting persons under 21 years of age to enter the establishment, there shall be no on-premises alcoholic beverage sales. Off-premises alcoholic beverage sales shall be permitted. The terms "on-premises" and "off-premises" shall have as their meanings the same meanings as given these terms in the alcohol beverage control statutes of the state.

(b) No public game room shall contain any pool table, billiard table or coin-operated pool or billiard machine.

State Law reference— Persons to whom alcoholic beverages may not be sold, Code of Virginia, § 4.1-304.

(Code 2003, § 50-27)

Sec. 10-166. - Violations and penalties.

(a) Except as provided in subsection (b) of this section, a violation of this article shall constitute a Class 1 misdemeanor.

(b) Any owner or employee or agent of such owner who allows a minor on the premises shall be guilty of a Class 3 misdemeanor.

(Code 2003, § 50-28)

Secs. 10-167—10-185. - Reserved.

ARTICLE VI. - LICENSING

Footnotes:

*--- (**4**) ---*

***State Law reference—** Sale of ice cream and similar products, state preemption, Code of Virginia, § 3.1-562.4; certification to operate or maintain boiler or pressure vessel, Code of Virginia, § 15.2-910; sanitation in tattoo parlors, Code of Virginia, § 15.2-912; door-to-door vendors, Code of Virginia, § 15.2-913; funding the construction or repair of rental property, Code of Virginia, §§ 15.2-958 and 15.2-959; municipal franchises, Code of Virginia, § 15.2-2100 et seq.; dangerous, offensive or unhealthful business in municipality, Code of Virginia, § 15.2-1113; regulation of auctions, peddlers, weights and measures, Code of Virginia, § 15.2-1114; going-out-of-business sales, Code of Virginia, §§ 18.2-223, 18.2-224; licensing of bail bondsmen, Code of Virginia, § 9.1-185 et seq.; regulation of precious metals dealers, Code of Virginia, § 54.1-4111; records*

of firearms dealers, Code of Virginia, § 54.1-4200 et seq.; local license taxes, Code of Virginia, § 58.1-3700 et seq.; BPOL uniform ordinance provisions, Code of Virginia, § 58.1-3703.1; license taxes must be uniform for same businesses, Code of Virginia, § 58.1-3705.

Sec. 10-186. - Short title.

This article shall be known as and cited as the "Business and Professional Occupation License Ordinance."

(Code 2003, § 126-1; Ord. of 6-13-2011)

Sec. 10-187. - Overriding conflicting ordinances.

Except as may be otherwise provided by the laws of the commonwealth, and notwithstanding any other current ordinances or resolutions enacted by the council, whether or not compiled in this Code, to the extent of any conflict, the provisions of this article shall be applicable to the levy, assessment, and collection of licenses required and taxes imposed on businesses, trades, professions and callings and upon the persons, firms and corporations engaged therein within the town.

(Code 2003, § 126-2; Ord. of 6-13-2011)

Sec. 10-188. - Definitions.

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

Affiliated group means:

(1) One or more chains of includable corporations connected through stock ownership with a common parent corporation, which is an includable corporation if:

a. Stock possessing at least 80 percent of the voting power of all classes of stock and at least 80 percent of each class of the nonvoting stock of each of the includable corporations, except the common parent corporation, is owned directly by one or more of the other includable corporations; and

b. The common parent corporation directly owns stock possessing at least 80 percent of the voting power of all classes of stock and at least 80 percent of each class of the nonvoting stock of at least one of the other includable corporations. As used in this subsection, the term "stock" does not include nonvoting stock which is limited and preferred as to dividends. The term "includable corporation" means any corporation within the affiliated group irrespective of the estate or country of its incorporation, and the term "receipts" includes gross receipts and gross income.

(2) Two or more corporations if five or fewer persons who are individuals, estates or trusts own stock possessing:

a. At least 80 percent of the total combined voting power of all classes of stock entitled to vote or at least 80 percent of the total value of shares of all classes of the stock of each corporation; and

b. More than 50 percent of the total combined voting power of all classes of stock entitled to vote or more than 50 percent of the total value of shares of all classes of stock of each corporation, taking into account the stock ownership of each such person only to the extent such stock ownership is identical with respect to each such corporation.

c. When one or more of the includable corporations, including the common parent corporation, is a nonstock corporation, the term "stock," as used in this subsection, refers to the nonstock corporation membership or membership voting rights, as is appropriate to the context.

Amount in dispute, when used with respect to taxes due or assessed, means the amount specifically identified in the administrative appeal or application for judicial review as disputed by the party filing such appeal or application.

Appealable event means an increase in the assessment of a local license tax payable by a taxpayer, the denial of a refund, or the assessment of a local license tax where none previously was assessed, arising out of the local assessing official's:

(1) Examination of records, financial statements, books of account, or other information for the purpose of determining the correctness of an assessment;

(2) Determination regarding the rate or classification applicable to the licensable business;

(3) Assessment of a local license tax when no return has been filed by the taxpayer; or

(4) Denial of an application for correction of erroneous assessment attendant to the filing of an amended application for license.

Assessment means a determination as to the proper rate of tax, the measure to which the tax rate is applied, and ultimately the amount of tax, including additional or omitted tax, that is due. An assessment shall include a written assessment made pursuant to notice by the assessing official or a self-assessment made by a taxpayer upon the filing of a return or otherwise not pursuant to notice. Assessments shall be deemed made by an assessing official when a written notice of assessment is delivered to the taxpayer by the assessing official or an employee of the assessing official or mailed to the taxpayer at the last known address of said taxpayer. Self-assessments shall be deemed made when a return is filed or, if no return is required, when the tax is paid. A return filed or tax paid before the last day prescribed by this article for the filing or payment thereof shall be deemed to be filed or paid on the last day specified for the filing of a return or the payment of tax, as the case may be.

Assessor or *assessing official* means the treasurer of the town.

Base year means the calendar year preceding the license year, except for contractors subject to the provisions of Code of Virginia, § 58.1-3715.

Broker means an agent of a buyer or a seller who buys or sells stocks, bonds, commodities, or services, usually on a commission basis.

Business means a course of dealing which requires the time, attention and labor of the person so engaged for the purpose of earning a livelihood or profit. It implies a continuous and regular course of dealing, rather than an irregular or isolated transaction. A person may be engaged in more than one business. The following acts shall create a rebuttable presumption that a person is engaged in a business:

(1) Advertising or otherwise holding oneself out to the public as being engaged in a particular business; or

(2) Filing tax returns, schedules and documents that are required only of persons engaged in a trade or business.

Commodity means staples such as wool, cotton, etc., which are traded on a commodity exchange and on which there is trading in futures.

Contractor. The term "contractor" shall have the meaning prescribed in Code of Virginia, § 58.1-3714B, whether such work is done or offered to be done by day labor, general contract or subcontract, to include well digging, signs, air conditioning, exterminators, landscaping, lawn maintenance, etc.

Dealer means any person engaged in the business of buying and selling securities for the person's own account, but does not include a bank or any person insofar as said bank or person buys or sells securities for said person's own account, either individually or in some fiduciary capacity, but not as part of a regular business.

Definite place of business means an office or a location at which occurs a regular and continuous course of dealing for 30 consecutive days or more. A definite place of business for a person engaged in business may include a location leased or otherwise obtained from another person on a temporary or seasonal basis and real property leased to another. A person's residence shall be deemed to be a definite place of business if there is no definite place of business maintained elsewhere and the person is not licensable as a peddler or itinerant merchant.

Financial services means the buying, selling, handling, managing, investing, and providing of advice regarding money, credit, securities and other investments and shall include the service for compensation by a credit agency, an investment company, a broker or dealer in securities and commodities or a security or commodity exchange, unless such service is otherwise provided for in this section.

Frivolous means a finding, based on specific facts, that the party asserting the appeal is unlikely to prevail upon the merits because the appeal is:

(1) Not well-grounded in fact;

(2) Not warranted by existing law or a good faith argument for the extension, modification or reversal of existing law;

(3) Interposed for an improper purpose, such as to harass, to cause unnecessary delay in the payment of tax or a refund, or to create needless cost from the litigation; or

(4) Otherwise frivolous.

Gross receipts means the whole, entire, total receipts attributable to the licensed privilege, without deduction, except as may be limited by the provisions of Code of Virginia, title 58.1, ch. 37; exclusions to farm, domestic, nursery products, when such products are grown or produced by the person offering them for sale; printing or publishing any newspaper daily or regularly at average intervals; operating any radio or television broadcasting station or service; manufacturing and selling goods, wares, and merchandise at wholesale at the place of manufacture; any person, firm or corporation engaging in the business of renting as the owner of such property except hotels, motels, motor lodge, auto or tourist courts, travel trailer parks, lodging, rooming and boardinghouses.

Jeopardized by delay means a finding, based upon specific facts, that a taxpayer designs to:

(1) Depart quickly from the locality;

(2) Remove the property of said taxpayer therefrom;

(3) Conceal said taxpayer or the property of said taxpayer therein; or

(4) Do any other act tending to prejudice, or to render wholly or partially ineffectual, proceedings to collect the tax for the period in question.

License year means the calendar year for which a license is issued for the privilege of engaging in business.

Personal services means rendering for compensation any repair, personal, business or other services not specifically classified as financial, real estate, or professional services under this article or rendered in any other business or occupation not specifically classified in this article unless exempted from local license tax by Code of Virginia, title 58.1.

Professional services means services performed by architects, attorneys-at-law, certified public accountants, dentists, engineers, land surveyors, surgeons, veterinarians, and practitioners of the healing arts (the arts and sciences dealing with the prevention, diagnosis, treatment and cure or alleviation of human physical or mental ailments, conditions, diseases, pain or infirmities) and such occupations, and no others, as the state department of taxation may list in the BPOL guidelines promulgated pursuant to Code of Virginia, § 58.1-3701. The department shall identify and list each occupation or vocation in which a professed knowledge of some department of science or learning, gained by a prolonged course of specialized instruction and study, is used by its practical application to the affairs of others, either advising,

guiding, or teaching them, and in serving their interests or welfare in the practice of an art or science founded on it. The term "profession" implies attainments in professional knowledge as distinguished from mere skill and the application of knowledge to uses for others rather than for personal profit.

Purchases means all goods, wares and merchandise received for sale at each definite place of business of a wholesale merchant. The term "purchases" shall also include the cost of manufacture of all goods, wares and merchandise manufactured by any wholesaler or wholesale merchant and sold or offered for sale. Such merchant may elect to report the gross receipts from the sale of manufactured goods, wares and merchandise if it cannot determine or chooses not to disclose the cost of manufacture.

Real estate services means rendering a service for compensation as lessor, buyer, seller, agent or broker and providing a real estate service, unless the service is otherwise specifically provided for in this article, and such services include, but are not limited to, the following:

(1) Appraisers of real estate.

(2) Escrow agents, real estate.

(3) Fiduciaries, real estate.

(4) Lessors of real property.

(5) Real estate agents, brokers and managers.

(6) Real estate selling agents.

(7) Rental agents for real estate.

Retailer or *retail merchant* means any person or merchant who sells goods, wares and merchandise for use or consumption by the purchaser or for any purpose other than resale by the purchaser. The term "retailer" or "retail merchant" does not include sales at wholesale to institutional, commercial and industrial users.

Security.

(1) The term "security" shall have the same meaning as in the Securities Act, Code of Virginia, § 13.1-501 et seq., or in similar laws of the United States regulating the sale of securities.

(2) Those engaged in rendering financial services include, but are not limited to, the following:

a. Buying installment receivables.

b. Chattel mortgage financing.

c. Consumer financing.

d. Credit card services.

e. Credit unions.

f. Factors.

g. Financing accounts receivable.

h. Industrial loan companies.

i. Installment financing.

j. Inventory financing.

k. Loan or mortgage brokers.

l. Loan or mortgage companies.

m. Safety deposit box companies.

n. Security and commodity brokers and services.

o. Stockbrokers.

p. Working capital financing.

Services means things purchased by a customer which do not have physical characteristics or which are not goods, wares, or merchandise.

Tax commissioner means the chief executive officer of the state department of taxation or the delegate of such chief executive officer.

Wholesaler or *wholesale merchant* means any person or merchant who sells wares and merchandise for resale by the purchaser, including sales when the goods, wares and merchandise will be incorporated into goods and services for sale, and also including sales to institutional, commercial, government and industrial users which because of the quantity, price or other terms indicate that they are consistent with sales at wholesale.

(Code 2003, § 126-3; Ord. of 6-13-2011)

Sec. 10-189. - License requirement.

(a) (1) Every person engaging in the town in any business, trade, profession, occupation or calling (collectively hereinafter "a business"), as defined in this article, unless otherwise exempted by law, shall apply for a license for each such business if:

a. Such person maintains a definite place of business in the town;

b. Such person does not maintain a definite office anywhere but does maintain an abode in the town, which abode, for the purposes of this section, shall be deemed a definite place of business; or

c. There is no definite place of business, but such person operates amusement machines, is engaged as a peddler or itinerant merchant, carnival or circus as specified in Code of Virginia, § 58.1-3717, 58.1-3718, or 58.1-3728, respectively, or is a contractor subject to Code of Virginia, § 58.1-3715, or is a public service corporation subject to Code of Virginia, § 58.1-3731.

(2)

A separate license shall be required for each definite place of business. A person engaged in two or more businesses or professions carried on at the same place of business may elect to obtain one license for all such businesses and professions if all of the following criteria are satisfied:

a. Each business or profession is licensable at the location and has satisfied any requirements imposed by state law or other provisions of the ordinances of this jurisdiction;

b. All of the businesses or professions are subject to the same tax rate or, if subject to different tax rates, the licensee agrees to be taxed on all businesses and professions at the highest rate; and

c. The taxpayer agrees to supply such information as the assessor may require concerning the nature of several businesses and their gross receipts.

(b) Each person subject to a license tax shall apply for a license prior to beginning business if said person was not subject to licensing in the town on or before January 1 of the license year, or no later than March 1 of the current license year if the person had been issued a license for the preceding license year. The application shall be on forms prescribed by the assessing official.

(c) The tax shall be paid with the application in the case of any license not based on gross receipts. If the tax is measured by the gross receipts of the business, the tax shall be paid on or before March 1.

(d) The assessing official may grant an extension of time, not to exceed 90 days, in which to file an application for reasonable cause. The extension shall be conditioned upon the timely payment of a reasonable estimate of the appropriate tax, subject to adjustment to the correct tax at the end of the extension together with interest from the due date until the date paid and, if the estimate submitted with the extension is found to be unreasonable under the circumstances, a penalty of ten percent of the portion paid after the due date.

(e) Penalties.

(1) The following words, terms and phrases, when used in this subsection (e), shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Acted responsibly means that the taxpayer exercised the level of reasonable care that a prudent person would exercise under the circumstances in determining the filing obligations for the business and the taxpayer undertook significant steps to avoid or mitigate the failure, such as requesting appropriate extensions (where applicable), attempting to prevent a foreseeable impediment, acting to remove an impediment once it occurred, and promptly rectifying a failure once it occurred, and promptly rectifying a failure once the impediment was removed or the failure discovered.

Events beyond the taxpayer's control includes, but is not limited to, the unavailability of records due to fire or other casualty; the unavoidable absence (e.g., due to death or serious illness) of the person with the sole responsibility for tax compliance; or the taxpayer's reasonable reliance in good faith upon erroneous written information from the assessing official, who was aware of the relevant facts relating to the taxpayer's business when said assessing official provided the erroneous information.

(2) A penalty of ten percent of the tax may be imposed upon the failure to file an application or the failure to pay the tax by the appropriate due date. Only the late filing penalty shall be imposed by the assessing official if both the application and payment are late; however, both penalties may be assessed if the assessing official determines that the taxpayer has a history of noncompliance. In the case of an assessment of additional tax made by the assessing official, if the application and, if applicable, the return were made in good faith and the understatement of the tax was not due to any fraud, reckless or intentional disregard of the law by the taxpayer, there shall be no late payment penalty assessed with the additional tax. If any assessment of tax by the assessing official is not paid within 30 days, the treasurer may impose a ten-percent late payment penalty. The penalties shall not be imposed, or, if imposed, shall be abated by the official who assessed them, if the failure to file or pay was not the fault of the taxpayer. In order to demonstrate lack of fault, the taxpayer must show that said taxpayer acted responsibly and that failure was due to events beyond the control of said taxpayer.

(f) Interest.

(1) Interest shall be charged on the late payment of the tax from the due date until the date paid without regard to fault or other reason for the late payment. Whenever an assessment of additional or omitted tax by the assessing official is found to be erroneous, all interest and penalty charged and collected on the amount of the assessment found to be erroneous shall be refunded together with interest on the refund from the date of payment or the due date, whichever is later. Interest shall be paid on the refund of any tax paid under this article from the date of payment or due date, whichever is later, whether attributable to an amended return or other reason. Interest on any refund shall be paid at the same rate charged under Code of Virginia, § 58.1-3916.

(2) No interest shall accrue on an adjustment of estimated tax liability to actual liability at the conclusion of a base year. No interest shall be paid on a refund or charged on a late payment, in event of such adjustment, provided that the refund or the late payment is made not more than 30 days from the date of the payment that created the refund or the due date of the tax, whichever is later.

(Code 2003, § 126-4; Ord. of 6-13-2011)

Sec. 10-190. - Situs of gross receipts.

(a) *Generally.* Whenever the tax imposed by this article is measured by gross receipts, the gross receipts included in the taxable measure shall be only those gross receipts attributed to the exercise of a licensable privilege at a definite place of business within the town. In the case of activities conducted outside of a definite place of business, such as during a visit to a customer location, the gross receipts shall be attributed to the definite place of business from which such activities are initiated, directed, or controlled. The situs of gross receipts for different classifications of business shall be attributed to one or more definite places of business or offices as follows:

(1) The gross receipts of a contractor shall be attributed to the definite place of business at which the services of said contractor are performed, or if the services of the contractor are not performed at any definite place of business, then the definite place of business from which the services of the contractor are directed or controlled, unless the contractor is subject to the provisions of Code of Virginia, § 58.1-3715.

(2) The gross receipts of a retailer or wholesaler shall be attributed to the definite place of business at which sales solicitation activities occur, or if sales solicitation activities do not occur at any definite place of business, then the definite place of business from which sales solicitation activities are directed or controlled; however, a wholesaler or distribution house subject to a license tax measured by purchases shall determine the situs of its purchases by the definite place of business at which or from which deliveries of the purchased goods, wares and merchandise are made to customers. Any wholesaler who is subject to license tax in two or more localities and who is subject to multiple taxation because the localities use different measures may apply to the state department of taxation for a determination as to the proper measure of purchases and gross receipts subject to license tax in each locality.

(3) The gross receipts of a business renting tangible personal property shall be attributed to the definite place of business from which the tangible personal property is rented, or, if the property is not rented from any definite place of business, then the definite place of business at which the rental of such property is managed.

(4) The gross receipts from the performance of services shall be attributed to the definite place of business at which the services are performed, or, if not performed at any definite place of business, then the definite place of business from which the services are directed or controlled.

(b) *Apportionment.* If the licensee has more than one definite place of business and it is impractical or impossible to determine to which definite place of business gross receipts should be attributed under the general rule (and the affected jurisdictions are unable to reach an apportionment agreement), except as to circumstances set forth in Code of Virginia, § 58.1-3709, the gross

receipts of the business shall be apportioned between the definite places of businesses on the basis of payroll. Gross receipts shall not be apportioned to a definite place of business unless some activities under the applicable general rule occurred at, or were controlled from, such definite place of business. Gross receipts attributable to a definite place of business in another jurisdiction shall not be attributed to this jurisdiction solely because the other jurisdiction does not impose a tax on the gross receipts attributable to the definite place of business in such other jurisdiction.

(c) *Agreements.* The assessor may enter into agreements with any other political subdivision of the state concerning the manner in which gross receipts shall be apportioned among definite places of business. However, the sum of the gross receipts apportioned by the agreement shall not exceed the total gross receipts attributable to all of the definite places of business affected by the agreement. Upon being notified by a taxpayer that its method of attributing gross receipts is fundamentally inconsistent with the method of one or more political subdivisions in which the taxpayer is licensed to engage in business and that the difference has, or is likely to, result in taxes on more than 100 percent of its gross receipts from all locations in the affected jurisdictions, the assessor shall make a good faith effort to reach an apportionment agreement with the other political subdivisions involved. If an agreement cannot be reached, either the assessor or taxpayer may seek an advisory opinion from the department of taxation pursuant to Code of Virginia, § 58.1-3701; notice of the request shall be given to the other party. Notwithstanding the provisions of Code of Virginia, § 58.1-3993, when a taxpayer has demonstrated to a court that two or more political subdivisions of the state have assessed taxes on gross receipts that may create a double assessment within the meaning of Code of Virginia, § 58.1-3986, the court shall enter such orders pending resolution of the litigation as may be necessary to ensure that the taxpayer is not required to pay multiple assessments even though it is not then known which assessment is correct and which is erroneous.

(Code 2003, § 126-5; Ord. of 6-13-2011)

Sec. 10-191. - Limitations and extensions.

(a) Where, before the expiration of the time prescribed for the assessment of any license tax imposed pursuant to this article, both the assessing official and the taxpayer have consented in writing to its assessment after such time, the tax may be assessed at any time prior to the expiration of the period agreed upon. The period so agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon.

(b) Notwithstanding Code of Virginia, § 58.1-3903, the assessing official shall assess the local license tax omitted because of fraud or failure to apply for a license for the current license year and the six preceding years.

(c)

The period for collecting any local license tax shall not expire prior to the period specified in Code of Virginia, § 58.1-3940, two years after the date of assessment if the period for assessment has been extended pursuant to this subsection, two years after the final determination of an appeal for which collection has been stayed pursuant to section 10-192, or two years after the final decision in a court application pursuant to Code of Virginia, § 58.1-3984, or similar law for which collection has been stayed, whichever is later.

(Code 2003, § 126-6; Ord. of 6-13-2011)

Sec. 10-192. - Appeals and rulings.

(a) *Filing and contents of administrative appeal.* Any person assessed with a local license tax as a result of an appealable event as defined in this article may file an administrative appeal of the assessment within one year from the last day of the tax year for which such assessment is made or within one year from the date of the appealable event, whichever is later, with the treasurer of the town, P.O. Box 705, Appomattox, Virginia 24522. The appeal must be filed in good faith and sufficiently identify the taxpayer, the tax periods covered by the challenged assessments, the amount in dispute, the remedy sought, each alleged error in the assessment, the grounds upon which the taxpayer relies, and any other facts relevant to the taxpayer's contention. The assessor may hold a conference with the taxpayer if requested by the taxpayer or require submission of additional information and documents, an audit or further audit, or other evidence deemed necessary for a proper and equitable determination of the appeal. The assessment placed at issue in the appeal shall be deemed prima facie correct. The assessor shall undertake a full review of the taxpayer's claims and issue a written determination to the taxpayer setting forth the facts and arguments in support of the decision of the assessor.

(b) *Notice of right of appeal and procedures.* Every assessment made by the treasurer of the town pursuant to an appealable event shall include or be accompanied by a written explanation of the taxpayer's right to file an administrative appeal and the specific procedures to be followed in the jurisdiction, the name and address to which the appeal should be directed, an explanation of the required content of the appeal, and the deadline for filing the appeal.

(c) *Suspension of collection activity during appeal.* Provided that a timely and complete administrative appeal is filed, collection activity with respect to the amount in dispute shall be suspended until a final determination is issued by the treasurer, unless the assessing official responsible for the collection of such tax:

(1) Determines that collection would be jeopardized by delay as defined in this article;

(2) Is advised by the assessing official that the taxpayer has not responded to a request for relevant information after a reasonable time; or

(3)

Is advised by the assessing official that the appeal is frivolous, as defined in section 10-188. Interest shall accrue in accordance with the provisions of section 10-189(f), but no further penalty shall be imposed while collection action is suspended.

(d) *Procedure in event of nondecision.* Any taxpayer whose administrative appeal to the treasurer pursuant to the provisions of subsection (a) of this section has been pending for more than one year without the issuance of a final determination may, upon not less than 30 days' written notice to the commissioner of the revenue or other assessing official, elect to treat the appeal as denied and appeal the assessment to the tax commissioner in accordance with the provisions of section 10-193. The tax commissioner shall not consider an appeal filed pursuant to the provisions of this section if the tax commissioner finds that the absence of a final determination on the part of the treasurer or other assessing official was caused by the willful failure or refusal of the taxpayer to provide information requested and reasonably needed by the treasurer or other assessing official to make a determination.

(Code 2003, § 126-7; Ord. of 6-13-2011)

Sec. 10-193. - Administrative appeal to tax commissioner.

(a) *Appeal proceedings; application.* Any person assessed with a local license tax as a result of a determination, upon an administrative appeal to the treasurer pursuant to section 10-192, that is adverse to the position asserted by the taxpayer in such appeal may appeal such assessment to the tax commissioner within 90 days of the date of the determination by the treasurer. The appeal shall be in such form as the tax commissioner may prescribe, and the taxpayer shall serve a copy of the appeal upon the treasurer. The tax commissioner shall permit the treasurer to participate in the proceedings and shall issue a determination to the taxpayer within 90 days of receipt of the taxpayer's application, unless the taxpayer and the assessing official are notified that a longer period will be required. The appeal shall proceed in the same manner as an application pursuant to Code of Virginia, § 58.1-1821, and the tax commissioner may issue an order correcting such assessment pursuant to Code of Virginia, § 58.1-1822.

(b) *Suspension of collection activity during appeal.*

(1) On receipt of a notice of intent to file an appeal to the tax commissioner under this section, collection activity with respect to the amount in dispute shall be suspended until a final determination is issued by the tax commissioner, unless the treasurer or other official responsible for the collection of such tax:

a. Determines that collection would be jeopardized by delay as defined in this article;

b. Is advised by the assessing official, or the tax commissioner, that the taxpayer has not responded to a request for relevant information after a reasonable time; or

c. Is advised by the treasurer that the appeal is frivolous as defined in section 10-188.

(2) Interest shall accrue in accordance with the provisions of section 10-189(f), but no further penalty shall be imposed while collection action is suspended. The requirement that collection activity be suspended shall cease unless an appeal pursuant to subsection (a) of this section is filed and served on the necessary parties within 30 days of the service of notice of intent to file such appeal.

(c) *Implementation of determination of tax commissioner.* Promptly upon receipt of the final determination of the tax commissioner with respect to an appeal pursuant to subsection (a) of this section, the treasurer shall take those steps necessary to calculate the amount of tax owed by or refund due to the taxpayer consistent with the treasurer's determination and shall provide that information to the taxpayer and to the official responsible for collection in accordance with the provisions of this subsection.

(1) If the determination of the tax commissioner sets forth a specific amount of tax due, the treasurer shall certify the amount to the official responsible for collection, and the treasurer or other official responsible for collection shall issue a bill to the taxpayer for such amount due, together with interest accrued and penalty, if any is authorized by this section, within 30 days of the date of the determination of the tax commissioner.

(2) If the determination of the tax commissioner sets forth a specific amount of refund due, the treasurer shall certify the amount to the treasurer or other official responsible for collection, and the treasurer or other official responsible for collection shall issue a payment to the taxpayer for such amount due, together with interest accrued pursuant to this section, within 30 days of the date of the determination of the tax commissioner.

(3) If the determination of the tax commissioner does not set forth a specific amount of tax due or otherwise requires the treasurer to undertake a new or revised assessment that will result in an obligation to pay a tax that has not previously been paid in full, the treasurer or other assessing official shall promptly commence the steps necessary to undertake such new or revised assessment and provide the same to the taxpayer within 60 days of the date of the determination of the tax commissioner or within 60 days after receipt from the taxpayer of any additional information requested or reasonably required under the determination of the tax commissioner, whichever is later. The treasurer shall certify the new assessment to the treasurer or other official responsible for collection, and the treasurer or other official responsible for collection shall issue a bill to the taxpayer for the amount due, together with interest accrued and penalty, if any is authorized by this section, within 30 days of the date of the new assessment.

(4) If the determination of the tax commissioner does not set forth a specific amount of refund due or otherwise requires the treasurer to undertake a new or revised assessment that will result in an obligation on the part of the locality to make a refund of taxes previously paid, the treasurer or other assessing official shall promptly commence the steps necessary to

undertake such new or revised assessment and provide the same to the taxpayer within 60 days of the date of the determination of the tax commissioner or within 60 days after receipt from the taxpayer of any additional information requested or reasonably required under the determination of the tax commissioner, whichever is later. The treasurer shall certify the new assessment to the treasurer or other official responsible for collection, and the treasurer or other official responsible for collection shall issue a refund to the taxpayer for the amount of tax due, together with interest accrued, within 30 days of the date of the new assessment.

(Code 2003, § 126-8; Ord. of 6-13-2011)

Sec. 10-194. - Judicial review of determination of tax commissioner.

(a) *Judicial review.* Following the issuance of a final determination of the tax commissioner pursuant to section 10-193, the taxpayer or treasurer or other assessing official may apply to the appropriate circuit court for judicial review of the determination, or any part thereof, pursuant to Code of Virginia, § 58.1-3984. In any such proceeding for judicial review of a determination of the tax commissioner, the burden shall be on the party challenging the determination of the tax commissioner, or any part thereof, to show that the ruling of the tax commissioner is erroneous with respect to the part challenged. Neither the tax commissioner nor the department of taxation shall be made a party to an application to correct an assessment merely because the tax commissioner has ruled on it.

(b) *Suspension of payment of disputed amount of tax due upon taxpayer's notice of intent to initiate judicial review.*

(1) On receipt of a notice of intent to file an application for judicial review, pursuant to Code of Virginia, § 58.1-3984, of a determination of the tax commissioner pursuant to section 10-193, and upon payment of the amount of the tax that is not in dispute together with any penalty and interest then due with respect to such undisputed portion of the tax, the treasurer or other collection official shall further suspend collection activity while the court retains jurisdiction unless the court, upon appropriate motion after notice and an opportunity to be heard, determines that the taxpayer's application for judicial review is frivolous, as defined in this article; collection would be jeopardized by delay, as defined in this article; or suspension of collection would cause substantial economic hardship to the locality. For purposes of determining whether substantial economic hardship to the locality would arise from a suspension of collection activity, the court shall consider the cumulative effect of then pending appeals filed within the locality by different taxpayers that allege common claims or theories of relief.

(2) Upon a determination that the appeal is frivolous, that collection may be jeopardized by delay, or that suspension of collection would result in substantial economic hardship to the locality, the court may require the taxpayer to pay the amount in dispute or a portion thereof

or to provide surety for payment of the amount in dispute in a form acceptable to the court.

(3) No suspension of collection activity shall be required if the application for judicial review fails to identify with particularity the amount in dispute.

(4) The requirement that collection activity be suspended shall cease unless an application for judicial review pursuant to Code of Virginia, § 58.1-3984 is filed and served on the necessary parties within 30 days of the service of the notice of intent to file such application.

(5) The suspension of collection activity authorized by this subsection (b) shall not be applicable to any appeal of a local license tax that is initiated by the direct filing of an action pursuant to Code of Virginia, § 58.1-3984, without prior exhaustion of the appeals provided by sections 10-192 and 10-193.

(c) *Suspension of payment of disputed amount of refund due upon locality's notice of intent to initiate judicial review.*

(1) Payment of any refund determined to be due pursuant to the determination of the tax commissioner of an appeal pursuant to section 10-193 shall be suspended if the locality assessing the tax serves upon the taxpayer, within 60 days of the date of the determination of the tax commissioner, a notice of intent to file an application for judicial review of the tax commissioner's determination pursuant to Code of Virginia, § 58.1-3984, and pays the amount of the refund not in dispute, including tax and accrued interest. Payment of such refund shall remain suspended while the court retains jurisdiction unless the court, upon appropriate motion after notice and an opportunity to be heard, determines that the locality's application for judicial review is frivolous, as defined in section 10-188.

(2) No suspension of refund activity shall be permitted if the locality's application for judicial review fails to identify with particularity the amount in dispute.

(3) The suspension of the obligation to make a refund shall cease unless an application for judicial review pursuant to Code of Virginia, § 58.1-3984, is filed and served on the necessary parties within 30 days of the service of the notice of intent to file such application.

(d) *Accrual of interest on unpaid amount of tax.* Interest shall accrue in accordance with the provisions of section 10-189(f), but no further penalty shall be imposed while collection action is suspended.

(Code 2003, § 126-9; Ord. of 6-13-2011)

Sec. 10-195. - Rulings.

(a) Any taxpayer or authorized representative of a taxpayer may request a written ruling regarding the application of a local license tax to a specific situation from the treasurer. Any person requesting such a ruling must provide all facts relevant to the situation placed at issue and may present a rationale for the basis of an interpretation of the law most favorable to the taxpayer.

(b) Any misrepresentation or change in the applicable law or the factual situation as presented in the ruling request shall invalidate any such ruling issued. A written ruling may be revoked or amended prospectively if there is a change in the law, a court decision, or the guidelines issued by the department of taxation upon which the ruling was based, or the assessor notifies the taxpayer of a change in the policy or interpretation upon which the ruling was based. However, any person who acts on a written ruling which later becomes invalid shall be deemed to have acted in good faith during the period in which such ruling was in effect.

(Code 2003, § 126-10; Ord. of 6-13-2011)

Sec. 10-196. - Recordkeeping and audits.

Every person who is assessable with a local license tax shall keep sufficient records to enable the assessor to verify the correctness of the tax paid for the license years assessable and to enable the assessor to ascertain what is the correct amount of tax that was assessable for each of those years. All such records, books of accounts and other information shall be open to inspection and examination by the assessor in order to allow the assessor to establish whether a particular receipt is directly attributable to the taxable privilege exercised within this jurisdiction. The assessor shall provide the taxpayer with the option to conduct the audit in the taxpayer's local business office, if the records are maintained there. In the event the records are maintained outside this jurisdiction, copies of the appropriate books and records shall be sent to the assessor's office upon demand.

(Code 2003, § 126-11; Ord. of 6-13-2011)

Sec. 10-197. - Exclusions and deductions from gross receipts.

(a) Generally. Gross receipts for license tax purposes shall not include any amount not derived from the exercise of the licensed privilege to engage in a business or profession in the ordinary course of business or profession.

(b) The following items shall be excluded from gross receipts:

(1) Amounts received and paid to the United States, the commonwealth or any county, city or town for the state retail sales or use tax, or for any local sales tax or any local excise tax on cigarettes, for any federal or state excise taxes on motor fuels.

(2) Any amount representing the liquidation of a debt or conversion of another asset to the extent that the amount is attributable to a transaction previously taxed (e.g., the factoring of accounts receivable created by sales which have been included in taxable receipts even though the creation of such debt and factoring are a regular part of its business).

(3) Any amount representing returns and allowances granted by the business to its customer.

(4) Receipts which are the proceeds of a loan transaction in which the licensee is the obligor.

(5) Receipts representing the return of principal of a loan transaction in which the licensee is the creditor, or the return of principal or basis upon the sale of a capital asset.

(6) Rebates and discounts taken or received on account of purchases by the licensee. A rebate or other incentive offered to induce the recipient to purchase certain goods or services from a person other than the offeror and which the recipient assigns to the licensee in consideration of the sale of goods and services shall not be considered a rebate or discount to the licensee but shall be included in the licensee's gross receipts together with any handling or other fees related to the incentive.

(7) Withdrawals from inventory for purposes other than sale or distribution and for which no consideration is received and the occasional sale or exchange of assets other than inventory, whether or not a gain or loss is recognized for federal income tax purposes.

(8) Investment income not directly related to the privilege exercised by a licensable business not classified as rendering financial services. This exclusion shall apply to interest on bank accounts of the business and to interest, dividends and other income derived from the investment of its own funds in securities and other types of investments unrelated to the licensed privilege. This exclusion shall not apply to interest, late fees and similar income attributable to an installment sale or other transaction that occurred in the regular course of business.

(c) The following shall be deducted from gross receipts or gross purchases that would otherwise be taxable:

(1) Any amount paid for computer hardware and software that are sold to a United States federal or state government entity, provided that such property was purchased within two years of the sale to said entity by the original purchaser who shall have been contractually obligated at the time of purchase to resell such property to a state or federal government entity. This deduction shall not occur until the time of resale and shall apply to only the original cost of the property and not to its resale price, and the deduction shall not apply to any of the tangible personal property which was the subject of the original resale contract if it is not resold to a state or federal government entity in accordance with the original contract obligation.

(2) Any receipts attributable to business conducted in another state or foreign country in which the taxpayer is liable for an income or other tax based upon income.

(Code 2003, § 126-12; Ord. of 6-13-2011)

Sec. 10-198. - Licensee fee and tax rates.

Except as may be otherwise provided in Code of Virginia, §§ 58.1-3712, 58.1-3712.1 and 58.1-313, every person or business subject to licensure under this section with annual gross receipts of more than $100.00 shall be assessed and required to pay annually a license tax on all the gross receipts of such persons includable as provided in this section at a rate set forth as follows for the class of enterprise listed:

(1) For contractors and persons constructing for their own account for sale: $0.10 per $100.00 of gross receipts ($0.16 per $100.00 maximum).

(2) For retailers: $0.10 per $100.00 of gross receipts ($0.20 per $100.00 maximum).

(3) For financial, real estate and professional services: $0.10 per $100.00 of gross receipts ($0.58 per $100.00 maximum).

(4) For repair, personal and business services and all other businesses and occupations not specifically listed or exempted in this section or otherwise by law: $0.10 per $100.00 of gross receipts ($0.36 per $100.00 maximum).

(5) For wholesalers: $0.05 per $100.00 of purchase. (See Code of Virginia, § 58.1-3716, for limitation.)

(6) For carnivals, circuses and speedways: $500.00 for each performance held in this jurisdiction. (See Code of Virginia, § 58.1-3728, for limitations.)

(7) For fortunetellers, clairvoyants and practitioners of palmistry: $1,000.00 per year.

(8) For massage parlors: $1,000.00 per year.

(9) For itinerant merchants or peddlers: $500.00 per year. (See limitation in Code of Virginia, § 58.1-3717.)

(10) For photographers with no regularly established place of business in town or the state: $10.00 per year. (See limitation in Code of Virginia, § 58.1-3727.)

(11) For permanent coliseums, arenas or auditoriums having a maximum capacity in excess of 10,000 persons, open to the public: $1,000.00 per year. (See limitation in Code of Virginia, § 58.1-3729.)

(12) For savings-and-loan associations and credit unions: $50.00 per year.

(13) For direct sellers as defined in Code of Virginia, § 58.1-3719.1, with total annual sales in excess of $4,000.00: $0.02 per $100.00 of total annual retail sales or $0.05 per $100.00 of total annual wholesale sales, whichever is applicable.

(14) For one or more amusement machines, pinball machines, as defined by Code of Virginia, § 58.1-3720: license fee shall be $50.00 in addition to any other license fee imposed.

(Code 2003, § 126-13; Ord. of 6-13-2011)

Sec. 10-199. - License fees on telephone companies.

There is hereby imposed on telephone companies a license tax in the amount of one half of one percent of the gross receipts of such company accruing from sales to the ultimate consumers in the town.

State Law reference— License tax on telephone companies, Code of Virginia, § 58.1-3731; gross receipts of telephone companies, Code of Virginia, § 58.1-2600.

(Code 2003, § 126-14; Ord. of 6-13-2011)

Sec. 10-200. - Violations and penalties.

It shall be unlawful and constitute a misdemeanor for any person to violate any of the provisions of this article. Unless otherwise provided, any such violation shall be punishable by a fine of not less than $5.00 and not more than $500.00. Each day any such violation shall continue shall constitute a separate offense.

(Code 2003, § 126-15; Ord. of 6-13-2011)

Sec. 10-201. - Mobile food establishments.

(a) *Intent.* The intent of this section is to establish basic operational standards for mobile food establishments as well as appropriate protections of public health, safety, and welfare for their operation. Mobile food establishments are not by definition permanent fixtures to a specific property. These regulations do not apply to Meals on Wheels program vehicles or food home delivery services. As used in this section, the term "mobile food establishment" means all mobile food vehicles providing retail sales of food and beverages, including food trucks, food trailers and food carts and any other mobile food devices not affixed to real property.

(b) *General requirements.*

(1) For the purposes of this section, the terms "permittee," "operator," and "vendor" all shall mean a licensed mobile food establishment, as defined in subsection (a) of this section.

(2) A mobile food establishment permit authorized by the administrator shall be required prior to the operation of a mobile food establishment on any real property parcel within the town limits.

(3) Mobile food establishments will be required to pay $25.00 for a one-day-only permit or $100.00 for a one-year permit. A mobile food establishment permit is valid through December 31 of the year upon which the permit was issued. The permit fee may be waived if the mobile food establishment is part of a special event.

(4) Mobile food establishments are required to collect and remit all applicable sales, meals and other applicable taxes to the appropriate taxing entity. However, meals tax may not be required to be collected during special events such as fairs, festivals, and similar events that are approved by a temporary event permit.

(5) No permit authorized by this section and issued by the administrator shall authorize a mobile food establishment to operate on or from a public street or sidewalk unless it is part of a special event and the street and sidewalk locations have been approved by the administrator.

(6) Mobile food carts for the retail sale of food or beverages are not permitted on sidewalks.

(7) A mobile food establishment permit may be revoked by the administrator at any time due to the failure of the permit holder to comply with all requirements of this section and other applicable federal, state, and local laws. Notice of revocation shall be made, in writing, to the permit holder.

(c) *Application requirements.*

(1) A valid permit from the state department of health stating that the mobile food establishment meets all applicable standards is required. A valid health permit must be maintained for the duration of the mobile food establishment permit.

(2) The mobile food establishment vendor must secure and provide proof of insurance to protect against liability for personal injury and property damage up to $1,000,000.00. Proof of this insurance shall be maintained in the mobile food establishment and made readily available for inspection by the administrator.

(3) Applicants for a mobile food establishment permit authorizing the operation of the mobile food establishment on private property must provide:

a. Information identifying the mobile food establishment unit, including its make, model and license plate number, together with a photograph of the mobile food establishment;

b. Written permission from the owner of the private properties upon which the permittee will operate;

c. Description of the days of the week and hours of operation for proposed mobile food vending at the proposed property;

d. A sketch to be approved by the zoning administrator, illustrating access to the site, all parking areas, routes for ingress and egress, placement of the mobile food establishment, distance from the property lines, garbage receptacles and any other feature associated with the mobile food establishment.

(4) A permit shall not be required for the location or setup of a mobile food establishment on private property for the catering or providing of food service to a closed private event (such as weddings, birthdays, picnics, etc.). During such an event, no public mobile food vending shall be permitted.

(5) A permit and fee may not be required for an individual mobile food establishment if the operator is participating in an approved fair, festival, or similar event approved by a temporary event permit pursuant to this section.

(d) *Grant or denial of application.* Review and consideration of an application shall be conducted in accordance with principles of due process. Applications may be denied where an applicant fails to demonstrate that such applicant meets the conditions and requirements of this section, or where an applicant fails to comply with applicable local, state or federal law. Any false statements, material omissions or substantially misleading information provided in an application or furnished by an applicant in connection with an application shall constitute grounds for any one or combination of the following sanctions:

(1) Permit denial;

(2) Refusal to renew a permit;

(3) Permit revocation;

(4) Permit suspension; and/or

(5) Imposition of penalties.

(e) *Location requirements.*

(1) Mobile food establishments shall only be permitted in B-1 and B-2 districts that permit a restaurant by right. In M-1 Limited Industrial District, mobile food establishments may be allowed if approved by the administrator. For special events, in districts other than B-1 and B-2, mobile food establishments may be allowed if approved by the administrator.

(2) All mobile food establishments must be located at the designated location that has been requested on the application and approved by the administrator. Location freelancing and changes of location are not permitted unless approved, in writing, by the administrator.

(3) Mobile food establishments may be located on off-street parking lots in locations that do not block any drive aisles, ingress and egress routes from the property, or designated fire lanes. In no event shall vendors be permitted to operate on grass, dirt or other nonimproved parking surfaces unless approved by the administrator.

(4) Mobile food establishments and trailers shall be located a minimum distance of 15 feet from the edge of any driveway, utility box or vault, ramp for individuals with disabilities, building entrance, exit or emergency access/exit, emergency call box or fire hydrant.

(5) Mobile food establishments shall not be located within any area of the lot or parcel that impedes, endangers, or interferes with pedestrian or vehicular traffic.

(6) Mobile food establishment shall not occupy any parking spaces required to fulfill the minimum requirements of the principal business use, unless the principal business' hours of operation do not coincide with those of the mobile food establishment. Nor shall any mobile food establishment occupy parking spaces that may be leased to another business and used to fulfill its minimum parking requirements.

(7)

Mobile food establishments shall not occupy or limit access to any disabled-individual-accessible parking space.

(f) *Operation requirements.*

(1) No freestanding signage, banners, flags, pennants, or audio amplification shall be permitted as part of the mobile food establishments operations.

(2) No mobile food establishment shall use flashing or moving lights as part of its operation. Auxiliary or temporary lighting is not allowed.

(3) Two picnic tables with umbrellas with a seating capacity of six people per table may be set up for patrons' use. No tents or additional chairs are permitted. With approval of the administrator, mobile food units that are owned and operated on private property, when such real property is owned by the mobile food unit operator, may have additional tables, not to exceed six.

(4) Outside of its regular business hours, the mobile food establishment shall not be stored on the site of its operation unless preapproved by the administrator.

(5) The vendor is responsible for the proper disposal of waste and trash associated with the operation of the mobile food establishment. Town trash receptacles are not to be used for this purpose. Vendors shall provide portable trash receptacles and remove all waste and trash from their approved location at the end of each day or as needed to maintain the health and safety of the public. The vendor shall keep all areas of the permitted lot free and clean of grease, trash, paper, cups, cans or other materials associated with operation of the mobile food establishment.

(6) No liquid waste or grease is to be disposed on the ground, in tree pits, storm drains, on sidewalks, streets, or other public spaces. Under no circumstances shall grease be released or disposed of in the town's sanitary sewer system. Failure to comply with this section will result in an immediate revocation of the permit and potential liability for damages and remediation costs.

(7) All equipment required for the operation of the mobile food establishment shall be contained within, attached to, or within 20 feet of the mobile food establishment. All food preparation, storage, and sales distribution shall comply with all applicable town, state, and federal health department sanitary regulations and other applicable regulations.

(8) Only food and nonalcoholic beverages incidental to the permitted vendor shall be sold from the mobile food establishment. Retail sales of merchandise are permitted as an accessory use to the primary use of food sales.

(9) Signage.

a. Signage may be imprinted on the exterior body of a licensed mobile food establishment and include the use of an attached or detached menu board.

b. Advertisements for businesses other than the mobile food establishment may not be utilized.

(10) The operator of a permitted mobile food establishment must conspicuously display all approved permits and licenses for public inspection. Proof of commercial general liability insurance for the mobile food establishment is required to be with the mobile food unit at all times.

(11) All required taxes must be collected and paid to the appropriate entities.

(12) A three-foot-wide clearance area must be maintained around the mobile food establishment.

(Code 2003, § 126-16; Ord. of 6-13-2011; Ord. of 9-9-2019; Ord. of 4-12-2021)

State Law reference— License requirements for mobile food units, Code of Virginia, § 58.1-3715.1.

Secs. 10-202—10-225. - Reserved.

ARTICLE VII. - PEDDLING AND SOLICITING

Footnotes:

*--- (**5**) ---*

***State Law reference—** Solicitation of contributions, Code of Virginia, § 57-48 et seq.; local regulation and licensing of charitable or civic organizations making solicitations, Code of Virginia, § 57-63; local licensing of peddlers, Code of Virginia, § 58.1-3717 et seq.*

DIVISION 1. - GENERALLY

Sec. 10-226. - Obstruction of street or sidewalk passage; solicitation prohibited.

No person shall obstruct or interfere in any way with the passage of persons along the streets or sidewalks in the town for the purpose of inducing them to purchase any article or thing, or importune passersby to make any such purchase, or enter any establishment, or, in any disorderly manner, solicit trade, customers or patronage along the streets or sidewalks in the town.

(Code 2003, § 143-1)

Sec. 10-227. - Charitable solicitations.

It shall be unlawful for any person to solicit funds within the town for any charitable organization as defined in Code of Virginia, § 57-48, without having first registered with the state commissioner of agriculture and consumer services, unless exempt from such requirement, and without having first registered with the administrative assistant of the town the name of the organization, the names of its solicitors and the dates and times that they will be soliciting in the town.

(Code 2003, § 143-2; Ord. of 3-25-1997)

Secs. 10-228—10-247. - Reserved.

DIVISION 2. - SOLICITORS

Sec. 10-248. - 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:

Solicitor means a person who goes from door to door visiting multiple-family or single-family dwellings for the following purposes: to sell any goods, wares, merchandise or services or to accept subscriptions or orders therefor.

(Code 2003, § 143-3; Ord. of 3-25-1997)

Sec. 10-249. - Registration required; necessary information.

All persons, before entering into or upon residential premises within the town for the purpose of soliciting, shall register with the county sheriff and furnish the county sheriff with the following information:

(1) The name, local and permanent addresses, age, weight, height, color of hair and eyes and any other distinguishing physical characteristics of the applicant.

(2) The nature or purpose for which solicitations will be made and the nature of the goods, wares, merchandise or services offered for sale.

(3) The name and permanent address of the employer or organization represented.

(4) A statement as to whether the applicant has been convicted of any felony or misdemeanor and, if so, the nature of the offense, when and where convicted and the penalty or punishment assessed therefor, provided that in no case shall information be required to be disclosed regarding any arrest or criminal charge that has been expunged pursuant to Code of Virginia, § 19.2-392.2.

(Code 2003, § 143-4)

Sec. 10-250. - Issuance of permit; term; display.

Upon furnishing the information required under section 10-248, the applicant shall be issued a permit, unless the information furnished in compliance with this article shows that the applicant has been convicted of a crime involving moral turpitude. A permit issued under this article shall be good for one year from the date of issuance, unless revoked. Permits issued under this article shall be void upon conviction for a

violation of this article. Every solicitor shall carry the solicitor's permit with said solicitor at all times while engaged in soliciting and shall display such permit to any person who shall demand to see the permit while the solicitor is so engaged.

(Code 2003, § 143-5)

Sec. 10-251. - Fee; disposition; license tax.

(a) A fee of $100.00 to cover the costs of investigation of the applicant for a permit under this article and processing of the application shall be paid to the county sheriff when the application is filed and shall not be returnable under any circumstances. All such fees received shall be paid by the sheriff to the county treasurer for deposit in the county general fund.

(b) In addition to the fee mentioned in subsection (a) of this section, a license tax of $500.00 shall be paid to the town treasurer.

(Code 2003, § 143-6)

Sec. 10-252. - Prohibited acts.

No person shall:

(1) Enter into or upon any residential premises in the town under false pretenses to solicit for any purpose or for the purpose of soliciting orders for the sale of goods, wares, merchandise or services.

(2) Remain in or on any residential premises after the owner or occupant has requested any such person to leave.

(3) Enter upon any residential premises for soliciting when the owner or occupant has displayed a "No Soliciting" sign on such premises.

(4) Engage in the practice of soliciting in the town without a permit as provided for in this article.

(5) Knowingly give false information or fail to provide correct information in obtaining a permit.

(Code 2003, § 143-7)

Sec. 10-253. - Exceptions.

The provisions of this article shall not apply to:

(1) Any person who visits any residence or apartment at the request or invitation of the owner or occupant thereof.

(2) Members or representatives of any civic or charitable organization who have an approved means of identification provided by the organization represented.

(3) Newsboys soliciting subscriptions to any newspaper for home delivery within the town.

(4) Route delivery persons who make deliveries at least once a week to regular customers and whose solicitation is only incidental to their regular deliveries.

(5) Persons selling fresh farm products.

(6) Persons licensed under the provisions of Code of Virginia, title 38.2.

(Code 2003, § 143-8)

State Law reference— Insurance, Code of Virginia, title 38.2.

Sec. 10-254. - Violations and penalties.

Any violation of this article shall constitute a misdemeanor and be punishable as provided in section 1-21.

(Code 2003, § 143-9)

Secs. 10-255—10-271. - Reserved.

ARTICLE VIII. - PRECIOUS METALS DEALERS

Footnotes:
*--- (**6**) ---*
***State Law reference—** Regulation of auctions, peddlers, weights and measures, Code of Virginia, § 15.2-1114; precious metals dealers, Code of Virginia, § 54.1-4100 et seq.; local ordinances regulating precious metals dealers, Code of Virginia, § 54.1-4111; local license taxes, Code of Virginia, § 58.1-3700 et seq.*

DIVISION 1. - GENERALLY

Sec. 10-272. - 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:

Itinerant dealer means a person, concern, business, corporation or partnership which has not conducted a business within the town for a period of at least six months prior to the effective date of the 2003 Code.

Nonresident of the town means any person, concern, business, corporation or partnership that does not have a permanent place of abode or domicile within the town.

Resident of the town means any person, concern, business, corporation or partnership that has continuously operated a business or maintained a place of abode or domicile in the town for a period of one year next preceding the effective date of the 2003 Code.

(Code 2003, § 147-1)

State Law reference— Definitions, Code of Virginia, § 54.1-4100.

Sec. 10-273. - Bond or letter of credit required.

Every person licensed under this article shall at the time of licensing, before the license shall be operative, enter with either one corporate or two personal sufficient sureties into a joint and several recognizance to the county in the penal sum of $10,000.00, conditioned upon due observance of the terms of this article. In lieu of a bond, a dealer may cause to be issued by a bank authorized to do business in the commonwealth a letter of credit for $10,000.00.

(Code 2003, § 147-2)

State Law reference— Similar provisions, Code of Virginia, § 54.1-4106.

Sec. 10-274. - Private action on bond.

If any person shall be aggrieved by the misconduct of any licensee under this article and shall recover against said licensee therefor, such person may, after the return unsatisfied, either in whole or in part, of any execution issued upon such judgment, maintain actions in the person's own name upon the bond.

(Code 2003, § 147-3)

State Law reference— Similar provisions, Code of Virginia, § 54.1-4107.

Sec. 10-275. - Information required from sellers; records to be kept.

The licensee under this article shall be required to ascertain the name, complete address and age of each seller of items described in this article by requiring the seller to produce identification, including a state operator's license or other identification card issued by a governmental agency bearing a picture of the seller, and at least one other corroborating means of identification. The licensee shall maintain permanent records containing a detailed description of all items purchased, the date and time of purchase, the price paid and the seller's identity, including the name, complete address, age and social security number of the licensee. The licensee shall record the means of identification provided by the seller, including the driver's license number or other identifying numbers provided by the seller.

(Code 2003, § 147-4)

State Law reference— Similar provisions, Code of Virginia, § 54.1-4102.

Sec. 10-276. - Reports to sheriff.

Every licensee under this article shall be required to prepare a report at the end of each day listing a complete description of each item purchased, its purchase price and the name and address of the seller. Such report shall be filed with the county sheriff or duly authorized agent no later than 12:00 noon of the following day.

(Code 2003, § 147-5)

State Law reference— Similar provisions, Code of Virginia, § 54.1-4101.

Sec. 10-277. - Purchase prohibited from persons under 18 years of age.

No purchases shall be made by a licensee under this article from anyone under the age of 18 years.

(Code 2003, § 147-6)

State Law reference— Similar provisions, Code of Virginia, § 54.1-4103.

Sec. 10-278. - Records to be kept open to inspection.

All records maintained by a licensee under this article shall at all reasonable times be open to inspection by the county sheriff, any other officer with police jurisdiction within the county or town thereof and the commonwealth's attorney.

(Code 2003, § 147-7)

State Law reference— Similar provisions, Code of Virginia, § 54.1-4101.1

Sec. 10-279. - Treatment of property; inspection of premises.

(a) No property of any sort purchased by a licensee under this article shall be disfigured or its identity destroyed or affected in any manner whatsoever, so long as it continues in possession of such licensee, nor shall such property be in any manner concealed or removed from the premises for a period of 72 hours after such property shall have been purchased by the licensee.

(b) The licensee under this article shall permit the county sheriff, any other officer with police jurisdiction within the county or town thereof and the commonwealth's attorney, at any time, to inspect the premises of the licensee and any goods located on such premises, and to search for and take into possession any article known to be missing or known or believed to have been stolen, without the formality of a writ of search warrant or any other process.

(Code 2003, § 147-8)

State Law reference— Similar provisions, Code of Virginia, §§ 54.1-4101.1 and 54.1-4104.

Sec. 10-280. - Employee information required.

The licensee shall provide the county sheriff with the name, address, date of birth and social security number of every employee or agent working on the licensee's premises. Such information shall be provided to the sheriff within 24 hours from the commencement of such person's employment.

(Code 2003, § 147-9)

Sec. 10-281. - Violations and penalties.

(a) Any person convicted of violating any of the provisions of this article shall be guilty of a Class 2 misdemeanor for the first offense. Upon conviction of any subsequent offense said person shall be guilty of a Class 1 misdemeanor.

(b) Upon the first conviction of a dealer for violation of any provision of this article, the chief law enforcement officer may revoke the dealer's permit for one full year from the date the conviction becomes final. Such revocation shall be mandatory upon a second conviction.

(Code 2003, § 147-10)

Secs. 10-282—10-310. - Reserved.

DIVISION 2. - LICENSES

Sec. 10-311. - License required.

No itinerant dealer or nonresident of the town shall engage in the business of purchasing gold, silver, platinum, gems, semiprecious stones or any secondhand or used gold, gold-plated, silver, silver-plated, platinum, platinum-plated or pewter flatware, tableware or other similar household items, watches, jewelry or coins in the town without obtaining a license as provided in this article.

(Code 2003, § 147-11)

State Law reference— Similar provisions, Code of Virginia, § 54.1-4108(A).

Sec. 10-312. - Applicability.

The license fee and requirements of a security bond set forth in this article shall not be applicable to any resident of the town, but all other provisions of this article shall apply to such person, concern, business, corporation or partnership.

(Code 2003, § 147-12)

Sec. 10-313. - Issuance; application; fee; sheriff to receive copy.

(a) Licenses shall be issued by the commissioner of the revenue to any person able to produce satisfactory evidence of good character, and such license shall designate the premises wherein the licensee shall conduct business.

(b) The applicant shall state the full name and address, date of birth, and social security number of the applicant, the full name and address of the proposed place of business and its hours of operation, a statement setting forth in detail the goods intended to be purchased, and a statement as to whether such location is a permanent or temporary place of business. Applications made under this article shall be in writing and verified by oath of the applicant.

(c) An annual fee of $1,000.00 shall be charged for any license issued pursuant to this article.

(d) A copy of each application shall be forwarded to the county sheriff by the commissioner of the revenue.

(Code 2003, § 147-13)

Sec. 10-314. - False statements on application.

Any false statement made on the application form for a license under this article voids the license ab initio.

(Code 2003, § 147-14)

Sec. 10-315. - License nontransferable; display.

The license issued under this article shall be a personal privilege and shall not be transferable, either to another person or to another location, nor shall there be any abatement of the tax upon such license by reason of the fact that the licensee shall have exercised the privilege for any period of time less than that for which it was granted. The license shall at all times be kept publicly exposed by the licensee on the business premises of the licensee.

(Code 2003, § 147-15)

State Law reference— Permit not transferable, Code of Virginia, § 54.1-4108(D).

Sec. 10-316. - Revocation.

For good cause shown, the council may revoke the license of any person licensed under this article. Such action shall be taken only after notice has been given to the licensee and at a regular scheduled meeting of the council. In the event of such revocation, no portion of the license fee shall be refunded.

(Code 2003, § 147-16)

Chapter 12 - CABLE TELEVISION

Footnotes:
*--- (**1**) ---*
Federal law references—Restrictions on local government cable franchise fees and agreements, 47 CFR pt. 76; local franchising authorities' regulation of cable operators and cable television services, 84 FR 44725, Document No. 2019-18230, 8/27/2019
***State Law reference—** Licensing and regulation of cable television systems, Code of Virginia, § 15.2-2108.19 et seq.*

Sec. 12-1. - Definitions.

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

Applicant means any person submitting an application to the town for a franchise to operate a cable television system under the terms and conditions set forth by the council.

Cable television system or *system* means any facility that, in whole or in part, receives directly or indirectly over the air and amplifies or otherwise modifies the signals transmitting programs broadcast by one or more television or radio stations and distributes such signals by wire or cable to subscribing members of the public who pay for such services.

Certificate of compliance means that approval required by the FCC in order for a grantee of a cable television franchise to operate.

Council means the present governing body of the town or any successor to the legislative powers of the present council.

Federal Communications Commission or *FCC* means that agency as presently constituted by the U.S. Congress or any successor agency.

Grantee means the person to whom or to which a franchise is granted by the council pursuant to this chapter or anyone who succeeds such person in accordance with the provisions of the franchise.

Gross subscriber revenue means subscriber revenues derived from subscriber services, i.e., the carriage of broadcast signals and/or required nonbroadcast services provided by cable television systems pursuant to rules and regulations of the Federal Communications Commission.

Street means the surface of and the space above and below any public street, road, highway, freeway, lane, path, public way, or place, alley, court, boulevard, parkway, drive or other easement now or hereafter held by the town for the purpose of public travel and shall include other easements or rights-of-way now or hereafter held by the town which shall, within their proper use thereof for the purpose of installing or

transmitting cable television system transmissions over poles, wires, cables, conductors, ducts, conduits, vaults, manholes, amplifiers, appliances, attachments, and other property as may be ordinarily necessary and pertinent to a cable television system.

(Code 2003, § 79-1)

Sec. 12-2. - Grant of authority.

The council is hereby authorized to grant the right, privilege and franchise to construct, operate and maintain a cable television system in the town for a period of 15 years from and after the passage, acceptance and effective date of the ordinance from which this chapter originally was derived, subject to the conditions and restrictions as hereinafter provided.

(Code 2003, § 79-2)

Sec. 12-3. - Franchise term.

Any franchise granted pursuant to this chapter shall terminate 15 years from the date of grant and may be renewed for successive 15-year terms on the same terms or conditions as contained herein, or such different or additional terms and conditions as may be lawfully required by the council, and consistent with the requirements of any then applicable rules and regulations of the FCC. Any franchise so granted shall be binding upon the council and any successor authorized during the specified term of the franchise and so long as the grantee performs according to the conditions and restrictions of the franchise as set forth herein.

(Code 2003, § 79-3)

Sec. 12-4. - Application for franchise.

(a) No cable television franchise or renewal thereof shall be issued except upon a written application which shall set forth such facts in detail as the council may deem appropriate, including, but not limited to:

(1) If the applicant is an individual, partnership, or unincorporated association, its application shall contain the names and addresses of all persons (including corporations) having a proprietary or equitable interest in and to the prospective franchisee's business operation, and in and to the prospective franchise if awarded to the applicant. The term "equitable interest" includes all assignments for value, as well as all contingent assignments of any right of privilege under the prospective franchise, and also includes any benefit, payment, or emolument whatsoever resulting from the grant of a franchise under this chapter.

(2)

If the applicant is a nonpublic or closely held (less than 50 shareholders) corporation, its application shall furnish, additionally, the names and addresses of the officers, directors, and shareholders of the corporation, together with the number of shares held by each shareholder.

(3) If the applicant is a publicly held corporation (50 or more shareholders), its application shall set forth the state in which the applicant is incorporated and/or qualified to do business and the names and addresses of the officers, directors, and any stockholders owning five percent or more of the stock of the corporation.

(4) If such applicant operates or does business under an assumed name it shall conform to the state assumed name statute.

(5) If another corporation owns 50 percent or more of the applicant's outstanding capital stock, the same information required by subsections (a)(2) and (3) of this section, whichever is applicable, shall be provided for any such corporation.

(6) The application shall set forth full disclosure of the ownership of the property, both real and personal, to be used in rendering the service.

(7) The application shall specify the sources of funds to be used by the applicant for the installation and maintenance of all cable television facilities and the sources of and amount of all money or credit obtained from any source whatsoever.

(8) The application shall set forth a schedule of the rates to be charged subscribers for installation of equipment and regular subscriber services, the facilities to be employed and the general routes of the cables used in redistributing signals, the service areas, the proposed commencement and completion dates of construction of the cable television system and the proposed dates the services will be available to the areas named.

(b) The council may require such other information as it may deem appropriate.

(c) All applications shall be available for public inspection and shall be kept on file a reasonable length of time at the discretion of the council. Any intentional material misrepresentation in an application shall be grounds for its rejection or for termination of the franchise.

(Code 2003, § 79-4)

State Law reference— Transacting business under assumed name, Code of Virginia, § 59.1-69 et seq.

Sec. 12-5. - Franchise payments.

(a) The grantee shall pay to the town as provided in this chapter a three-percent franchise fee based on gross subscriber revenues received for cable television operations in the town for the preceding calendar year or portion thereof if the grantee has not operated for a full calendar year. No other fee, charge or consideration will be imposed by the town. The grantee shall file with the town within 60 days after the expiration of each calendar year during the period the

franchise shall be in force an audited financial statement showing in detail the gross subscriber revenues of the grantee from this franchise during the preceding calendar year. The grantee shall pay the franchise fee to the town at the time for filing such statement.

(b) The town shall have the right to inspect the grantee's records showing the gross subscriber revenues on which the town's franchise payments are computed and shall have the right to audit and recompute the grantee's records after reasonable notice, as set forth in section 12-7(b).

(Code 2003, § 79-5)

Sec. 12-6. - Insurance.

At all times during the term of the franchise, the grantee shall obtain and keep in force and pay all premiums upon and file with the town executed duplicate copies evidencing the payment of premiums for a general comprehensive public liability insurance policy indemnifying, defending and saving harmless the town, its officers, boards, commissions, agents or employees, from any and all claims by any person whatsoever on account of injury to or death of a person occasioned by the operations of a grantee under any franchise granted under this chapter or alleged to have been so caused, with a minimum liability of $300,000.00 for personal injury or death of any one person, $500,000.00 for personal injury and death in any one single accident, and $100,000.00 property damage for any one single accident. The foregoing insurance contract shall require 30 days' written notice of any cancellation to both the town and the grantee, and a copy of such policy shall be filed with the town.

(Code 2003, § 79-6)

Sec. 12-7. - Books and records of grantee.

(a) The grantee shall file with the town a true and accurate copy of maps and/or plats of all existing and proposed installations upon the streets, and the maps and plats shall be kept up to date.

(b) All books and records of the grantee concerning its operations within the town shall be made available for inspection and audit by the town or its designee within 30 days after any request for such inspection or audit shall be made.

(c) Copies of all rules, regulations, terms and conditions established by the grantee for the operation of its cable television system under the franchise shall be filed with the town and at the local address of the grantee.

(Code 2003, § 79-7)

Sec. 12-8. - Rates.

(a) By its award of the franchise, the council approves the initial subscriber rates of the grantee as set forth in its application to the town for a cable television franchise.

(b) No increase in rates for service or hookup fees charged to subscribers by the grantee shall be made except as authorized by the council and after a public notice and public hearing affording due process as prescribed by section 12-17.

(Code 2003, § 79-8)

Sec. 12-9. - Uses permitted by grantee.

The grantee shall be authorized and permitted to engage in the business of operating and providing a cable television system in the town, and for that purpose to erect, install, construct, repair, replace, reconstruct, maintain, retain in, on, over, under or upon such poles, wires, cables, conductors, ducts, conduits, vaults, manholes, amplifiers, appliances, attachments and other property as may be necessary and appurtenant to the cable television system. In addition, the grantee may negotiate for the use, operation and provision of similar facilities or properties rented or leased from other persons, including, but not limited to, any public utility or other grantee franchised or permitted to do business in the town.

(Code 2003, § 79-9)

Sec. 12-10. - Conditions of street occupancy.

(a) All structures, lines and equipment erected by the grantee within the town shall be so located as to cause no interference with the proper use of streets, and to cause no interference with the rights and reasonable convenience of property owners who join any of such streets. The cable television system shall be constructed and operated in compliance with all adopted town and national construction and electrical codes and shall be kept current with new codes or amended codes.

(b) Whenever the town shall require the relocation or reinstallation of any property of the grantee in or over or upon any of the streets of the town, it shall be the obligation of the grantee upon notice of such requirement to immediately remove and relocate or reinstall such property as may be reasonably necessary to meet the requirements of the town. Such relocation, removal or reinstallation by the grantee shall be at the sole cost of the grantee. In the event of an abandonment by the grantee of the grantee's property after a revocation of the grantee's franchise, the town shall have the right to remove and relocate the grantee's property at the expense of the grantee.

(c) The grantee shall have the authority to trim trees overhanging the streets of the town so as to prevent the branches of such trees from coming in contact with the grantee's wires and cables. All trimming shall be done under the supervision and direction of the town and at the expense of the grantee, after giving notice to the town.

(d)

In case of disturbance, damage to or obstruction of any street caused by the grantee, its agents, employees, or servants, the grantee shall at its own cost and expense and in a manner approved by the town replace and restore such streets to the same condition as before the damage was done.

(Code 2003, § 79-10)

Sec. 12-11. - Provision of television broadcast signals.

The grantee shall provide the signals of television broadcasting stations as required by state statutes, including Code of Virginia, § 15.2-2108, but not excluding other pertinent sections.

(Code 2003, § 79-11)

Sec. 12-12. - Minimum channel capacity and provision of access channels.

The grantee's pioneering efforts in cable television are hereby recognized and it is agreed that the grantee will proceed in an expeditious manner in complying with requirements for minimum channel capacity and the provision of access channels; such compliance shall be completed within two years of the granting of a franchise.

(Code 2003, § 79-12)

Sec. 12-13. - Technical standards.

(a) The grantee shall conduct performance tests in accordance with the requirements of 47 CFR 76.601 or any successor section of the FCC's rules, as these requirements may apply from time to time.

(b) The performance of the grantee's cable television system shall meet the technical standards set forth in 47 CFR 76.605 or any successor section of the FCC's rules as those standards may apply from time to time.

(Code 2003, § 79-13)

Sec. 12-14. - Restrictions against assignment.

The franchise shall not be assigned, or control or ownership of the grantee transferred, without the consent of the council.

(Code 2003, § 79-14)

Sec. 12-15. - Preferential or discriminatory practices prohibited.

The grantee shall not, as to rates, charges, service facilities, rules, regulations or in any other respect, make or grant any undue prejudice or advantage to any person or subject any person to any undue prejudice of disadvantage; provided, however, the connection and service charge may be waived or modified during promotional campaigns of the grantee.

(Code 2003, § 79-15)

Sec. 12-16. - Revocation of franchise.

(a) In addition to all rights and powers reserved or held by the town, the town reserves the additional, separate and distinct right to terminate the franchise and all rights and privileges of a grantee in any one or more of the following events or for any of the following reasons:

(1) The grantee shall by act or omission violate any term or condition of this chapter and, within 30 days following written demand by the town, shall fail to effect compliance with this chapter or cure such act or omission or defect as set forth in the written demand.

(2) The grantee becomes insolvent, unable, or unwilling to pay its debts or is adjudged a bankrupt or abandons for a period of 30 days its property, operation and service in the town under the franchise.

(b) The grantee shall not be declared in default or be subject to any sanction under any provision of this chapter in any case in which performance of any such duty or provision is prevented for reasons beyond its control, as determined by the council.

(Code 2003, § 79-16)

Sec. 12-17. - Procedures.

(a) Any injury, proceeding, investigation or other action to be taken or proposed to be taken by the council in regard to the grantee's cable television system shall be taken only after public notice of such action or proposed action is published in a local daily or weekly newspaper having general circulation in the town.

(b) The public notice required by this section shall state clearly the proposed action to be taken, the time provided for response and the persons in authority to whom such responses should be addressed, and such other procedures as may be specified by the council, including a hearing when an increase in subscriber rates is involved. If a hearing is to be held, the public notice shall give the date and time of such hearing, the nature of the public participation which will be allowed and the procedures by which such participation may be obtained. The grantee shall be a necessary party of such hearing and the hearing and notice shall be in pursuant to Code of Virginia, § 15.2-2106.

(Code 2003, § 79-17)

Sec. 12-18. - Investigation and resolution of complaints.

The grantee shall maintain a local business address and local telephone with no long distance charges to calling parties, or an agent in the town for the investigation and resolution of all complaints regarding the quality of service, equipment malfunction, and similar matters.

(Code 2003, § 79-18)

Sec. 12-19. - Extension of town limit.

Upon the annexation of any territory to or from the town, any franchise granted shall extend to the territory so annexed.

(Code 2003, § 79-19)

Sec. 12-20. - Modification of FCC rules.

Any modification or amendment of section 76.31 or any successor section of the rules and regulations of the FCC shall, to the extent applicable, be considered as part of any franchise granted pursuant to this chapter as of the effective date of the amendment made by the FCC and shall be incorporated in this chapter by specific amendments hereto by action of the council within one year from the effective date of the FCC's amendment or at the time of renewal of the franchise, whichever occurs first.

(Code 2003, § 79-20)

Sec. 12-21. - Bond.

As required by Code of Virginia, § 15.2-2105, the grantee shall execute a performance bond and security bond in the amount of $50,000.00, or such other greater or lesser amount as the council may deem appropriate. The performance bond and security bond shall be cash or with corporate surety approved by the town.

(Code 2003, § 79-21)

Sec. 12-22. - Delinquent accounts.

(a) No delinquent accounts for service or hookup fees owed to a previous grantee or allegedly owed Arco, Inc. (holder of a previous franchise) may be collected or attempted to be collected by any subsequent grantee.

(b)

No additional connection fees may be charged by the grantee to those already connected to the existing Arco, Inc. system or those customers disconnected from the Arco system because of poor service. Collection for cable television service under this chapter by the grantee shall be billed and collected after one calendar month of service has been provided each subscriber.

(Code 2003, § 79-22)

Sec. 12-23. - Acceptance.

(a) Any franchise granted pursuant to this chapter shall be accepted by the grantee by written acknowledgement filed with the clerk of the town not later than 30 days after the effective date of the grant of the franchise.

(b) All bids shall include all reports, schedules, plans, statements and other documents required by this chapter to be submitted with the proposal, and each bidder shall file with the bid a certified or cashier's check, payable to the town, for $1,000.00. Such sum shall be refundable to all but the successful bidder. The town reserves the right to reject any and all bids.

(Code 2003, § 79-23)

Chapter 14 - ELECTIONS

Footnotes:
*--- **(1)** ---*
***State Law reference—** Election of local governing bodies, Code of Virginia, § 15.2-1400; election of certain city and county officers, Code of Virginia, § 15.2-1600; elections generally, Code of Virginia, title 24.2.*

Sec. 14-1. - Where town elections held.

The board of supervisors meeting room, 171 Price Lane, Appomattox, Virginia, shall be the polling place for all town elections.

(Code 2003, § 16-1; Ord. of 1-13-2014)

State Law reference— Location of polling place for town fixed by ordinance, Code of Virginia, § 24.2-308.

Sec. 14-2. - Election of councilmembers and mayor.

The councilmembers shall be elected for terms of four years, and the mayor shall be elected for a term of two years, or until their successors are elected and qualified. An election shall be held on the Tuesday following the first Monday in November 2024 for the three council seats first expiring and for the mayor, and on the Tuesday following the first Monday in November 2026 for the three council seats next expiring and for the mayor. Elections thereafter shall be held every two years on the Tuesday following the first

Monday in November. The term of each person elected under this section at a November election shall begin on January 1 next following the election. In case of a vacancy in the office of the mayor, or councilmembers, elected by the electors of the town, caused by death, resignation or otherwise, such vacancy shall be filled by a majority vote of the council from the electors of the town for the unexpired term.

(Code 2003, § 16-2; Ord. of 10-26-2021)

Chapter 16 - EMERGENCY MANAGEMENT

Footnotes:
*--- (**1**) ---*
Federal law references—Emergency Planning and Community Right to Know Act of 1986, 42 USC 11011-11050; comprehensive emergency response plans, 42 USC 11003; federal preparedness assistance funding for state and local governments dependent upon compliance with National Incident Management System, HSPD-5 (Homeland Security Presidential Directive 5, Management of Domestic Incidents).
***State Law reference—** Commonwealth of Virginia Emergency Services and Disaster Law of 2000, Code of Virginia, § 44-146.13 et seq.; powers and duties of political subdivisions, Code of Virginia, § 44-146.19.*

Sec. 16-1. - Purpose.

In order to develop and maintain an emergency services organization to ensure that preparations are adequate to deal with disaster or emergencies resulting from enemy attack, sabotage or other hostile action, manmade disaster, resource shortage, fire, flood, earthquake or other natural cause and generally to protect the public peace, health and safety and to preserve the lives and property and economic well-being of the people, it is found and declared to be necessary to provide and authorize an office of emergency services pursuant to the Commonwealth of Virginia Emergency Services and Disaster Law of 2000 (Code of Virginia, § 44-146.13 et seq.).

(Code 2003, § 10-1)

Sec. 16-2. - Definitions.

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

Director means the director of emergency services.

Emergency services means the preparation for and the carrying out of functions, other than functions for which military forces are primarily responsible, to prevent, minimize and repair injury and damage resulting from natural or manmade disasters, together with all other activities necessary or incidental to the preparation for and carrying out of such functions. These functions include, without limitation, firefighting services; police services; medical and health services; rescue; engineering; warning services;

communications; radiological, chemical and other special weapons defense; evacuation of persons from stricken areas; emergency welfare services; emergency transportation; emergency resource management; existing or properly assigned functions of plant protection; temporary restoration of public utility services; and other functions related to civilian protection. These functions also include the administration of approved state and federal disaster recovery and assistance programs.

Local emergency means the condition declared by the council pursuant to section 16-7 when, in its judgment, the threat or actual occurrence of a disaster is or threatens to be of sufficient severity and magnitude to warrant coordinated local government action to prevent or alleviate the damage, loss, hardship or suffering threatened or caused thereby. However, a local emergency arising wholly or substantially out of a resource shortage may be declared only by the governor, upon petition of the council, when the governor deems the threat or actual occurrence of a disaster to be of sufficient severity and magnitude to warrant coordinated local government action to prevent or alleviate the damage, loss, hardship or suffering threatened or caused thereby. Nothing in this chapter shall be construed as prohibiting the council from the prudent management of its water supply, in the absence of a declared state of emergency, to prevent a water shortage.

(Code 2003, § 10-2)

State Law reference— Similar provisions, Code of Virginia, § 44-146.16.

Sec. 16-3. - Director designated.

The mayor is designated as the director of emergency services.

(Code 2003, § 10-3)

State Law reference— Town director of emergency services, Code of Virginia, § 44-146.19.

Sec. 16-4. - General duties of director.

The director of emergency services shall be responsible for organizing emergency services and directing emergency operations through the regularly constituted government structure and shall utilize the services, equipment, supplies and facilities of existing departments, offices and agencies of the town to the maximum extent practicable. The officers and personnel of all such departments, offices and agencies are directed to cooperate with and extend such services and facilities to the director upon request.

(Code 2003, § 10-4)

Sec. 16-5. - Coordinator.

The coordinator of emergency services shall be the town manager. He shall coordinate and administer emergency services operations in the town on a day-to-day basis.

(Code 2003, § 10-5)

Sec. 16-6. - Operations plan and mutual aid agreements.

The director of emergency services shall prepare or cause to be prepared and kept current a local emergency operations plan. The director may, in collaboration with other public and private agencies within this commonwealth or within an adjacent state, develop or cause to be developed mutual aid agreements for reciprocal assistance in a disaster or an emergency too great to be dealt with unassisted.

(Code 2003, § 10-6)

State Law reference— Similar provisions, Code of Virginia, § 44-146.19 D and E.

Sec. 16-7. - Declaration of local emergency.

(a) A local emergency may be declared by the director of emergency services, with the consent of the council. If the council cannot convene due to the disaster or other exigent circumstances, the director or coordinator or any member of the council, in the absence of the director and coordinator, may declare the existence of a local emergency, subject to confirmation by the council at its next regularly scheduled meeting or at a special meeting within 14 days of the declaration, whichever occurs first. The council, when in its judgment all emergency actions have been taken, shall take appropriate action to end the declared emergency.

(b) A declaration of a local emergency shall activate the response and recovery programs of all applicable local and interjurisdictional emergency operations plans and authorize the furnishing of aid and assistance thereunder.

(Code 2003, § 10-7)

State Law reference— Similar provisions, Code of Virginia, § 44-146.21.

Sec. 16-8. - Persons contributing to emergency or disaster responsible for expenses.

Any person causing or contributing to an emergency or disaster shall be responsible for all expenses incurred by the town in responding to, controlling and handling such emergency or disaster. Such expenses may include, but are not limited to, equipment cost; material; hazardous material; emergency response operations; immediate accident or incident site cleanup costs; all expenses incurred in preventing or alleviating damage, loss, hardship or suffering caused by accidents or incidents involving hazardous materials; and any other incidents beyond hostile fires or medical emergencies. The local coordinator of emergency services is authorized to seek such reimbursement by any legal means, including civil process in the appropriate courts in the commonwealth.

(Code 2003, § 10-8)

Sec. 16-9. - Curfews after declaration of emergency.

(a) Pursuant to the police powers granted to the town by the Charter and by Code of Virginia, § 15.2-1102, and in the interest of promoting public safety, the director of emergency services or designee (collectively referred to in this section as the "director") is hereby authorized to impose a curfew after the declaration of an emergency, in accordance with the provisions of this section.

(b) As used in this section, the term "curfew" means an order issued by the director prohibiting persons from being present on any street, road, alley, avenue, park or other public place in the town or any portion thereof designated by such director during specified times of the day or night.

(c) The director may declare a curfew if the director deems such action necessary for the preservation of life or property, the implementation of emergency mitigation, preparedness, response actions or recovery actions anticipated or resulting from the dangers caused by the condition leading to the emergency declaration, pursuant to the following procedure:

(1) The authority conferred upon the director by this section shall arise only after either the state or the town declares an emergency in accordance with the provisions of Code of Virginia, § 44-146.19 or 44-146.21, for a geographical area located within the town;

(2) The curfew shall be announced in such manner as is reasonably calculated to provide notice to the public of the imposition of the curfew; termination of the curfew shall be in a like manner;

(3) The declaration of a curfew, circumstances justifying its imposition, time and areas of the town in which the curfew is in effect, and the means and time of the public announcement of the curfew shall be recorded in a written document signed by the director and maintained in the records of the town;

(4) No curfew shall be imposed except in areas and at times that can be justified as necessary for the public safety;

(5) The action of the director in imposing a curfew during an emergency declaration shall be ratified by the council at its next regularly scheduled meeting.

(d) After the declaration and public announcement of a curfew, it shall be unlawful for:

(1) Any person, after having been warned by a law enforcement officer, to remain on any street, road, alley, avenue, park or other public place in the town, or in any vehicle operating or parked thereon, in any portion of the town designated by the director; and

(2) The owner or proprietor of any retail, wholesale or eating and drinking establishment, entertainment venue or similar establishment, or other person in control of such establishment, to allow any person to remain on the premises without the express written

permission of the director; provided, however, that this prohibition shall not apply to lodging establishments serving registered guests.

(e) The following persons shall be exempt from the provisions of this section while on duty or traveling to and from work:

(1) Persons traveling to and from home, work, or places of worship;

(2) Hospital personnel;

(3) Members of the press;

(4) State, county, and town employees and volunteers;

(5) Military personnel, including, but not limited to, national guard troops;

(6) Employees of public utility companies;

(7) Private emergency medical transport workers; and

(8) Other emergency workers as authorized by the director.

(f) Nothing in this section shall be construed to prohibit or restrict travel to a hospital in the event of a medical emergency, nor shall such travel be considered in violation of this section.

(g) A violation of this section shall be punishable as a Class 1 misdemeanor.

(Code 2003, § 10-9; Ord. of 6-30-2020)

Chapter 18 - ENVIRONMENT

Footnotes:
*--- (**1**) ---*
State Law reference— *Erosion and Sediment Control Law, Code of Virginia, § 62.1-44.15:51 et seq.; local erosion and sediment control programs, Code of Virginia, § 62.1-44.15:54; authorization for more stringent regulations, Code of Virginia, § 62.1-44.15:65; stormwater management, Code of Virginia, §§ 62.1-44.15:27, 15.2-2114; extraterritorial powers in prevention of water pollution, Code of Virginia, § 15.2-2109; contracts relating to prevention of water pollution, Code of Virginia, § 15.2-2124.*

ARTICLE I. - IN GENERAL

Secs. 18-1—18-21. - Reserved.

ARTICLE II. - EROSION AND SEDIMENT CONTROL

Sec. 18-22. - 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:

Administrator means the official designated by the council to serve as its agent to administer this article.

Clearing means any activity which removes the vegetative ground cover, including, but not limited to, tree removal, root mat removal and/or topsoil removal.

District or *soil and water conservation district* means a political subdivision of the commonwealth organized in accordance with the provisions of Code of Virginia, § 10.1-506 et seq.

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

Excavating means any digging, scooping or other method of removing earth materials.

Filling means any depositing or stockpiling of earth materials.

Grading means any excavating or filling of earth materials or any combination thereof, including the land in its excavated or filled condition.

Land disturbing activity means any land change which may result in soil erosion from water or wind and the movement of sediments into waters or onto lands, including, but not limited to, clearing, grading, excavating, transporting and filling of land.

Land disturbing permit means a permit issued by the town for clearing, filling, excavating, grading or transporting, or any combination thereof.

Licensed design professional means a professional engineer, land surveyor or landscape architect certified and licensed by the commonwealth, pursuant to Code of Virginia, § 54.1-400 et seq.

Plan approving authority means the council.

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

(Code 2003, § 96-1; Ord. of 3-28-2006)

State Law reference— Definitions, Code of Virginia, § 62.1-44.15:51

Sec. 18-23. - Purpose.

The purpose of this article is to provide for, both during and following development, the control of erosion and sedimentation, to establish procedures for the administration and enforcement of such controls and to comply with Code of Virginia, § 62.1-44.15:51 et seq.

(Code 2003, § 96-2)

State Law reference— Purposes of erosion and sediment control regulations, Code of Virginia, § 62.1-44.51:52.

Sec. 18-24. - Approval required for land disturbing activities; applicability.

(a) Except as provided for in section 18-27 or in Code of Virginia, § 62.1-44.15:56, no person may engage in any land disturbing activity until such person has submitted to the plan approving authority and has had reviewed by and has had approved by the building official an erosion and sediment control plan for such land disturbing activity.

(b) It is the intent of this article to be an adjunct to both the subdivision and zoning ordinances of the town wherein such apply to the development and subdivision of land within the jurisdiction of the town or wherein such apply to development on previously subdivided land within the jurisdiction of the town.

(Code 2003, § 96-3)

State Law reference— Similar provisions, Code of Virginia, § 62.1-44.15:55.

Sec. 18-25. - Inspection and enforcement.

Inspection and enforcement of this article shall rest with the administrator.

(Code 2003, § 96-4)

State Law reference— Monitoring, reports and inspections, Code of Virginia, § 62.1-44.15:58.

Sec. 18-26. - Violations and penalties.

A violation of this article shall constitute a Class l misdemeanor.

(Code 2003, § 96-5; Ord. of 2-28-2006)

State Law reference— Similar provisions, Code of Virginia, § 62.1-44.15:63.

Sec. 18-27. - Exemptions for certain activities.

In no instance shall the provisions of this article be construed to apply to the following:

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

(2) Individual service connections;

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

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

(5) Surface or deep mining;

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

(7) Tilling, planting or harvesting of agricultural, horticultural or forest crops, or livestock feedlot operations, including engineering operations as follows: construction of terraces, terrace outlets, check dams, desilting basins, dikes, ponds, ditches, strip cropping, lister furrowing, contour cultivating, contour furrowing, land drainage and land irrigation;

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

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

(10) Disturbed land areas of less than 5,000 square feet in size;

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

(12) Shore erosion control projects on tidal waters when the projects are approved by local wetlands boards, the state marine resources commission or the United States Army Corps of Engineers; and

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

(Code 2003, § 96-6)

Sec. 18-28. - Submission of plans and specifications; required information.

An erosion and sedimentation control plan shall be submitted to the administrator in duplicate. Such plan shall detail those methods and techniques to be utilized in the control of erosion and sedimentation. As a minimum, the erosion and sedimentation control plan shall follow the format detailed on pages 7 through 11, inclusive, of Part II of the Virginia Erosion and Sediment Control Handbook, second edition, dated 1980, and as may be amended from time to time, and shall be certified by a licensed design professional as meeting all standards outlined in such handbook and all requirements outlined in this article.

(Code 2003, § 96-7; Ord. of 3-28-2006)

Sec. 18-29. - Approval of plans.

An erosion and sedimentation plan submitted under the provisions of this article will be acted on in 45 days from receipt by either approving or disapproving such plan in writing and giving specific reasons for disapproval. The notice shall specify the modifications, terms and conditions that will permit approval of the plan. If no formal action has been taken by the plan approving authority in 45 days after receipt of such plan, the plan shall be deemed approved.

(Code 2003, § 96-8)

State Law reference— Similar provisions, Code of Virginia, § 62.1-44.15:55.

Sec. 18-30. - Performance bond.

(a) All control measures required by the provisions of this article shall be undertaken at the expense of the owner or the agent of the owner and pending such actual provision thereof, the owner or the agent of the owner shall execute and file with the administrator, prior to issuance of the land disturbing permit, an agreement and bond in an amount determined by the administrator to be equal to the approximate total cost of providing erosion and sedimentation control improvements, with surety approved by the town attorney, guaranteeing that the required control measures will be properly and satisfactorily undertaken.

(b) If the town takes conservation action upon the failure by the owner or the agent of the owner to undertake the required control measures, the town may collect from the owner or agent for the difference should the amount of the reasonable cost of such action exceed the amount of the security held. Within 60 days of the achievement of adequate stabilization of the land disturbing activity, the bond, cash escrow, letter of credit or other legal arrangement, or the unexpended or unobligated portion thereof, shall be refunded to the applicant or terminated.

(Code 2003, § 96-9)

State Law reference— Performance bond, Code of Virginia, § 62.1-44.15:57.

Sec. 18-31. - Issuance of permit.

Except as provided in section 18-27, no person shall engage in any land disturbing activity as defined in section 18-22 within the town until said person has acquired a land disturbing permit. Issuance of a land disturbing permit is conditioned on an approved erosion and sediment control plan (or certification of such) which shall be presented at the time of application for such a permit and, in addition, fulfillment of the requirements of section 18-30 concerning a performance bond, cash escrow, letter of credit, any combination thereof or such other legal arrangement as is acceptable under the provisions of such section and to the fees levied in this article for land disturbing activities.

(Code 2003, § 96-10)

Sec. 18-32. - Modifications to approved plan.

An approved erosion and sedimentation plan may be amended by the plan approving authority if on-site inspection indicates that the approved control measures are not effective in controlling erosion and sedimentation or, because of changed circumstances, the approved plan cannot be carried out, provided that such amendments are agreed to by persons responsible for carrying out the plan.

(Code 2003, § 96-11)

State Law reference— Monitoring, reports and inspections, Code of Virginia, § 62.1-44.15:58.

Sec. 18-33. - Appeals.

(a) Final decisions of the administrator or the plan approving authority under this article shall be subject to review by the council, provided an appeal is filed within 30 days from the date of any written decision by the administrator or the plan approving authority.

(b) Final decisions of the council under this article shall be subject to review by the circuit court of the county, provided an appeal is filed within 30 days from the date of the final written decision.

(Code 2003, § 96-12)

State Law reference— Appeals, Code of Virginia, § 62.1-44.15:62.

Secs. 18-34—18-54. - Reserved.

ARTICLE III. - NUISANCES

Footnotes:
*--- (**2**) ---*

State Law reference— *Control of musk thistle or curled thistle, Code of Virginia, § 15.2-902; removal of grass, weeds and other foreign growth, Code of Virginia, § 15.2-901; control of Johnson grass and multiflora rose, Code of Virginia, § 15.2-902.*

Sec. 18-55. - Certain activities and conditions deemed offensive.

The existence of any of the following activities or conditions are hereby declared to be public nuisances; provided, however, this enumeration shall not be deemed or construed to be conclusive, limiting or restrictive:

(1) Any violation of article IV of this chapter pertaining to weed control.

(2) Accumulation of rubbish, trash, refuse, junk and other abandoned materials, metals, lumber or other things that cause a blighting problem or adversely affect the public health or safety.

(3) Any condition which provides harborage for rats, mice, snakes and other vermin.

(4) Any building or other structure which is in such a dilapidated condition that it is unfit for human habitation, or kept in such an unsanitary condition that it is a menace to the health of people residing in the vicinity thereof, or presents a more than ordinarily dangerous fire hazard in the vicinity where it is located.

(5) All unnecessary or unauthorized noises and annoying vibrations which are reasonably likely to reoccur in the future.

(6) All disagreeable or obnoxious odors and stenches, as well as the conditions, substances or other causes which give rise to the emission or generation of such odors and stenches.

(7) The carcasses of animals or fowl not disposed of within a reasonable time after death.

(8) The pollution of any public well or cistern, stream, lake, canal or body of water by sewage, dead animals, creamery, industrial wastes or other substances.

(9) Any building, structure or other place or location where any activity which is in violation of local, state or federal law is conducted, performed or maintained.

(10) Any accumulation of stagnant water permitted or maintained on any lot or piece of ground.

(11) Dense smoke, noxious fumes, gas, soot or cinders in unreasonable quantities.

(12) Any action which unlawfully interferes with, obstructs or tends to obstruct or renders dangerous for passage any public or private street, highway, sidewalk, stream, ditch or drainage area, and which is reasonably likely to reoccur in the future.

(13) Any outdoor lighting which results in or creates an annoying, unsafe or hazardous condition.

(Code 2003, § 117-11)

Sec. 18-56. - Nuisances prohibited.

(a) It shall be unlawful for any person to create, cause, permit or maintain a public nuisance. It shall also be unlawful for any person to permit the continuation of a public nuisance after having been served a notice to abate such nuisance.

(b) If the owner of a building or premises fails to abate or cause to be abated a public nuisance occurring on such owner's property after receiving reasonable notice of its existence, even though such nuisance was caused or maintained by others, the owner shall be deemed to have permitted the continuation of such nuisance.

(c) Violation of this section shall constitute a Class 1 misdemeanor. In addition, each day a public nuisance shall continue after the date set by the town for its abatement shall constitute a separate offense.

(Code 2003, § 117-12)

Sec. 18-57. - Notice to abate.

Whenever a nuisance is found to exist within the town, the town manager or designee shall give written notice to the owner or occupant of the property upon which such nuisance exists and to the person causing or maintaining the nuisance, if such person is known.

(Code 2003, § 117-13)

Sec. 18-58. - Contents of notice.

The notice to abate a nuisance issued under the provisions of this article shall contain:

(1) An order to abate the nuisance or to request a hearing within a stated time, which shall be reasonable under the circumstances.

(2) The location of the nuisance, if the same is stationary.

(3) A description of what constitutes the nuisance.

(4) A statement of acts necessary to abate the nuisance and a date by which the nuisance shall be abated.

(5) A statement that the nuisance is not abated as directed and no request for hearing is made within the prescribed time, the town will abate such nuisance and assess the cost thereof against such person.

(6) A statement that the failure to abate a nuisance constitutes a criminal offense punishable as a Class 1 misdemeanor.

(Code 2003, § 117-14)

Sec. 18-59. - Service of notice.

(a) The notice to abate a nuisance shall be given to the owner, the owner's agent, or person in control of the property on which the nuisance is located by delivering a copy of the notice to abate in person. If the person named in the notice to abate cannot be found after a diligent search, such notice shall be sent by registered or certified mail to the last known address of such person and a copy of the notice to abate shall be posted in a conspicuous place on the premises. Such procedure shall be deemed the equivalent of personal notice.

(b) The notice to abate a nuisance shall be given a corporation, bank, trust company or other corporate entity who is the owner of such property or who acts as the owner's agent by delivering a copy thereof to its president or such other officer, manager or director or agent thereof in the town; or if such person cannot be found at the regular office or place of business in the town of such corporation, bank, trust company, or corporate entity, by delivering a copy to any employee thereof found at such office or place of business; or if no such person is found in such office or place of business, by leaving such copy posted at the front door of such office or place of business and a copy of the notice shall be posted on a conspicuous place on the premises. Such procedure shall be deemed the equivalent of personal notice.

(c) If the owner of property on which a nuisance is located is unknown or has no place of abode, office or place of business in the town, or after reasonable efforts the town cannot locate a last known address, notice shall be given by order of publication, by publishing a copy of the notice in a newspaper of general circulation in the town at least 30 days prior to the abatement of the nuisance and a copy of the notice to abate shall also be posted in a conspicuous place on the premises.

(Code 2003, § 117-15)

Sec. 18-60. - Hearings.

Upon request, a hearing shall be held before a designated officer of the town other than the officer who initially determined the existence of the nuisance. If, after hearing evidence, the hearing officer finds by a preponderance of the evidence that such a nuisance exists, the hearing officer shall order its abatement; otherwise, the hearing officer shall dismiss the notice. A hearing must be requested in writing at least 48 hours prior to the date given for the abatement of the nuisance. The hearing shall be an informal administrative proceeding rather than a judicial-type trial, and while each party shall have the opportunity to present pertinent information and to question adverse witnesses, the rules of evidence shall not apply. The decision of the designated officer is final and not subject to appeal.

(Code 2003, § 117-16)

Sec. 18-61. - Abatement by town.

Upon the failure of the person upon whom notice to abate a nuisance was served pursuant to the provisions of this article or who was so ordered by a hearing officer to abate the same, the town shall proceed to abate such nuisance and shall prepare a statement of costs incurred in the abatement thereof. In order to abate a nuisance, the town may revoke any permit or license issued by the town to the owner of the offending property and which is required by law to conduct the business or activity which gives rise to the nuisance. If the nuisance is not subject to abatement by the town, or if otherwise appropriate, the designated officer shall cause criminal proceedings to be instituted against the person causing or permitting the continuation of the nuisance. When, in the opinion of the designated officer, a nuisance results in a condition that creates an immediate, serious and imminent threat to the health or safety of the public, the official may have the necessary work done to abate the nuisance whether or not notice to require the owner or occupant of the premises to abate the nuisance has been given.

(Code 2003, § 117-17)

Sec. 18-62. - Town's costs declared lien.

Any and all costs incurred by the town in the abatement of a nuisance under the provisions of this article shall constitute a lien against the property upon which such nuisance existed, which lien shall be filed, proven and collected as provided for by law. Such lien shall be notice to all persons from the time of its recording and shall bear interest at the legal rate thereafter until satisfied. The minimum cost for nuisance abatement per violation shall be $150.00 for the first hour of town staff time, with $75.00 being charged for each hour of staff time thereafter.

(Code 2003, § 117-18)

Secs. 18-63—18-84. - Reserved.

ARTICLE IV. - VEGETATION

Sec. 18-85. - Authority for and purpose of article.

This article is enacted pursuant to sections 12 and 17 of the Charter and Code of Virginia, § 15.2-1115, in order to promote the general welfare of the town and the safety, health, peace, good order, comfort, convenience and morale of its inhabitants.

(Code 2003, § 117-19)

Sec. 18-86. - 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:

Neglected property includes any property within the town limits which contains weeds that violate the provisions of this article and whose owner/occupant has failed to cut the weeds after receiving notice from the town.

Owner includes the owner or occupant of any parcel of real estate, including, but not limited to, any person in possession thereof having charge thereof as an executor, administrator, trustee, guardian or agent, and the beneficiary of any easement or right of use thereof.

Weeds includes any plant, grass or other vegetation (herbaceous or woody) over 12 inches in height, excluding trees, ornamental shrubbery, vegetable and flower gardens purposefully planted and maintained by the property owner or occupant free of weed hazard or nuisance, cultivated crops, or undisturbed woodland not otherwise in violation.

(Code 2003, § 117-20)

Sec. 18-87. - Prohibited growth.

It shall be unlawful for the owner or occupant of any property, either vacant or developed, situated in the town to allow weeds to reach a stage of growth wherein it causes a public nuisance as defined in section 24-1. Weeds shall be cut on properties zoned for agricultural or conservation purposes, used as farmland, or vacant town-owned property when such weeds are within 50 feet of a residence.

(Code 2003, § 117-21)

Sec. 18-88. - Violations and penalties.

Any owner or occupants coming under the provisions of this article who shall fail to cause such weeds, as defined in section 18-86, to be cut and/or removed from such property or premises within the time specified in the notice referred to in section 18-89 will be deemed to be in violation of this article.

(Code 2003, § 117-22)

Sec. 18-89. - Notice to cut, remove.

The owner or occupants of property situated in the town shall be, and are hereby, required to cut and/or remove all weeds, as defined in section 18-86. It shall be the duty of the town manager or designee to serve notice on the owner to cause such grass, weeds, other foreign growth to be cut and/or removed from the premises within ten calendar days after notification.

(Code 2003, § 117-23)

Sec. 18-90. - Service of notice generally.

All notices to comply with the provisions of this article shall be served either by personal service, publication, posting or by certified mail and such procedures shall be deemed the equivalent of personal service. If the owner of any unoccupied lot or premises is not a resident of the town and does not have an agent in the town upon whom notice can be served, notice may be given by sending the same by certified mail to the last known address of the nonresident owner. The last known address of the owner shall be that shown on the current real estate tax assessment books or current real estate tax assessment records of the county. Nonresident owners shall also have ten calendar days to comply with said directive.

(Code 2003, § 117-24)

Sec. 18-91. - Enforcement.

(a) Citizens may contact the town manager, who shall be responsible for enforcing the provisions of this article. The town manager shall have the authority to delegate duties and powers to other appropriate agencies and individuals to assist in the enforcement of this article. Whenever used in this article, the term "town manager" shall include all the agencies or individuals to which the town manager delegates enforcement powers, except where the context clearly indicates a different meaning.

(b) The town manager shall have the authority, whenever deemed appropriate, to have such weeds on property or on such portions of the property as deemed appropriate cut and/or removed and to restrict their future growth by the town's agents or employees, in which event, the costs and expenses thereof shall be chargeable to and paid by the owner of such property and may be collected by the town in the same manner as taxes and levies are collected, and all unpaid costs and expenses shall constitute a lien against such property. Any owner may avoid any liability to the town, provided abatement is completed prior to the initiation of the abatement process by the town's designated agent. The minimum cost per violation for weed cutting and removal pursuant to this section shall be $150.00 for the first hour of town staff time, with $75.00 being charged for each hour of staff time thereafter.

(Code 2003, § 117-25)

Sec. 18-92. - Application for removal of weeds.

(a) Whenever any person believes that the provisions of this article are being violated, such person can make written application to the town manager and the town manager shall examine the condition of the property described in such application. If the town manager determines that the

provisions of this article are being violated, the owner/occupant of the offending property shall be given notice as provided in section 18-89 and shall be requested to remove the weeds from the property within ten calendar days of the delivery or mailing of the notice.

(b) If the owner of the property cannot be found within the town after a reasonable search, notice shall be sent by registered mail, return receipt requested, to the last known address of the owner as provided in section 18-90 and a copy of the notice shall be posted on the property in a conspicuous place and such procedures shall be deemed the equivalent of personal service.

(c) If the owner/occupant of the property does not cut the weeds within ten calendar days of the delivery or mailing of the notice or within ten calendar days of the posting of the notice, whichever period is greater, the town manager shall declare the property to be neglected property, and such designation shall remain in full force and effect until the owner gives the town manager adequate assurances that the property will be properly maintained in regard to weeds in the future.

(d) Once the town manager designates a parcel of property to be neglected property, the person or organization that made application to the department shall be authorized to go onto the property as an agent of the town at the applicant's sole cost and expense to cut, remove and restrict the future growth of the offending weeds. The applicant shall be responsible for taking all precautions necessary to cut, remove and restrict the growth of offending weeds in a safe and proper manner. Chain saws shall not be used unless specifically authorized by the town manager.

(e) Neither the town, or its employees and officials shall be liable for any damages or injuries caused by cutting, removing or restricting the future growth of weeds from a neglected property and shall not be liable for any damages, injuries or expenses incurred by any applicant or any other person in cutting, removing or restricting the future growth of weeds.

(f) The provisions of this article shall not authorize an applicant to enter onto property to remove trees or shrubbery unless the branches, limbs, or other parts of the trees or shrubbery extend or protrude onto private property in a manner which constitutes a danger to citizens or property or where the limbs or branches are likely to fall in such a manner as to endanger private citizens or property. If the town manager determines that the trees or shrubbery constitute a danger to private citizens or property, the applicant may be authorized to cut and remove such trees and shrubbery that have been designated for removal by the department of community planning and development in accordance with the provisions of this article.

(Code 2003, § 117-26)

Sec. 18-93. - Violations and penalties.

Violations of any provision of this article shall be punishable as follows:

(1) For a first offense within one year: Class 4 misdemeanor.

(2) For a second offense within one year: Class 3 misdemeanor.

(3) For a third offense within one year: Class 2 misdemeanor.

(Code 2003, § 117-27)

Secs. 18-94—18-115. - Reserved.

ARTICLE V. - NOISE

Footnotes:
*--- (**3**) ---*
***State Law reference—** Local air pollution ordinances, Code of Virginia, § 10.1-1321; municipal abatement of nuisances and recovery of costs thereof, Code of Virginia, § 15.2-900 et seq.; local regulation of air cannons, Code of Virginia, § 15.2-918; municipal power to have nuisances removed, collection of costs, Code of Virginia, § 15.2-1115; muffler cutout, etc., illegal, Code of Virginia, § 46.2-1047; use of railroad steam whistle near highway crossings, Code of Virginia, §§ 56-414 and 56-415.*

Sec. 18-116. - Disturbing noise prohibited.

It shall be unlawful for any person to create or continue any loud or disturbing noise within the town, or any noise which is of such character, duration, volume or intensity as to disturb the quiet, comfort, peace or repose of any reasonable person or such as to be detrimental to the life, health or safety of any person. Such noise is deemed a nuisance.

(Code 2003, § 135-1)

Sec. 18-117. - Prohibited noise.

The following acts are declared to constitute violations of section 18-116 and to constitute loud or disturbing noise. The enumeration of the following acts shall not be deemed to be exclusive of such acts as may create a violation under this article:

(1) *Radios, phonographs, high-fidelity sets, television sets, tape decks, compact discs, musical instruments and similar devices.* It shall be unlawful for any person to use or permit to be used or played any radio receiving set, phonograph, high-fidelity set, television set, tape deck, compact disc, musical instrument, or other machine or device in a manner so as to disturb the peace, quiet, comfort or repose of neighboring residents or occupants, of a multiple-family unit, or any reasonable person of normal sensitivity or sensitiveness in the area. The operation of any of the aforesaid instrumentalities for the production of sound in such

manner as to be plainly audible at either the property line or through an adjoining wall or party wall, in the case of a multiple-family dwelling, shall be prima facie evidence of a violation of this article.

(2) *Animals and fowl.* The keeping of any animal or bird which, by causing frequent or long-continued noise, shall disturb the comfort or repose of any person in the vicinity.

(3) *Unauthorized advertising.* The use of any drum, loudspeaker or other instrument or device for the purpose of amplifying sound and attracting attention by creation of noise to any performance, show, sale, or display of merchandise, unless previously authorized by the town manager.

(4) *Schools, courts, churches, hospitals, nursing homes, public libraries.* The creation of any excessive noise on any street adjacent to any school, institution of higher learning, church, public library, or court while the same is in use, or adjacent to any hospital or nursing home which unreasonably interferes with the workings of such institution or which disturbs patients in the hospital or nursing home, provided conspicuous signs are displayed upon such streets indicating the same is a school, court, church, hospital, nursing home, or public library.

(5) *Yelling, shouting, whistling or singing.* Yelling, shouting, whistling or singing between the hours of 10:00 p.m. and 8:00 a.m. so as to create a noise disturbance across a real property boundary or on any public right-of-way or public property.

(Code 2003, § 135-2)

Sec. 18-118. - Loading and unloading operations; opening or destroying bales, boxes, etc.

The creation of any loud and excessive noise in connection with loading or unloading any vehicle or the opening and destruction of bales, boxes, crates and containers is hereby prohibited.

(Code 2003, § 135-3)

Sec. 18-119. - Vehicles.

(a) The starting, stopping, moving or any other activity associated with a motor vehicle, so as to make or cause to be made any loud or unseemly noise, nuisance or disturbance, whereby the quiet and good order of the premises or of the neighborhood is disturbed, is hereby prohibited.

(b) The use of any automobile, motorcycle, or other vehicle so out of repair, so loaded or in any other manner so as to create loud grating, grinding, rattling, backfiring or other noises is hereby prohibited.

(c) The following acts, among others, are declared to be in violation of this article, but such enumeration shall not be deemed to be exclusive:

(1) The practice of unnecessarily racing the motor of a vehicle while standing or moving and thereby causing noise from such motor.

(2) The practice of unnecessarily retarding the spark to the motor of a motorcycle and thereby causing loud and explosive noise from the motor.

(3) In starting a vehicle from a standing position, the practice of gaining speed unnecessarily quickly and thereby causing loud noise from the motor and the screeching of tires, or either of such noises.

(4) The practice of coming to an unreasonably quick stop with a vehicle and thereby causing grinding of brakes and screeching of tires, or either of such noises.

(d) Sounding of vehicle horn, signal device, or automobile alarms. It shall be unlawful for any person to sound any horn or signal device on an automobile, motorcycle, bus or other vehicle while not in motion, except as a danger control, or, if in motion, only as a danger signal to pedestrians or vehicles. The creation, by means of any such signal device, of any unreasonably loud or harsh sound and the sounding of such device for any unreasonable period of time is prohibited.

(e) Amplified sound from any vehicle. The playing, use or operation, or the permitting of playing, use or operation of any radio, tape player, compact disc player, loudspeaker or other electronic device used for the amplification of sound, which is located within a motor vehicle being operated on public property, including a public street or alley, and which is audible from outside the motor vehicle at a distance of 50 feet, is prohibited.

(Code 2003, § 135-4)

Sec. 18-120. - Noise in public places.

(a) The making by any person of unreasonably loud noise, including, but not limited to, that made by musical instruments or human voices, in public places within the town is prohibited.

(b) No person shall engage in any conduct of unreasonably loud noise on the public sidewalks, streets, public rights-of-way or on privately owned property that is open to the public in the town.

(c) Standards used to determine violations.

(1) This section is violated when a person making unlawful noise fails to comply with an order from police to control such noise. That person shall be guilty of a Class 3 misdemeanor and subject to a fine of not more than $500.00. The standards which shall be considered in determining whether a violation of this section exists include, but shall not be limited to:

a. The level of noise.

b. Whether the nature of the noise is usual or unusual.

c. Whether the origin of the noise is natural or unnatural.

d. The volume and intensity of the background noise, if any.

e. The proximity of the noise to residential sleeping facilities or residences.

f. The nature and zoning of the area within which the noise is created.

g. The density of the habitation of the area within which the noise is created and from which it emanates.

h. The time of the day or night the noise occurs.

i. The duration of the noise.

j. Whether the noise is recurrent, intermittent, or constant.

k. Whether the noise is produced by commercial or noncommercial activity.

(2) The standard set forth herein shall be construed to be in the disjunctive and not require the presence of all of the standards to constitute a violation hereunder.

(Code 2003, § 135-5)

Sec. 18-121. - 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:

Motor vehicle means every vehicle defined as a motor vehicle by Code of Virginia, § 46.2-100.

Noise disturbance means any sound which by its character, intensity, and duration:

(1) Endangers or injures the health or safety of persons within the town; or

(2) Disturbs reasonable persons of normal sensitivities within the town.

Person means any individual, corporation, cooperative partnership, firm, association, trust, estate, private institution, group, agency or legal successor, representative, agent or agency thereof.

Public property means any real property owned or controlled by the town or any other governmental entity.

Public right-of-way means any street, avenue, boulevard, highway, sidewalk or alley.

Real property boundary means the property line along the ground surface, and its vertical extension, which separates the real property owned by one person from that owned by another person.

Residential includes any building or group of buildings that are used solely for residential purposes.

Sound means an oscillation in pressure, particle displacement, particle velocity, or other physical parameter, in a medium with internal forces that cause compression and rarefaction of that medium, and which propagates at finite speed. The description of sound may include any characteristic of such sound, including duration, intensity and frequency.

(Code 2003, § 135-6)

Sec. 18-122. - Exceptions.

(a) No provision of this article shall apply to the emission of sound for the purpose of alerting persons to the existence of an emergency work or the activities specifically exempted in subsection (b) of this section.

(b) This article shall not apply to any noise or sound generated by any of the following:

(1) Band performances or practices, athletic contests or practices and other school-sponsored activities on the grounds of public or private schools or at a school-sponsored activity.

(2) Athletic contests or other officially sanctioned activities on town or county property.

(3) Activities relating to the construction in need of common repair, maintenance, remodeling, or demolition, grading or other improvement of real property between the hours of 6:00 a.m. and 10:00 p.m.

(4) Gardening, lawn care, tree maintenance or removal and other landscaping activities between the hours of 8:00 a.m. and 8:00 p.m.

(5) Church bells between the hours of 8:00 a.m. and 8:00 p.m.

(6) Religious or political gatherings and other activities protected by the First Amendment of the United States Constitution.

(7) Activities for which the regulation of noise has been permitted by federal law.

(8) Refuse and sanitation collection.

(9) Any emergency vehicles or emergency operations.

(10) Any town activities or town vehicles.

(11) Any noises in an industrial or commercial zone necessary to the operation of the industry or the commercial enterprise.

(c) The town manager or designee, upon written request, may exempt persons from the provisions of this article for periods up to ten calendar days. Any period of exemption in excess of ten days shall be referred to the council for action.

(Code 2003, § 135-7)

Sec. 18-123. - Violations and penalties.

It shall be a Class 3 misdemeanor, that being a fine of not more than $500.00, and a public nuisance for any person to willfully make, permit, continue or cause to be made any noise disturbance in violation of this article.

(Code 2003, § 135-8)

Secs. 18-124—18-144. - Reserved.

ARTICLE VI. - URBAN FORESTRY

Sec. 18-145. - Purpose and intent.

(a) It is the purpose of this article to promote and protect the public health, safety and general welfare by providing for the regulation of the planting, maintenance, preservation and removal of trees and shrubs on public property within the town.

(b) The purpose of this article is to further promote the following:

(1) The planting, maintenance, restoration, and survival of desirable trees and shrubs within the town.

(2) The protection of community residents and visitors from personal injury and property damage and the protection of the town from property damage caused or threatened by the improper planting, maintenance, or removal of trees and shrubs located on public property.

(3) The reduction of erosion and sedimentation.

(4) The reduction of stormwater runoff and its associated costs.

(5) The protection and enhancement of property values and aesthetic qualities in the town.

(6) The protection and enhancement of the overall environment of the town.

(7) The protection of bird habitat as the town is a bird sanctuary.

(8) The enhancement of the quality of life of the town and its citizens.

(9) The facilitation of the long-range planning of tree care in the town.

(Code 2003, § 177-1; Ord. of 7-13-2009)

Sec. 18-146. - Tree board established; members; terms; meetings; compensation.

(a) *Establishment.* There may be created and established the town tree board, which shall be made up of seven members, five of whom are to be citizens and residents of the town, and are to be appointed by the council. The town may appoint a member recommended by the town garden club, and nonresidence in the town shall not impair the membership status of this individual. The state forester shall serve as a standing member of the board.

(b) *Applicable skills and interests of members.* Members of the tree board shall have skills and an expressed interest in at least one of the following areas:

(1) Urban forestry.

(2) Landscaping.

(3) Arboriculture.

(c) *Terms of office.*

(1) Each member shall be appointed for a term of two years, or until the successor of the member is appointed, except that the initial appointment of two members shall be for one-year terms and the remaining members for two-year terms.

(2) Members may be reappointed to serve consecutive terms as determined appropriate by the council.

(3) The board shall elect a chairperson, vice-chairperson and secretary/treasurer who shall serve annual terms and may succeed themselves.

(d) *Minutes and rules.*

(1) The board shall adopt such operating guidelines, rules and regulations as it may consider necessary. The board shall have no executive authority, its powers being strictly advisory.

(2) The board shall keep minutes of its proceedings, showing the vote of each member upon each question or, if absent or failing to vote, indicating such fact. It shall keep records of its examinations and other such official actions, all of which shall be immediately filed in the town office and shall be a public record.

(3) All meetings of the board shall be open to the public.

(4) A majority of its members shall constitute a quorum for the transaction of business. In the event one or more seats on the board are vacant, a majority of the nonvacant seats shall constitute a quorum for the transaction of business.

(5) The board will meet monthly, or at least ten times per year.

(e) *Compensation.* Members of the board will serve without compensation.

(Code 2003, § 177-2; Ord. of 7-13-2009)

Sec. 18-147. - Duties of board.

The town tree board shall have the following duties:

(1) The tree board shall recommend tree preservation and enhancement ordinances.

(2) The tree board shall investigate, develop, update annually, and administer a written plan for the care, preservation, pruning, planting, replanting, removal or disposition of trees and shrubs in parks, along streets and in other public areas. Such plan shall be presented annually to the council, and upon its acceptance and approval, shall constitute the official comprehensive tree plan for the town.

(3) The tree board shall promote programs that educate citizens about trees and their benefits and assist in choosing appropriate trees and sites for planting.

(4) The tree board shall develop a capital tree management program for the public sector and with voluntary participation for the private sector. This plan shall be updated every five years.

(5) The tree board shall present an annual report each year to the council to include:

a. A description of the activities conducted.

b. A report of activities ongoing and forecast for future projects.

(6) The tree board shall plan and coordinate an annual Arbor Day observance.

(7) The tree board shall assist in such other duties as assigned.

(Code 2003, § 177-3; Ord. of 7-13-2009)

Sec. 18-148. - Authority to receive funding and advisory services.

(a) All persons interested in urban forestry in the town are invited to make gifts, devises and bequests to the town to be used for that purpose. All donations of money shall be made through the town treasurer, who is hereby authorized and directed to receive such donations. All such moneys shall be used only for the purpose of planting, maintenance, and promotion of the urban forest in the town. Expenditures from these donations shall be made by the town manager as authorized, from time to time, by the council.

(b) The tree board may, with the consent of the council, apply for federal, state, or private grants or funding, and/or assistance, and to aid in the performance of its duties.

(c) Upon request of the tree board with approval by the town manager, the departments, boards, commissions, offices and agencies of the town government shall furnish to the council such available information and render such service as may be needed in the performance of their duties.

(Code 2003, § 177-4; Ord. of 7-13-2009)

Chapter 20 - FIRE PREVENTION AND PROTECTION

ARTICLE I. - IN GENERAL

Secs. 20-1—20-23. - Reserved.

ARTICLE II. - BURNING, OPEN

Footnotes:

*--- (**1**) ---*

***State Law reference—** Burning of wood, brush, logs, leaves, grass, debris or other inflammable material, Code of Virginia, § 10.1-1142; state air pollution control board, Code of Virginia, § 10.1-1301 et seq.; local air pollution control ordinances, Code of Virginia, § 10.1-1321.*

Sec. 20-24. - 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:

Open burning means the burning of any matter in such a manner that the products resulting from combustion are emitted directly into the atmosphere without passing through a stack, duct or chimney.

(Code 2003, § 75-1)

Sec. 20-25. - Open burning prohibited.

Open burning shall be prohibited within the town except as permitted pursuant to sections 20-26 and 20-27.

(Code 2003, § 75-2)

Sec. 20-26. - Exceptions for firefighting, recreational, ceremonial and safety purposes.

(a) Open burning shall be allowed for campfires that do not exceed a three-foot-by-three-foot ground area and two feet in height. A containment barrier from a nonflammable material such as cinderblock, brick, or stone shall be used for all campfires and must be adequate to prevent the fire from spreading. Spark arrestors are also required. All campfires shall be maintained a minimum of 25 feet from all structures, combustible materials, and adjoining property boundaries. The campfire shall be constantly attended until it is completely extinguished. Commercial fire pits shall also be permitted, provided all campfire requirements are met. Open burning shall be allowed for ceremonial occasions approved in writing by the town in advance, outdoor noncommercial preparation of food, safety flares, and warming of outdoor workers, provided that there shall be no burning of rubber tires, asphaltic materials, crankcase oil, impregnated wood, or other rubber- or petroleum-based materials or toxic or hazardous materials or containers of such materials, and provided that appropriate precautions are taken to prevent the fire from spreading.

(b) Open burning is permitted for the training and instruction of government and public firefighters under the supervision of the designated official and industrial in-house firefighting personnel with clearance from the local firefighting authority. The designated official in charge of the training shall notify and obtain the approval of the regional director of the state air pollution control board prior to conducting the training exercise. Training schools where permanent facilities are installed for firefighting instruction are exempt from this notification requirement.

(Code 2003, § 75-3; Ord. of 6-10-2019)

Sec. 20-27. - Disposal of land clearing refuse.

Open burning shall be permitted for disposal of land clearing refuse on the site of clearing operations resulting from development or modification of roads and highways, parking areas, railroad tracks, pipelines, power and communication lines, buildings or building areas. Prior to any such burning, the person responsible for such burning shall obtain a permit from the council. The open burning shall be at least 1,250 feet from any hospital, nursing home or school and, other than a building located on the property on which the burning is conducted, shall be at least 750 feet from any occupied building. Burning for land clearing purposes at distances closer than specified in this section may be permitted only if a special incineration device permitted by the state air pollution control board is utilized, and in no case shall be within 500 feet of any occupied building not on the same property. The fire must be constantly attended by a competent person until such fire is extinguished. Under no circumstances is burning to be allowed to smolder beyond a minimum period of time necessary for the destruction of the material. All reasonable efforts shall be made to minimize the amount of material that is burned. Pulpwood, sawings and firewood shall be removed prior to burning. Material to be burned shall consist of brush, stumps and similar land clearing refuse generated at the site and shall not include demolition or construction materials.

(Code 2003, § 75-4)

Sec. 20-28. - Burning gardens, shrubbery prunings and dead tree limbs.

(a) Open burning shall be permitted the first week in February, March, April and December and the last week in November, between the hours of 4:00 p.m. and 12:00 midnight, to allow citizens to clean off a garden spot and/or dispose of shrubbery prunings and dead tree limbs and twigs which have fallen on their property. Leaves shall not be burned during these periods and shall not be dumped on a garden spot in the fall to be burned in the spring. Leaves not used as compost will be collected by the town and disposed of properly.

(b) Such burning shall be subject to all restrictions and reservations set forth in section 20-27 except that such burning will be allowed within 300 feet of an occupied dwelling not on the same property, provided persons burning such materials obtain written permission from the occupants of said dwelling. Citizens will burn these materials on their own property and may not burn at curbside. Any periods of prohibited burning specified by the state and/or county, due to dry and/or windy conditions, shall be observed by citizens of the town.

(Code 2003, § 75-5; Ord. of 3-12-1994)

Sec. 20-29. - Incinerator burning.

It shall be unlawful, at any time, to burn household trash, garbage, animal waste or litter, or other such products, in barrels or outdoor incinerators.

(Code 2003, § 75-6)

Sec. 20-30. - Applications for required permit; duration of permit.

Application for any permit required under this article shall be made to the council or its designee at least 14 days prior to the burning. The applicant shall be required to attach a copy of the approval of the applicant from the local fire department to the application. The council shall establish procedures for issuance of permits and shall include in the permits restrictions and conditions determined by the council or its designee to be necessary for fire prevention and maintenance of air quality. Permits shall be effective for a period not more than 90 days from date of issuance.

(Code 2003, § 75-7; Ord. of 2-28-2006)

Sec. 20-31. - Enforcement.

The provisions of this article shall be enforced by the county sheriff's office.

(Code 2003, § 75-8)

Sec. 20-32. - Violations and penalties.

Any person violating or failing to comply with the provisions of this article shall be guilty of a Class 3 misdemeanor. Each violation or failure shall constitute a separate offense.

(Code 2003, § 75-9; Ord. of 2-28-2006)

Secs. 20-33—20-53. - Reserved.

ARTICLE III. - FIRE PREVENTION

Footnotes:
*--- (**2**) ---*
State Law reference— *Municipal regulation of the keeping of combustibles, Code of Virginia, § 15.2-2029; guarding against danger from accidents by fire, Code of Virginia, title 15.2, ch. 9; smoke detectors, Code of Virginia, § 15.2-922; municipal regulation of the making of fires, Code of Virginia, § 15.2-1118; local fire departments and fire companies, Code of Virginia, § 27-6.1 et seq.; local fire marshals, Code of Virginia, § 27-30 et seq.; relief for firefighters, Code of Virginia, § 27-39 et seq.; Virginia Statewide Fire Prevention Code, 13VAC5-51-11 et seq.; effect of Statewide Fire Prevention Code, Code of Virginia, § 27-97; explosives, Code of Virginia, § 59.1-137 et seq.*

Sec. 20-54. - Applicability of Statewide Fire Prevention Code.

The Virginia Statewide Fire Prevention Code shall control all matters concerning the safeguarding of life and property from the hazards of fire or explosion arising from the improper maintenance of life safety and fire prevention and protection materials, devices, systems and structures, and the unsafe storage, handling and use of substances, materials and devices, including explosives and blasting agents, wherever located, in the town.

(Code 2003, § 106-1)

Secs. 20-55—20-75. - Reserved.

ARTICLE IV. - FIREWORKS

Footnotes:
*--- (**3**) ---*
State Law reference— *Municipal regulation of the transportation of combustibles, Code of Virginia, § 15.2-2029; seizure of certain fireworks, Code of Virginia, § 27-100.1; permits for fireworks displays and exhibitions, Code of Virginia, § 15.2-974.*

Sec. 20-76. - Purpose.

The regulations contained in this article are hereby adopted to provide for the issuance of permits to fair associations, amusement parks and organizations and groups of individuals for the display of fireworks and to regulate the use and display of fireworks upon the granting of permits.

(Code 2003, § 110-1)

Sec. 20-77. - Application for permit.

(a) Written application for a permit to display fireworks shall be made in triplicate to the council, stating the time, place, type of fireworks and circumstances under which they are proposed to be displayed.
(b) Each application for a permit to display fireworks shall name at least one person who shall participate in such display and who has had experience in displaying the type of fireworks proposed to be displayed.

(Code 2003, § 110-2)

Sec. 20-78. - Approval of permit application; beginning of storage period.

Upon approval of an application for a permit to display fireworks, the mayor shall write across such application the wording "Approved," and the application shall be dated and signed by the mayor, which date shall constitute the beginning of a 30-day storage permitted for such fireworks as provided in section 20-82, and all fireworks covered by such permit shall be displayed or discharged within such 30-day period.

(Code 2003, § 110-3)

Sec. 20-79. - Disposition of application copies.

One copy of each application for a permit to display fireworks shall be kept on file by the town clerk until after the date the fireworks are displayed, and two copies, after being approved as aforesaid, which will then become a permit to display fireworks, shall be returned to the applicant, who shall keep one copy on file for 60 days after displaying such fireworks, and one copy shall be in the possession of the person in charge of displaying the fireworks at the time and place they are being displayed.

(Code 2003, § 110-4)

Sec. 20-80. - Peace officer to supervise and be present at display.

Permits under this article shall provide that fireworks shall be displayed under the supervision of a peace officer of the county, who shall be present at the time such fireworks are displayed.

(Code 2003, § 110-5)

Sec. 20-81. - Number and age of persons authorized to conduct display.

Not more than three persons, in addition to the peace officer, shall participate in displaying fireworks at one time, and all shall be persons over the age of 18 years.

(Code 2003, § 110-6)

Sec. 20-82. - Manner and duration of storage.

Prior to the use of fireworks pursuant to a permit, they shall be stored in a metal container in a building of masonry, concrete or other firm construction, so that members of the public cannot have access to them, and such fireworks shall not be stored in the town for a period in excess of 30 consecutive days.

(Code 2003, § 110-7)

Sec. 20-83. - Distance of spectators from display or discharge.

No spectator or member of the public other than those who are participating in displaying or discharging the fireworks shall be closer than 50 feet to the place where such fireworks are being displayed or discharged.

(Code 2003, § 110-8)

Sec. 20-84. - Violations and penalties.

Any violation of this article shall constitute a misdemeanor and be punishable as provided in section 1-21.

(Code 2003, § 110-9)

Chapter 22 - OFFENSES AND MISCELLANEOUS PROVISIONS

ARTICLE I. - IN GENERAL

Footnotes:
*--- **(1)** ---*
***State Law reference—** Outdoor advertising in sight of public highways, Code of Virginia, § 33.2-1200 et seq.*

Sec. 22-1. - Posting without consent of property owner.

It shall be unlawful for any person within the town to post up any show bill, notice or advertisement or to brand, write, mark or paint any sign, letters or characters upon any building, wall, fence or property of another person, without first obtaining the consent of the owner of such property or the agent of said owner.

(Code 2003, § 42-1)

Sec. 22-2. - Tearing down or defacing.

It shall be unlawful for any unauthorized person within the town to tear down or deface any bill or advertisement put up with the consent of the owner of the property whereupon such bill or advertisement is posted.

(Code 2003, § 42-2)

Sec. 22-3. - Posting in name of town.

It shall be unlawful for any person to erect any notice or sign in the name of the town, or any department thereof, without written authority therefor from the mayor.

(Code 2003, § 42-3)

Sec. 22-4. - Erection of signs.

It shall be unlawful to erect signs of more than five feet in height or greater than four square feet in area along any street within a school zone or anywhere within the town where there is a large volume of pedestrian traffic, unless it can be demonstrated to the satisfaction of the council that such sign is not a safety hazard to such pedestrian traffic or school children.

(Code 2003, § 42-4)

Sec. 22-5. - Violations and penalties.

Any violation of this article shall constitute a misdemeanor and shall be punishable as provided in section 1-21.

(Code 2003, § 42-5)

Secs. 22-6—22-28. - Reserved.

ARTICLE II. - DANGEROUS CONDUCT, MISCELLANEOUS

Footnotes:

*--- (**2**) ---*

***State Law reference—** Attempts to commit misdemeanors, how punished, Code of Virginia, § 18.2-27; extortion and other threats, Code of Virginia, § 18.2-59 et seq.; threats to bomb or damage buildings or means of transportation, false information as to danger to such buildings, etc., punishment, venue, Code of Virginia, § 18.2-83; petit larceny defined, how punished, Code of Virginia, § 18.2-96; trespass to realty, Code of Virginia, § 18.2-119 et seq.; impersonating officer, Code of Virginia, § 18.2-174; defrauding hotels, motels, campgrounds, boardinghouses, etc., Code of Virginia, § 18.2-188; calling or summoning ambulance or firefighting apparatus without just cause, maliciously activating fire alarms in public buildings, venue, Code of Virginia, § 18.2-212; discarding or abandoning iceboxes, etc., precautions required, Code of Virginia, § 18.2-319; gambling, Code of Virginia, § 18.2-325 et seq.; fornication, Code of Virginia, § 18.2-344; being a prostitute or prostitution, Code of Virginia, § 18.2-346; keeping, residing in or frequenting a bawdy place, "bawdy place" defined, Code of Virginia, § 18.2-347; adultery defined, penalty, Code of Virginia, § 18.2-365; obscenity and related offenses, Code of Virginia, § 18.2-372 et seq.; indecent exposure, Code of Virginia, § 18.2-387; disorderly conduct in public places, Code of Virginia, § 18.2-415; punishment for using abusive language to another, Code of Virginia, § 18.2-416; use of profane, threatening or indecent language over public airways, Code of Virginia, § 18.2-427; obstructing justice by threats or force, Code of Virginia, § 18.2-460.*

Sec. 22-29. - Filling well or pit before abandonment.

(a) Any person who has caused to be dug on the land of said person or the land of another any well or pit shall fill such well or pit with earth so that the well or pit shall not be dangerous to human beings, animals or fowl before such well or pit is abandoned. Any person owning land whereon any such well or pit is located shall in the same manner fill with earth any such well or pit which has been abandoned, provided that such person has knowledge of the existence of such well or pit.

(b) In the case of mining operations, in lieu of filling the shaft or pit, the owner or operator thereof on ceasing operations in such shaft or pit shall securely fence the same and keep the same at all times thereafter securely fenced.

(c) Any person violating any provision of this section shall be deemed guilty of a Class 3 misdemeanor.

(Code 2003, § 85-1)

State Law reference— Similar provisions, Code of Virginia, § 18.2-316.

Sec. 22-30. - Covers kept on certain wells.

(a) Every person owning or occupying any land on which there is a well having a diameter greater than six inches and which is more than ten feet deep shall at all times keep the well covered in such a manner as not to be dangerous to human beings, animals or fowl.

(b) Any person violating the provisions of this section shall be guilty of a Class 3 misdemeanor.

(c) The council may specify and require in this section reasonable minimum standards for the construction, installation and maintenance of such covers, including the manner in which any concrete used in connection therewith shall be reinforced and may prescribe punishment for violations not inconsistent with general law.

(Code 2003, § 85-2)

State Law reference— Similar provisions, Code of Virginia, §§ 18.2-317 and 18.2-318.

Sec. 22-31. - Discarding or abandoning iceboxes and other airtight containers; precautions required.

(a) It shall be unlawful for any person to discard, abandon, leave or allow to remain in any place any icebox, refrigerator or other container, device or equipment of any kind with an interior storage area of more than two cubic feet of clear space which is airtight, without first removing the doors or hinges from such icebox, refrigerator, container, device or equipment.

(b)

This section shall not apply to any icebox, refrigerator, container, device or equipment which is being used for the purpose for which it was originally designed, or is being used for display purposes by any retail or wholesale merchant, or is crated, strapped or locked to such an extent that it is impossible for a child to obtain access to any airtight compartment thereof.

(c) Any violation of the provisions of this section shall be punishable as a Class 3 misdemeanor.

(Code 2003, § 85-3)

State Law reference— Similar provisions, Code of Virginia, § 18.2-319.

Sec. 22-32. - Throwing or depositing certain substances upon highway; removal of such substances.

(a) No person shall throw or deposit or cause to be deposited upon any highway any glass bottle, glass, nail, tack, wire, can, or any other substance likely to injure any person or animal, or damage any vehicle upon such highway, nor shall any person throw or deposit or cause to be deposited upon any highway any soil, sand, mud, gravel or other substances so as to create a hazard to the traveling public. Any person who drops, or permits to be dropped or thrown, upon any highway any destructive, hazardous or injurious material shall immediately remove the material or cause it to be removed. Any person removing a wrecked or damaged vehicle from a highway shall remove any glass or other injurious substance dropped upon the highway from such vehicle. Any persons violating the provisions of this section shall be guilty of a Class 1 misdemeanor.

(b) This section shall not apply to the use, by a law enforcement officer while in the discharge of official duties, of any device designed to deflate tires. No such device shall be used which does not meet or exceed the minimum standards set by the state division of purchase and supply.

(Code 2003, § 85-4)

State Law reference— Similar provisions, Code of Virginia, § 18.2-324.

Sec. 22-33. - Discharges from tubs, hydrants and other water fixtures.

No discharge from any bathtub, hydrant or other water fixture shall be permitted to flow into the streets, upon the sidewalk or upon the premises of adjoining property owners. Under no circumstances shall discharge from kitchen sinks or slops from a kitchen be turned, dumped or poured into the streets or in such a way as to run onto a street.

(Code 2003, § 85-5)

Secs. 22-34—22-54. - Reserved.

ARTICLE III. - FIREARMS AND OTHER WEAPONS

Footnotes:

*--- **(3)** ---*

Federal law references—Active and honorably retired law enforcement officer may carry concealed weapons nationwide if certain conditions met, Law Enforcement Officers Safety Act of 2004, 18 USC 926B-926C; federal preemption of ordinances prohibiting sale of air guns to adults, 15 USC 5001(g).

***State Law reference—** Attempts to commit misdemeanors, how punished, Code of Virginia, § 18.2-27; threats to bomb or damage buildings or means of transportation, false information as to danger to such buildings, etc., punishment, venue, Code of Virginia, § 18.2-83; petit larceny defined, how punished, Code of Virginia, § 18.2-96; impersonating officer, Code of Virginia, § 18.2-174; disorderly conduct in public places, Code of Virginia, § 18.2-415; obstructing justice by threats or force, Code of Virginia, § 18.2-460.*

Sec. 22-55. - 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:

Ammunition means a cartridge, pellet, ball, missile or projectile adapted for use in a firearm.

Firearm means any weapon in which ammunition may be used or discharged by explosion or pneumatic pressure.

(Code 2003, § 102-1)

State Law reference— Similar provisions, Code of Virginia, § 18.2-282(C).

Sec. 22-56. - Throwing stones or other missile; discharge of firearms; shooting and use of bows and arrows generally.

(a) No person shall in any street throw any stone, ball, stick, snowball, or missile of any character. No person shall discharge anywhere within the town limits any firearm, gravel shooter, BB gun, air rifle or air gun, or discharge an arrow from a bow, except upon a properly located and constructed gunnery or archery range, approved by the town manager in writing prior to its use as such. Such provision shall not apply to peace officials or members of the armed forces of the state or the United States while acting in performance of their duties as such, nor shall it apply to any citizen discharging a firearm when lawfully defending the person or property of said citizen.

(b) No minor under the age of 18 years shall shoot or discharge any firearm, gravel shooter, BB gun, air rifle, air gun, or arrow from a bow, except upon a properly located, constructed and approved gunnery or archery range, and then only under the immediate supervision of an adult.

(c) Nothing in this section shall apply to the use of a bow of ten pounds or less of draw weight with a blunt rubber-tipped arrow.

(d)

The provisions of this section shall not apply to the shooting of rats, destructive birds, and other noxious animals with shot shell containing shot no larger than No. 5 and with prior permission as set forth in this section. Any person wishing to engage in such shooting shall apply in writing to the town manager for permission to do so, which permission may be granted in the discretion of the town manager if the proposed shooting does not violate any section of the state code and will not constitute a danger to the public safety.

(e) Any person violating the provisions of this section shall be guilty of a Class 4 misdemeanor.

(Code 2003, § 102-2)

State Law reference— Prohibited shooting of bow, arrowguns, etc., Code of Virginia, § 15.2-916.

Secs. 22-57—22-85. - Reserved.

ARTICLE IV. - LOITERING

Sec. 22-86. - Definitions.

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

Loitering includes, but is not necessarily limited to, one or more of the following acts:

(1) Obstruction of the free unhampered passage of pedestrians and/or vehicles on the public rights-of-way.

(2) Obstruction of the free access to public places.

(3) Activities that threaten the public safety or a breach of the peace.

(4) Remaining idle in essentially one location without being able to establish or having a legitimate business or purpose in remaining at such place or, by conduct, exhibiting the absence of a lawful purpose in so remaining at such place of to remain in a place as set forth in this article for no obvious reason.

(Code 2003, § 130-1)

Sec. 22-87. - Purpose.

The purpose of this article is to ensure the free passage of pedestrians and vehicles on the public rights-of-way, to ensure a free access to public places and to prevent activities that threaten the public safety or threaten a breach of the peace within the town.

(Code 2003, § 130-2)

Sec. 22-88. - Applicability.

This article governs all persons and places within the town, to include, but not be limited to, any public or quasi-public place, building or grounds, sidewalk, highway, street, curb, crosswalk, walkway area, park, shopping center or other business or school or library parking area, any and all other public rights-of-way, or on privately owned property that is open to the public and prohibits as follows:

(1) No person shall loiter, stand, sit or lie in or upon any public or quasi-public sidewalk, highway, street, curb, crosswalk, walkway area, park, shopping center or other business or school or library parking area, or any portion or privately owned property that is open to the public or utilized for public use, so as to unreasonably hinder or obstruct the free flow or passage of pedestrians or vehicles thereon during business hours, or for any reason whatsoever after business hours.

(2) No person shall block or obstruct, or prevent the free access to the entrance to any building open to the public.

(3) No person shall obstruct, molest or interfere or attempt to obstruct, molest or interfere with any person lawfully on or in a public right-of-way, public or quasi-public sidewalk, highway, street, curb, crosswalk, walkway area, park, shopping center or other business or school or library parking area, or any portion of privately owned property that is open to the public or utilized for public use in a manner that would cause a reasonable person or pedestrian on a public right-of-way, street or highway to fear for the safety of said person or pedestrian.

(4) No person shall engage in any conduct on or in a public right-of-way having a direct tendency to cause acts of violence by the person to whom, individually, such conduct is directed.

(5) No person shall engage in any conduct on or in a public right-of-way, public or quasi-public sidewalk, highway, street, curb, crosswalk, walkway area, park, shopping center or other business or school or library parking area, or any portion of privately owned property that is open to the public or utilized for public use having a direct tendency to cause a disturbance to the reasonable comfort and repose of any other person lawfully on or in a public right-of-way, street or highway.

(6) No person shall engage in any conduct on or in a public right-of-way having direct tendency to cause a disturbance to the comfort and repose of reasonable persons living next to such public right-of-way.

(7) No person on or in any public right-of-way shall engage in yelling, shouting, cursing, hooting, whistling or singing in such a manner or with such volume as disturb the quiet, comfort or repose of reasonable persons.

(8) No person on or in any public right-of-way shall make or engage in any sexually explicit gesture, act or behavior.

(9) In order to promote the safe and orderly flow of traffic on the public streets and highways, no person shall stop a motor vehicle in such a manner as to impede or render dangerous the use of the streets or highways by others or no person shall loiter on or in the public streets or highway for the purpose of engaging the operator of any motor vehicle or any passenger in a motor vehicle in conversation or any other activity while such motor vehicle is stopped on the main traveled portion a street or highway.

(Code 2003, § 130-3)

Sec. 22-89. - Enforcement.

(a) *Private property.* Enforcement of this article will be at the request and discretion of businesses for private property as follows:

(1) Businesses wishing to have this article enforced when such business is closed shall post their parking lots with signs at each entrance/exit stating "No trespassing permitted between the hours of ___ and ___ and no loitering at any time," with the blanks to be replaced with the hours the business wishes to have this article enforced. Each such sign shall be a minimum of 400 square inches and affixed so as to be readily seen by passersby.

(2) Businesses wishing this article enforced when such business is open may call the county sheriff for enforcement when a problem is perceived on their property. Business owners may be required to obtain proper warrants and make court appearances.

(b) *Public property.* On any public or quasi-public sidewalk, highway, street, curb, crosswalk, walkway area, park, school or library parking area, this article will be enforced at all times; except that this article shall not apply to anyone who is participating in any legal, governmentally sanctioned function at any of the places described in this subsection.

(Code 2003, § 130-4)

Sec. 22-90. - Violations and penalties.

Any person who violates this article, upon conviction thereof, shall be deemed guilty of a Class 1 misdemeanor.

(Code 2003, § 130-5)

Chapter 24 - SOLID WASTE

ARTICLE I. - IN GENERAL

Sec. 24-1. - 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:

Ashes means the residue resulting from the burning of wood, coal, coke or other combustible material.

Building means any structure for the support, shelter or enclosure of persons, animals, chattels or property of any kind.

Container means a lightweight galvanized metal, rubber or plastic container having a capacity of not more than 30 gallons and not less than ten gallons and measuring not over 22 inches in diameter and 30 inches in height, equipped with handles and provided with a cover that will fit so as to prevent the emission of odors, the gathering of insects, the blowing of contents and interference by dogs or other animals.

Disposal means the storage, collection, disposal or handling of refuse.

Filth means any unwholesome substance, offal, or litter, including human and animal waste.

Garbage means the unused or waste portions or accumulations of animal or vegetable matter derived from the storage, handling, preparation or other use of meats, fish, flesh, fowl, fruit, vegetables, confections, sweets, liquids or any other substance subject to decay, decomposition, putrefaction, the generation of harmful or offensive gases or odors, or which may serve as breeding places or feeding for obnoxious pests; and any opened, used or discarded bottles, cans, containers, cartons, wrappers or other materials which may serve as breeding or feeding places for pests.

Litter means loose articles of garbage, waste, trash or other discarded matter, scattered or lying on the streets, alleys, public places or private premises in the town.

Nuisance means the doing of any act or the omission to perform any duty, or the permitting of any condition or thing to exist that endangers life or health, obstructs or interferes with the reasonable or comfortable use of public or private property, tends to depreciate the value of the property of others, or in any way renders other persons insecure in the life or the use of property. Wherever the term "nuisance" is used in this chapter, it shall be deemed to mean a public nuisance.

Odor means any smell from whatever source resulting from a quality of something that stimulates the olfactory organ and disturbs a reasonable person of normal sensitivities.

Person includes individuals, corporations, partnerships and all other legal entities which may hold title to real or personal property.

Premises means a tract of real property with buildings thereon; the term "premises" shall include its grounds and other appurtenances.

Property means both real property and personalty.

Public area means any portion or area of the town other than privately owned premises. The term "public area" includes any sidewalk or unpaved border or area between such premises and such paved street surface. With respect to the provisions of section 24-28 requiring the owner or occupant of adjacent premises to remove litter from such public area, the term "public area" does not include the paved gutter and driveway surface of any public street.

Public nuisance means a nuisance which is common to the public generally and which injures those citizens generally who may be so circumstanced as to come within its influence. A nuisance shall be deemed to be public if it is committed in such a place and in such a manner that the aggregation of private persons injured thereby is sufficiently great so as to constitute a public annoyance and inconvenience.

Trash and *rubbish* mean grass, leaves, branches and small limbs of trees and shrubs, flowers, stalks, weeds, and other disposable and inedible accumulations of lawn or garden products, as well as matter, which, due to the nature and size thereof, are not capable of being placed in suitable containers for collection and disposal, including vehicles, bicycles, machines, tools, trees, shrubs, furniture and other articles of large size, and also excessive accumulations of household, store or office waste and lawn and garden trash. Such trash may not be placed on any street or public place for collection and disposal.

Waste means discarded newspapers, pamphlets, magazines, handbills, catalogs, books, letters, cards and all other forms of printed or written matter, and boxes, cartons, cans, containers, wrappings, string, rags, articles of clothing, excelsior and other packing materials, wastepaper, household utensils, personal effects, sweepings, dust, ashes, glass crockery, metals, plastic articles and all other unused and discarded articles of a nature other than garbage which are usual to the operation and occupancy of homes, stores, hotels, clubs, schools, offices and other inhabited buildings.

(Code 2003, § 117-1)

State Law reference— Definitions relating to waste management, Code of Virginia, § 10.1-1400; definitions relating to litter control and recycling, Code of Virginia, § 10.1-1414.

Sec. 24-2. - Violations and penalties.

Any person who shall violate any provision of this article shall be guilty of a Class 4 misdemeanor.

(Code 2003, § 117-2)

Secs. 24-3—24-22. - Reserved.

ARTICLE II. - GARBAGE AND REFUSE DISPOSAL

Footnotes:
--- (1) ---

State Law reference— *Local contracts for the supply of solid waste to resource recovery facilities, Code of Virginia, § 10.1-1412; removal of trash, garbage, weeds, etc., Code of Virginia, § 15.2-901; solid waste management facility siting approval, Code of Virginia, § 15.2-929; separation of solid waste, Code of Virginia, § 15.2-937; prohibiting placement of leaves or grass clippings in landfills, Code of Virginia, § 15.2-935; ordinances requiring recycling reports, Code of Virginia, § 15.2-939; local recycling and waste disposal, Code of Virginia, § 15.2-928; regulation of garbage and refuse pickup and disposal services, certain local contracts for such services, Code of Virginia, §§ 15.2-930, 15.2-931, 15.2-932; local solid and hazardous waste management, Code of Virginia, title 15.2, ch. 18; municipal garbage and refuse disposal, Code of Virginia, § 15.2-927.*

Sec. 24-23. - Collection dates and time of collection.

The town manager is hereby vested with the duty of preparing a schedule for the collection of refuse providing for collection at least once each week in all sections of the town, and such schedule shall be available to anyone requesting a copy. All garbage is to be set out not earlier than 7:00 p.m. on the day immediately preceding the day of collection and not later than 7:00 a.m. on the day of collection.

(Code 2003, § 117-3)

Sec. 24-24. - Damaging or molesting containers.

It shall be unlawful for anyone to damage, molest, or otherwise interfere with garbage containers or the contents of garbage containers placed for collection.

(Code 2003, § 117-4)

Sec. 24-25. - Disposal of refuse.

It shall be unlawful for any person to dump, burn, bury, destroy or otherwise dispose of any refuse anywhere in the town except in a lawfully established refuse dump, or in a mechanical disposal device connected with the sewer, or in an incinerator approved by the American Insurance Association and state health department; and such material not so properly disposed of shall be placed in containers for collection by the town in the following manner:

(1) Such containers shall be placed adjacent to an alley or sidewalk on the normally traveled garbage collection route. Multiple cans under one ownership shall be placed together and accessible for convenient pickup.

(2) Business establishments shall place containers to the rear of their establishments on scheduled collection days; except that on all holidays observed by the county landfill, collection will commence the day after the holiday.

(3) All containers from residences shall be placed adjacent to the street, sidewalk or alley, as the case may be, on the day on which collection is scheduled to be made, and empty containers shall be removed from the sidewalk during the same day on which collections are made.

(4) Containers shall not be placed so as to interfere with traffic; foot, vehicular or otherwise.

(5) All refuse shall be drained free of liquids before placing such refuse in the container.

(6) All cans, bottles or other food containers shall be rinsed free of liquids before placing them in the container.

(7) Rubbish shall be either placed in approved containers, or cut and stacked, or packaged in bundles not exceeding five feet in length and not exceeding 50 pounds in weight and shall be made compact by packing small units into large units. Rubbish placed in approved containers will be collected on regular collections, but all other rubbish from residences will be collected only by contact with the town office during spring and fall cleanup weeks.

(8) Containers shall be kept clean by a thorough rinsing and draining as often as necessary to prevent the accumulation or residue of material on the bottoms or sides of the containers.

(9) Total weight of the container and its contents shall not exceed 50 pounds.

(Code 2003, § 117-5)

Sec. 24-26. - Materials prohibited.

No large rocks, logs, tree stumps, tree limbs of more than five feet in length, waste building materials, or any kind of material from structures under construction or reconstruction or recently completed, will be collected by the town, and the placing of such refuse for collection is prohibited.

(Code 2003, § 117-6)

Sec. 24-27. - Dumpster policy.

Patrons exceeding four cubic yards of total waste or unable to subscribe to sections 24-25 and 24-26 may be required to employ dumpsters. The policy and requirements for dumpster patrons are as follows:

(1) For the purpose of garbage pickup service to businesses using the dumpster form of garbage containers, referred to in this section as "garbage containers" or "containers," the following types of containers are available: four-yard containers, six-yard containers, and eight-yard containers. Approved garbage containers are available at cost from the town. Businesses desiring to purchase their own containers shall check with the town to determine the garbage container selected, and if approved for container pickup service.

(2) The town will provide free garbage pickup service once weekly during weekdays. Should regular garbage pickup be interrupted because of a holiday, garbage pickup will be the following weekday. Service recipients will be notified of any changes in scheduling regular garbage pickup.

(3)

Garbage containers will be situated in a suitable and accessible location permitting ease in pickup service by the town. Garbage containers will be situated on a graveled, paved or concrete surface which is capable of supporting the garbage containers and which meets a proper and true height requirement for pickup service. Containers shall be placed at the rear of the establishment or, when not applicable, shall be fenced or screened.

(4) Maintenance, upkeep and replacement of garbage containers are the responsibility of the service recipient. The town assumes no responsibility or liability associated with the storage or use of garbage containers and is held harmless of any incidences of accidental injury or illness of any person involving garbage containers. Containers will be maintained by the service recipient in accordance with any health department rules or regulations, and such recipient will, at the request of the town, provide for any maintenance, upkeep or replacement of garbage containers. Repair or replacement of containers may be provided by the town at the request of the service recipient; however, the service recipient is subject to the cost for repair or replacement.

(5) Garbage containers will contain only garbage, trash or debris which can be easily compacted by a garbage truck and will not contain any metal, wood or plastic materials greater than two feet in length or width or depth which might interfere in the loading or compacting. Cardboard boxes shall be broken down in order to permit full loading capacity of garbage containers and in order to provide ease in unloading. Service recipients shall evaluate the need for additional containers should this situation occur. Service recipients will not permit any garbage, trash or debris to be placed in containers by another person.

(6) Service recipients will be notified of policy changes in advance of implementing such policy changes.

(Code 2003, § 117-7)

Sec. 24-28. - Duty of owner or occupant to maintain premises.

The owner and occupants of premises in the town shall be required to collect all waste and litter from the lawns, yards, gardens, fences, hedges, walks, driveways and other areas of such premises and from the sidewalks, alleys or other public areas adjacent thereto. It shall be unlawful for the occupant of any premises to permit loose waste or litter to remain uncollected on such premises or on the sidewalks and other public places adjacent thereto for more than 24 hours. Such loose waste or litter shall be collected daily and placed in approved containers. In the case of premises occupied by more than one tenant, the owner of such premises, as well as the occupants, may be deemed responsible for compliance with the provisions of this section if necessary to its enforcement. Upon failure to comply with this section, the town may clean such premises and the sidewalks and public area adjacent thereto and the cost thereof may be

assessed against the owner or occupant of such premises and collected in the same manner as taxes of the town are collected. Nothing in this section shall constitute a waiver by the town of its right to proceed against any person for a violation of this article.

(Code 2003, § 117-8)

State Law reference— Litter control and recycling, Code of Virginia, § 10.1-1414 et seq.; removal of trash, garbage, weeds, etc., Code of Virginia, § 15.2-901.

Sec. 24-29. - Littering.

It shall be unlawful for any person to drop, cast, throw, place, sweep or otherwise dispose of, except as provided in this article, any garbage, waste or trash on any private premises or on any of the streets, alleys, sidewalks, gutters or other public places in the town. The provisions of this section shall apply to agents of the town engaged in the collection and disposal of garbage, waste and trash as well as to all other persons.

(Code 2003, § 117-9)

State Law reference— Putting or casting into public road objects that may harm tires or animals, Code of Virginia, § 33.1-345.

Sec. 24-30. - Dumping.

It shall be unlawful for any person to dump garbage, waste or trash at any place in the town, except in such manner, at such times and at such places as may be designated by the town manager, upon proper and timely application to that officer.

(Code 2003, § 117-10)

State Law reference— Dumping trash, garbage, refuse, litter or other unsightly matter on highway, right-of-way or private property, Code of Virginia, § 33.1-346.

Chapter 26 - STREETS, SIDEWALKS AND OTHER PUBLIC PROPERTY

Footnotes:
*--- **(1)** ---*
***State Law reference—** Streets, alleys, sidewalks, etc., generally, Code of Virginia, §§ 15.2-968, 15.2-2000 et seq.; limited access streets in cities and towns, Code of Virginia, § 15.2-2026; bicycle trails or paths, Code of Virginia, title 15.2, ch. 18; official map, Code of Virginia, § 15.2-2233 et seq.; local authority over highways, Code of Virginia, § 33.1-224 et seq.; pipelines and other works in streets, roads, alleys, etc., Code of Virginia, § 56-257 et seq.*

ARTICLE I. - IN GENERAL

Sec. 26-1. - Driveways over existing sidewalks.

Application for the construction of driveways across existing sidewalks shall be filed with the town manager and, on approval, such driveways may be constructed in accordance with plans and specifications furnished by the town manager at no expense to the town.

(Code 2003, § 166-1)

Sec. 26-2. - Barriers, lights when building is built or repaired.

(a) Any person engaged in building or repairing any building or structure on any street shall, with the permission of the town manager and under the direction of the town manager, place barriers necessary to warn persons passing of any danger that may be occasioned by such work. In no such case shall a sidewalk or gutter be obstructed, unless by special permission of the town manager pursuant to established town standards. The barrier or obstruction shall be sufficiently lighted at night to warn the traveling public. The person placing such barrier or obstruction on the streets or sidewalks shall be responsible for any damage caused thereby or resulting therefrom and shall indemnify and save harmless the town of all costs, expenses and attorneys' fees incident thereto.

(b) When a sidewalk is obstructed and cannot be used, a separate temporary walkway shall be constructed by the person who has obstructed the sidewalk.

(Code 2003, § 166-2)

Sec. 26-3. - Discharge of water generally.

All gutters from which the water empties upon a street or sidewalk shall be so constructed as to discharge such water only at or below the surface of the ground. No water from any gutter or spout or in any way collected shall be permitted to flow across the sidewalk or footway from any lot or building, except in a covered drain or pipe. Such covered drain or pipe shall be so laid that the finished sidewalk or footway is flush with the existing sidewalk or footway.

(Code 2003, § 166-3)

State Law reference— Awnings, etc., overhanging streets, Code of Virginia, § 15.2-2010.

Sec. 26-4. - Depositing wood, coal, other materials or impediments.

No person shall cause wood, coal, lumber, lime, sand, brick, tools or other materials or impediments to be placed upon any sidewalks, streets, etc., of the town, provided that materials used for building or repairing houses may occupy such part of the street opposite the building during the erection or repairing

thereof as the town manager may allow pursuant to established town standards, in which case the gutters or drains shall be kept unobstructed.

(Code 2003, § 166-4)

State Law reference— Authority of town to permit the temporary use of streets for other than public purposes, Code of Virginia, § 15.2-2013.

Sec. 26-5. - Parking vehicle, implement or contrivance on state highways, streets and alleys for servicing; tanks, pumps, other equipment on sidewalks or state highways.

No automobile, vehicle, implement or contrivance shall be permitted to stop or park on state highways, streets and alleys within the town for the purpose of receiving service, motor fuel, oil, repairs or accessories, except upon such portion thereof as shall be in excess of 30 feet measured between curbs. No tank, pump or other equipment for such or similar purposes shall be permitted to be installed or erected or to continue to remain in or on the sidewalks or state highways, streets and alleys within the town for the purpose of servicing any such automobile, vehicle, implement or contrivance on or within the 30-foot width provided in this section, or any part thereof. No person shall furnish or attempt or offer to furnish service, motor fuel, oil, repairs, accessories for any such automobile, etc., stopped or parked in contravention of the terms of this section.

(Code 2003, § 166-5)

Sec. 26-6. - Shrubbery or vegetation obstructing view at intersections.

Where any vines, hedges, shrubbery or like vegetation obstructs the view at or near any intersection of streets, the town manager shall have full power and authority to require the owner thereof to reduce the height of such vine, hedge, shrub or like vegetation and to maintain the same at such a height as the town manager may deem necessary to promote public safety.

(Code 2003, § 166-6)

Sec. 26-7. - Skating and skateboards on streets, sidewalks and parking areas of the town.

(a) The purpose of this section is to promote the health, safety and welfare of visitors and citizens throughout the town. The combination of roller skate, inline skates, scooters and skateboard traffic with automobile and pedestrian traffic poses an unreasonable risk of harm on the town streets. Likewise, the combination of bicycle traffic with the pedestrians using sidewalks poses an unreasonable risk of harm.

(b) No person shall use roller skates, inline skates, scooters, or skateboards on any street or sidewalk of the town.

(c) No person shall use scooters or bicycles on the sidewalks of any street.

(d) No person shall use roller skates, scooters, inline skates or skateboards on any public parking lot or parking area owned, leased or operated by the town.

(e) Any person violating this section shall be subject to a civil penalty of not more than $50.00.

(Code 2003, § 166-7; Ord. of 7-14-1997; Ord. of 9-14-2020)

Secs. 26-8—26-32. - Reserved.

ARTICLE II. - STREETS

Sec. 26-33. - Acceptance and maintenance of streets.

The following requirements will have to be met prior to the acceptance of any section of any street for improvement and maintenance by the town:

(1) A minimum recorded right-of-way, dedicated to public use in the name of the town, width not less than 50 feet, to be cleaned off and made travelable.

(2) The proper recordation of easements for drainage on the prescribed right-of-way with an easement for drainage on adjacent properties.

(3) The recorded right-of-way to connect with publicly maintained roads and streets unless it dead-ends at the corporate limits.

(4) The street shall be stabilized with five inches of stone 20 feet wide.

(5) The street must conform to current and applicable state department of transportation specifications.

(Code 2003, § 166-8)

Sec. 26-34. - Public alleys.

Such public alleyways, leading from street to street in a proper line and of proper width for public use thereof, as may be designated by the mayor and council, shall be deemed to be under the care and management of the town manager. The town shall not be liable for the maintenance thereof other than such as it may see fit to perform. The town manager may, at any time, recommend that any such alleyway be withdrawn from the town street system.

(Code 2003, § 166-9)

Sec. 26-35. - Naming and changing names of streets.

(a) The mayor and council may name or change the name of any street by resolution.

(b) The town manager shall, from time to time, have the names of the streets so marked as to indicate the name thereof.

(Code 2003, § 166-10)

Sec. 26-36. - Removing, defacing or destroying street markers.

No person shall remove, alter, deface or destroy the markers used for naming any street wherever such markers may be located.

(Code 2003, § 166-11)

Sec. 26-37. - Town manager—Improvements and repairs generally.

It shall be the duty of the town manager to keep informed of the condition of the streets and to make such improvements and repairs as may be deemed necessary.

(Code 2003, § 166-12)

Sec. 26-38. - Town manager—Care of trucks and equipment used on streets.

The town manager shall have the care and control of the trucks, equipment and tools for use with reference to streets.

(Code 2003, § 166-13)

Sec. 26-39. - Tampering with structures on streets.

It shall be unlawful for any person to remove, tamper with, destroy, break or deface in any way, any barriers, bridges, culverts or any other structure lawfully placed upon a street.

(Code 2003, § 166-14)

Sec. 26-40. - Removal of permanent obstructions.

It shall be the duty of the police to promptly notify the town manager of all permanent obstructions of streets, who shall forthwith cause all such obstructions to be removed, either by the person responsible for such obstruction or by the person whose duty it is to remove such obstruction. Failing in obtaining such removal, the town manager shall have the obstruction removed at the cost of the town and such costs, together with such fines as may be imposed, shall be collected as provided by law.

(Code 2003, § 166-15)

State Law reference— Collection of cost of removing obstructions in streets, Code of Virginia, § 15.2-2009.

Sec. 26-41. - Unauthorized occupation or use.

Any person who shall undertake to occupy or use any street or any portion thereof in any manner not permitted to the general public or otherwise authorized by a permit of the town manager or other duly authorized official shall be guilty of a misdemeanor.

(Code 2003, § 166-16)

State Law reference— Obstructing streets or roads, Code of Virginia, §§ 15.2-2009, 33.1-345.

Sec. 26-42. - Wires and cables.

All wires or cables strung along or over any streets shall be so located as not to interfere with the convenience and safety of travel, shall be kept in safe repair at all times, and shall be not less than 14 feet above the surface of the street.

(Code 2003, § 166-17)

State Law reference— Public utilities not to use streets without municipal consent, Code of Virginia, § 15.2-2017; installation of wires and cables, Code of Virginia, § 15.2-2015.

Sec. 26-43. - Excavation permit required.

No unauthorized person shall dig up or disturb the surface of any street until a special permit in writing is first obtained from the town manager pursuant to established town standards.

(Code 2003, § 166-18)

State Law reference— Underground Utility Damage Prevention Act, Code of Virginia, § 56-265.14 et seq.

Secs. 26-44—26-74. - Reserved.

ARTICLE III. - SIDEWALKS

Sec. 26-75. - Installation of sidewalks, curbs and gutters.

Sidewalks, curbs and gutters may be installed at such locations as may be directed by the mayor and council. One-half of the costs of such sidewalks, curbs and gutters shall be assessed to adjacent and abutting property owners in proportion to the frontage of each along which such improvements are made. Such assessments shall be collected in the same manner as are taxes of the town. Before constructing any

sidewalks, curbs or gutters, it shall be the duty of the mayor and council to give the landowner 15 days' written notice of such intention and to advise the landowner of the right of the landowner to request the mayor and council to review their decision.

(Code 2003, § 166-19)

State Law reference— Assessments for local improvements, Code of Virginia, § 15.2-2404 et seq.

Sec. 26-76. - Removal of snow from sidewalk or footway.

The tenant, owner or occupant or any person having the care of any building or lot bordering on any street, whether there is a paved sidewalk or not, shall have all snow removed from such sidewalk or footway within six hours after the snow shall have ceased falling, unless the snow shall have fallen during the night or on Sunday, in which case it shall be removed by 12:00 noon of the following day. If this is not done, the town manager shall remove the snow and collect the cost thereof as fines are collected.

(Code 2003, § 166-20)

Sec. 26-77. - Gutters for buildings with eaves projecting over sidewalk.

All buildings, the eaves of which project over the sidewalk, shall be provided with adequate gutters so that there shall be no dripping from the eaves upon the sidewalk. Such gutters shall be kept clean of leaves, trash and other refuse which obstructs the flow of water therein.

(Code 2003, § 166-21)

Chapter 28 - SUBDIVISIONS

Footnotes:
*--- **(1)** ---*
***State Law reference—** Land subdivision and development, Code of Virginia, § 15.2-2240 et seq.; Virginia Public Records Act, Code of Virginia, § 42.1-76 et seq.; Subdivided Land Sales Act of 1978, Code of Virginia, § 55-336 et seq.*

ARTICLE I. - IN GENERAL

Sec. 28-1. - 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:

Agent means the representative of the council appointed by it to serve as its agent in approving the subdivision plans.

Alley means a permanent service way providing a secondary means of access to abutting properties.

Approve. The term "approve" is considered to be followed by the words "or disapprove."

Building line means the distance which a building is from the front lot line or front boundary line.

Commission means the planning commission of the county.

Cul-de-sac means a street with only one outlet and having an appropriate turnaround for a safe and convenient reverse traffic movement.

Developer means an owner of property being subdivided, whether or not represented by an agent.

Distances and areas refers to measurement in a horizontal plane.

Easement means a grant by a property owner of the use of land for a specific purpose.

Engineer means an engineer licensed by the state.

Health officer means the health director or sanitarian of the county.

Highway engineer means the resident engineer employed by the state department of transportation.

Jurisdiction means the area or territory subject to the legislative control of the council.

Lot means a numbered and recorded portion of a subdivision intended for transfer of ownership or for building development for a single building and its accessory buildings. The term "lot" includes the term "parcel."

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

Lot, corner, means a lot abutting upon two or more streets at their intersection; the shortest side fronting upon a street shall be considered the front of the lot and the longest side fronting upon a street shall be considered the side of the lot.

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

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

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

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

Plat means a map or plan of a tract or parcel of land which is to be subdivided or which has been subdivided. The term "plat" includes the term "map," "plan," "plot," "replat" or "replot." When used as a verb, the term "plat" is synonymous with the term "subdivide."

Property means any tract, lot, parcel or several of the same collected together for the purpose for subdividing.

Street means the principal means of access to abutting properties.

Street or alley, public use of, means the unrestricted use of a specified area or right-of-way for ingress and egress to two or more abutting properties.

Street width means the total width of the strip of land dedicated or reserved for public travel, including roadway, curbs, gutters, sidewalks and planting strips.

Street, major, means a heavily traveled thoroughfare or highway that carries a large volume of through traffic or anticipated traffic exceeding 500 vehicles per day.

Street, other, means a street that is used primarily as a means of public access to the abutting properties with anticipated traffic of less than 500 vehicles per day.

Street, service drive, means a public right-of-way generally parallel and contiguous to a major highway, primarily designed to promote safety by eliminating promiscuous ingress and egress to the right-of-way by providing safe and orderly points of access to the highway.

Subdivide means to divide any tract, parcel or lot of land into two or more parts, either of which is five acres or less.

(1) The term "subdivide" does not include a bona fide division or partition of agricultural land for agricultural purposes or for the building site for members of the family owning any such agricultural lands. The agent may, however, permit the separation of one parcel from a tract of land without complying with all requirements of this chapter if it is not in conflict with the general meaning and purpose of this chapter; no new streets are required to serve the parcel; it is at least 25,000 square feet in area; and it has not less than 115 feet of road frontage; however, in no instance shall a variance be granted to this chapter which would permit roads to be constructed to less than minimum highway standards.

(2) The term "subdivide" and any derivative thereof shall have reference to the term "subdivider," as defined in this section.

Subdivider means an individual, corporation or registered partnership owning any tract, lot or parcel of land to be subdivided, or a group of two or more persons owning any tract, lot or parcel of land to be subdivided who have given their power of attorney to one of their group or to another individual to act on their behalf in planning, negotiating for, representing or executing the legal requirements of the subdivision.

This chapter includes all ordinances amending or supplementing this chapter.

(Code 2003, § 171-1)

State Law reference— Definitions pertaining to planning, subdivision of land and zoning, Code of Virginia, § 15.2-2201; county planning commission serving as planning commission of town, Code of Virginia, §§ 15.2-2218 and 15.2-2219.

Sec. 28-2. - Purpose.

The purpose of this chapter is to establish certain subdivision standards and procedures for the town and such of its environs as come under the jurisdiction of the council, as provided for by the state code. These are part of long-range plans to guide and facilitate the orderly beneficial growth of the community and to promote the public health, safety, convenience, comfort, prosperity and general welfare. More specifically, the purposes of these standards and procedures are to provide a guide for the change that occurs when lands and acreage become urban in character as a result of development for residential, business or industrial purposes; to provide assurance that the purchasers of lots are buying a commodity that is suitable for development and use; and to make possible the provision of public services in a safe, adequate and efficient manner. Subdivided land sooner or later becomes a public responsibility in that roads and streets must be maintained and numerous public services customary to urban areas must be provided. This chapter assists the community in meeting these responsibilities.

(Code 2003, § 171-2)

State Law reference— Purpose of subdivision ordinance, Code of Virginia, § 15.2-2240; police jurisdiction over lands, buildings and structures, Code of Virginia, § 15.2-1124.

Sec. 28-3. - Compliance with chapter.

No person shall subdivide any tract of land that is located within the town, as defined in article 7 of the Virginia Planning Act (Code of Virginia, § 15.2-2240 et seq.), except in conformity with the provisions of this chapter.

(Code 2003, § 171-3)

Sec. 28-4. - Applicability of chapter to private contracts and agreements.

This chapter bears no relation to any private easement, covenant, agreement or restriction, nor is the responsibility of enforcing such private easement, covenant, agreement or restriction implied in this chapter to any public official. When this chapter calls for more restrictive standards than are required by private contract, the provisions of this chapter shall control.

(Code 2003, § 171-4)

Sec. 28-5. - Mutual responsibility of subdivider and town.

There is mutual responsibility between the subdivider and the town to divide the land so as to improve the general use pattern of the land being subdivided.

(Code 2003, § 171-5)

Sec. 28-6. - Land must be suitable.

The agent shall not approve the subdivision of land if, by adequate investigations conducted by the town manager, county health department and state department of transportation, it has been determined that in the best interest of the public the site is not suitable for platting and development purposes of the kind proposed.

(Code 2003, § 171-6)

Sec. 28-7. - Land subject to flooding, adverse topography not to be platted for residential occupancy.

Land subject to flooding and land deemed to be topographically unsuitable shall not be platted for residential occupancy, nor for such other uses as may increase danger of health, life or property, or aggravate erosion or flood hazard. Such land within the subdivision shall be set aside on the plat for such uses as shall not be endangered by periodic or occasional inundation or shall not produce conditions contrary to public welfare.

(Code 2003, § 171-7)

Sec. 28-8. - Advertising standards.

A subdivider when advertising a subdivided tract of land for sale shall be specific as to whether officially approved water and sewer facilities are available or not.

(Code 2003, § 171-8)

Sec. 28-9. - Exceptions.

Where the subdivider can show that a provision of this chapter would cause unnecessary hardship if strictly adhered to or where, because of topographical or other conditions peculiar to the site, in the opinion of the agent, a departure may be made without destroying the intent of such provisions, the agent may authorize an exception. Any exception thus authorized is to be stated in writing in the report of the agent with the reasoning on which the departure was justified set forth. No such variance may be granted by this chapter which is opposed in writing by the county or highway engineer or health officer.

(Code 2003, § 171-9)

State Law reference— Authority for exceptions to subdivision ordinance, Code of Virginia, §§ 15.2-2241 et seq.

Sec. 28-10. - Amendments to chapter; public hearing required.

This chapter may be amended in whole or in part by the council, provided that any such amendment shall either originate with or be submitted to the commission for recommendation, and, further, provided that no such amendment shall be adopted without a public hearing having been held by the council. Notice of the time and place of the hearing shall have been given at least once a week for two weeks and the last notice not less than five nor more than 21 days prior to the hearing.

(Code 2003, § 171-10)

State Law reference— Advertisements relating to planning ordinances and amendments, Code of Virginia, § 15.2-2204; preparation and adoption of amendments to subdivision ordinance, Code of Virginia, § 15.2-2253.

Sec. 28-11. - Violations and penalties.

Any person violating the provisions of this chapter shall be subject to a fine of not more than $500.00 for each lot or parcel of land so subdivided or transferred or sold; and the description of such lot or parcel by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring shall not exempt the transaction from such penalty or from the remedies provided in this chapter.

(Code 2003, § 171-11)

State Law reference— Similar provisions, Code of Virginia, § 15.2-2254.

Secs. 28-12—28-40. - Reserved.

ARTICLE II. - ADMINISTRATION

DIVISION 1. - GENERALLY

Secs. 28-41—28-68. - Reserved.

DIVISION 2. - ADMINISTRATOR

Sec. 28-69. - Authority; provision for appeal.

The agent appointed by the council is hereby delegated to administer this chapter. In so doing, the agent shall be considered the agent of the council, and approval or disapproval by the agent shall constitute approval or disapproval as though it were given by the council. The agent shall also consult with the commission on matters contained in this chapter. If a plan for subdivision is disapproved by the agent, the subdivider may appeal to the council, which may then override the recommendation of the agent and approve such plat.

(Code 2003, § 171-12)

Sec. 28-70. - Duties generally.

The agent shall perform its duties as regards subdivisions and subdividing in accordance with this chapter and the Land Subdivision and Development Act (Code of Virginia, § 15.2-2240 et seq.).

(Code 2003, § 171-13)

Sec. 28-71. - Consultation with other departments.

In the performance of its duties under this chapter, the agent may call for opinions or decisions, either verbal or written, from other departments in considering details of any submitted plat. This authority by the agent shall have particular reference to the resident highway engineer and the health officer.

(Code 2003, § 171-14)

Sec. 28-72. - Establishment of administrative procedures.

In addition to the regulations contained in this chapter for the platting of subdivisions, the agent may, from time to time, establish any reasonable additional administrative procedures deemed necessary for the proper administration of this chapter.

(Code 2003, § 171-15)

Secs. 28-73—28-102. - Reserved.

ARTICLE III. - PLATS

Footnotes:
*--- (**2**) ---*
***State Law reference—** Plats of subdivisions, Code of Virginia, §§ 15.2-2241, 15.2-2242, 15.2-2243, 15.2-2244, 15.2-2245 and 15.2-2246; 15.2-2258, 15.2-2259, 15.2-2260 and 15.2-2261; state regulations pertaining to public records, Code of Virginia, § 42.1-82.*

DIVISION 1. - GENERALLY

Sec. 28-103. - Required.

Any owner or developer of any tract of land situated within the town who subdivides such tract of land shall cause a plat of such subdivision, with reference to known or permanent monuments, to be made and recorded in the office of the clerk of the appropriate court. No such plat of subdivision shall be recorded unless and until it shall have been submitted, approved and certified by the agent in accordance with the regulations set forth in this chapter.

(Code 2003, § 171-16)

State Law reference— Sale of land in subdivision before recording of plat, Code of Virginia, § 15.2-2254.

Sec. 28-104. - Preparation by licensed surveyor or engineer.

Every plat shall be prepared by a surveyor or engineer, duly licensed by the state, who shall endorse upon each plat a certificate signed by said surveyor or engineer setting forth the source of the title of the land subdivided and the place of record of the last instrument in the chain of title. When the plat is of land acquired from more than one source of title, the outlines of the several tracts shall be indicated upon such plat within an inset block or by means of a dotted boundary line upon the plat.

(Code 2003, § 171-17)

Sec. 28-105. - Owner's statement.

Every plat, or the deed of dedication to which a plat is attached, shall contain in addition to the surveyor's or engineer's certificate a statement to the effect that, "The above and foregoing subdivision of (here insert correct description of the land subdivided) as appears in this plat is with the free consent and in accordance with the desire of the undersigned owners, proprietors and trustees, if any," which shall be signed by the owners, proprietors and trustees, if any, and shall be duly acknowledged before some officer authorized to take acknowledgements of deeds, and when thus executed and approved as specified in this section shall be filed and recorded in the office of the clerk of the appropriate court and indexed under the names of the landowners signing each statement and under the name of the subdivision.

(Code 2003, § 171-18)

Sec. 28-106. - Changes on approved plats.

No change, erasure or revision shall be made on any preliminary or final plat, nor on accompanying data sheets, after approval of the agent has been endorsed in writing on the plat or sheets, unless authorization for such changes has been granted in writing by the agent.

(Code 2003, § 171-19)

Sec. 28-107. - Fees.

There shall be a charge for the examination and approval or disapproval of every plat reviewed by the agent. At the time of filing the preliminary plat, the subdivider shall deposit with the agent checks payable to the treasurer in the amount of $50.00 per plat and $25.00 for each lot.

(Code 2003, § 171-20)

State Law reference— Fees and charges in subdivision ordinance, Code of Virginia, § 15.2-2241 et seq.

Sec. 28-108. - Performance bond.

Before any subdivision plat will be finally approved by the agent, the subdivider shall, in lieu of construction, furnish bond in an amount calculated by the agent to secure the required improvements in a skilled manner and in accordance with specifications and construction schedules established or approved by the appropriate engineer, which bond shall be payable to and held by the council.

(Code 2003, § 171-21)

Sec. 28-109. - Plat approval required prior to sale of lots.

Whenever any subdivision of land is proposed, and before any permit for the erection of a structure shall be granted, the subdivider or the agent of the subdivider shall apply in writing to the agent for the approval of the subdivision plat and submit three copies of the preliminary plat, including the lot, street and utilities layout. No lot in the subdivision shall be sold until a final plat for the subdivision shall have been approved and recorded.

(Code 2003, § 171-22)

State Law reference— Similar provisions, Code of Virginia, § 15.2-2254.

Sec. 28-110. - Preliminary sketch.

(a) The subdivider may, if said subdivider so chooses, submit to the agent a preliminary sketch of the proposed subdivision prior to preparing the engineered preliminary and final plats of the subdivider. The purpose of such preliminary sketch is to permit the agent to advise the subdivider

whether the plans of said subdivider in general are in accordance with the requirements of this chapter. The commission, upon submission of any preliminary sketch, shall study it and advise the subdivider wherein it appears that changes would be necessary. The agent may mark the preliminary sketch indicating necessary changes and any such marked sketch shall be returned to the commission with the preliminary plat. The preliminary sketch shall be drawn as follows:

(1) It shall be drawn on white paper, or on a print of a topographic map of the property.

(2) It shall be drawn to a scale of 100 feet to the inch.

(3) It shall show the name, location and dimensions of all streets entering the property, adjacent to the property or terminating at the boundary of the property to be subdivided.

(4) It shall show the location of all proposed streets, lots, parks, playgrounds and other proposed uses of the land to be subdivided and shall include the approximate dimensions.

(b) Whenever part of a tract is proposed for platting and it is intended to subdivide additional parts in the future, a sketch plan for the entire tract shall be submitted with the preliminary plat. This sketch is merely for informational purposes and is not binding on the subdivider or the council.

(Code 2003, § 171-23)

Secs. 28-111—28-133. - Reserved.

DIVISION 2. - PRELIMINARY PLAT

Sec. 28-134. - Required information.

The subdivider shall present to the commission three prints of a preliminary layout at a scale of 100 feet to the inch as a preliminary plat. The preliminary plat shall include the following information:

(1) Name of subdivision, owner, subdivider, surveyor or engineer, date of drawing, number of sheets, north point and scale. If true north is used, method of determination must be shown.

(2) Location of proposed subdivision by an inset map at a scale of not less than two inches equals one mile, showing adjoining roads, their names and numbers, towns, subdivisions and other landmarks.

(3) The boundary survey or existing survey of record, provided such survey shows a closure with an accuracy of not less than one in 2,500; total acreage, acreage of subdivided area, number and approximate area and frontage of all building sites, existing buildings within the boundaries of the tract, names of owners and their property lines within the boundaries of the tract and adjoining such boundaries.

(4)

All existing, platted and proposed streets, their names, numbers and widths; existing utility or other easements, public areas and parking spaces; culverts, drains and watercourses, their names and other pertinent data.

(5) The complete drainage layout, including all pipe sizes, types, drainage easements and means of transporting the drainage to a well-defined open stream which is considered natural drainage.

(6) A cross section showing the proposed street construction, depth and type of base, type of surface, etc.

(7) A profile or contour map may be required showing the proposed grades for the streets and drainage facilities, including elevations of existing and proposed ground surface at all street intersections and at points of major grade change along the centerline of streets together with proposed grade lines connecting therewith.

(8) A location map tying the subdivision into the town's present road system, either by aerial photographs or topographic maps of the U.S. Department of Interior, or other acceptable maps.

(9) Proposed connections with existing sanitary sewers and existing water supply or alternate means of sewage disposal and water supply.

(10) All parcels of land to be dedicated for public use and the conditions of such dedication.

(Code 2003, § 171-24)

Sec. 28-135. - Review procedure.

(a) The agent or appointed representative shall discuss the preliminary plat with the subdivider in order to determine whether or not the preliminary plat of said agent or representative generally conforms to the requirements of this chapter. The subdivider shall then be advised in writing within 60 days, which may be by formal letter or by legible markings on the subdivider's copy of the preliminary plat, concerning any additional data that may be required, the character and extent of the public improvements that will have to be made, and an estimate of the cost of construction or improvements and the amount of the performance bond which will be required as a prerequisite to approval of the final subdivision plat.

(b) In determining the cost of required improvements and the amount of the performance bond, the agent may consult with a duly licensed engineer who shall prepare this data for the agent or, preferably, may require a bona fide estimate of the cost of improvements to be furnished by the subdivider.

(c) Approval by the agent of the preliminary plat does not constitute a guarantee of approval of the final plat.

(Code 2003, § 171-25)

Sec. 28-136. - Time limit.

The subdivider shall have not more than one year after receiving official notification concerning the preliminary plat to file with the agent a final subdivision plat in accordance with this chapter. Failure to do so shall make preliminary approval null and void. The agent may, on written request by the subdivider, grant an extension of this time limit.

(Code 2003, § 171-26)

Secs. 28-137—28-155. - Reserved.

DIVISION 3. - FINAL PLAT

Sec. 28-156. - Required information.

The subdivision plats submitted for final approval by the council and subsequent recording shall be clearly and legibly drawn upon a medium acceptable to the zoning administrator and at a scale of 100 feet to the inch on sheets having a size of 15 inches by 18 inches. In addition to the requirements of the preliminary plat, the final plat shall include the following:

(1) A blank space three inches by five inches shall be reserved for the use of the approving authority and a blank space two inches by five inches reserved for the recording clerk's certification.

(2) Certificates signed by the surveyor or engineer setting forth the source of title of the owners of the land subdivided and the place of record of the last instrument in the chain of title.

(3) A statement to the effect that "the subdivision as it appears on this plat is with the free consent and in accordance with the desires of the owners, proprietors and trustees, if any," which shall be signed by the owners, proprietors and trustees, if any, and shall be duly acknowledged before some officer authorized to take acknowledgements of deeds.

(4) When the subdivision consists of land acquired from more than one source of title, the outlines of various tracts shall be indicated by dashlines and identification of the respective tracts shall be placed on the plat.

(5) The accurate location and dimensions by bearings and distances with all curve data on all lots and street lines and centerlines of streets, boundaries of all proposed or existing easements, parks, school sites or other public areas, the number and area of all building sites, all existing public and private streets, their names, numbers and widths, existing utilities, and those to be provided such as sanitary sewers, storm drains, water mains, manholes and underground

conduits including their size and type, watercourses and their names, names of owners and their property lines, both within the boundary of the subdivision and adjoining such boundaries.

(6) Distances and bearings must balance and close with an accuracy of not less than one in 10,000.

(7) The data of all curves along the street frontage shall be shown in detail at the curve or in a curve data table containing the following: delta, radius, arc, tangent, chord and chord bearings.

(Code 2003, § 171-27)

State Law reference— Requisites of plat, Code of Virginia, § 15.2-2262.

Sec. 28-157. - Conditions for approval.

The plat shall not be approved until the subdivider has complied with the general requirements and minimum standards of design in accordance with this chapter and has made satisfactory arrangements for performance bond, cash or cash bond to cover the cost of necessary improvements in lieu of construction, to the satisfaction of the agent. Approval of the final plat shall be written on the face of the plat by the agent. The subdivider shall record the plat within six months after final approval; otherwise the agent shall mark the plat "void" and return the plat to the subdivider.

(Code 2003, § 171-28)

Secs. 28-158—28-182. - Reserved.

ARTICLE IV. - DESIGN STANDARDS

Sec. 28-183. - Lots; minimum size requirements; exceptions.

The minimum lot size in any area shall be in accordance with the following:

(1) *Public water and sewer.* Residential lots served by both public water and public sewer systems shall be 80 feet or more in width and 12,000 square feet or more in area.

(2) *Public water or sewer.* Residential lots served by only one of public water or public sewer systems shall be 100 feet or more in width and 20,000 square feet or more in area.

(3) *No public water or sewer.* Residential lots served by neither public water nor public sewer systems shall be 100 feet or more in width and 25,000 square feet or more in area.

(4)

Exceptions. Greater lot areas may be required where individual septic tanks or individual wells are used if the health officer determines that there are factors of drainage, soil condition or other conditions to cause potential health problems. The agent shall require that data from percolation tests are submitted as a basis for passing upon subdivisions dependent upon septic tanks as a means of sewage disposal.

(Code 2003, § 171-29)

Sec. 28-184. - Additional lot requirements.

In addition to the lot area and width requirements specified in section 28-183, lots shall be arranged in order that the following considerations are satisfied:

(1) *Shape.* The lot arrangement, design and shape shall be such that lots will provide satisfactory and desirable sites for buildings, be properly related to topography and conform to the requirements of this chapter. Lots shall not contain peculiarly shaped elongations solely to provide necessary square footage of area which would be unusable for normal purposes.

(2) *Location.* Each lot shall abut on a street dedicated by the subdivision plat, or on an existing publicly dedicated street, or on a street which has become public by right of use. If the existing streets are not 50 feet in width, the subdivider shall make provisions in the deeds to the lots for all buildings to be so constructed as to permit the widening by dedication of such roads or streets to a width of 50 feet.

(3) *Corner lots.* Corner lots shall have extra width sufficient for maintenance of any required building lines on both streets as determined by the agent.

(4) *Side lines.* Side lines of lots shall be approximately at right angles or radial to the street line.

(5) *Remnants.* All remnants of lots below minimum size left over after subdividing of a tract must be added to adjacent lots or otherwise disposed of rather than allowed to remain as unusable parcels.

(6) *Separate ownership.* Where the land covered by a subdivision includes two or more parcels in separate ownership and lot arrangement is such that a property ownership line divides one or more lots, the land in each lot so divided shall be transferred by deed to single ownership, simultaneously with the recording of the final plat. Such deed is to be deposited with the clerk of the court and held with the final plat until the subdivider is ready to record same, and they both shall be recorded together.

(7) *Business or industrial uses.* Lots intended for business or industrial use shall be designed specifically for such purposes with adequate space set aside for off-street parking and delivery facilities.

(Code 2003, § 171-30)

Sec. 28-185. - Blocks.

Where created by the subdivision of land, all new blocks shall be of modern design and shall comply with the following general requirements:

(1) *Length.* Generally, the maximum length of blocks shall be 1,200 feet and the minimum length of blocks upon which lots have frontage shall be 500 feet.

(2) *Width.* Blocks shall be wide enough to allow two tiers of lots of minimum depth, except where fronting on major streets, unless prevented by topographical conditions or size of the property, in which case the agent may approve a single tier of lots of minimum depth.

(3) *Orientation.* Where a proposed subdivision will adjoin a major road, the agent may require that the greater dimension of the block shall front or back upon such major thoroughfare to avoid unnecessary ingress or egress.

(Code 2003, § 171-31)

Secs. 28-186—28-208. - Reserved.

ARTICLE V. - REQUIRED IMPROVEMENTS

DIVISION 1. - GENERALLY

Sec. 28-209. - Requirements.

All required improvements shall be installed by the subdivider at the cost of the subdivider. In cases where specifications have been established either by the state department of transportation for streets, curbs, etc., or by local ordinances and codes, such specifications shall be followed. The subdivider's bond shall not be released until construction has been inspected and approved by the appropriate engineer. All improvements shall be in accordance with the requirements of this chapter.

(Code 2003, § 171-32)

State Law reference— Release of performance guarantee, Code of Virginia, § 15.2-2241 et seq.

Sec. 28-210. - Streets.

All streets in the proposed subdivision shall be designed and constructed in accordance with the following minimum requirements by the subdivider at no cost to the locality. The streets shall meet the minimum requirements of the state department of transportation's policy, unless they are less restrictive than this chapter.

(1)

Alignment and layout. The arrangement of streets in new subdivisions shall make provision for the continuation of existing streets in adjoining areas. The street arrangement must be such as to cause no unnecessary hardship to owners of adjoining property when they plat their own land and seek to provide for convenient access to it. Where, in the opinion of the agent, it is desirable to provide for street access to adjoining property, proposed streets shall be extended by dedication to the boundary line of such property. Half streets along the boundary of land proposed for subdivision may not be permitted. Wherever possible, streets should intersect at right angles. In all hillside areas, streets running with contours shall be required to intersect at angles of not less than 60 degrees, unless approved by the agent upon recommendation of the highway engineer.

(2) *Service drives.* Whenever a proposed subdivision contains or is adjacent to a limited access highway or expressway, provision shall be made for a service drive or marginal street approximately parallel to such right-of-way at a distance suitable for an appropriate use of the land between such highway and the proposed subdivision. Such distances shall be determined with due consideration of the minimum distance required for ingress and egress to the main thoroughfare. The right-of-way of any major highway or street projected across any railroad, limited access highway or expressway shall be of adequate width to provide for the cuts or fills required for any future separation of grades.

(3) *Approach angle.* Major streets shall approach major or minor streets at an angle of not less than 80 degrees, unless the agent, upon recommendation of the highway engineer, shall approve a lesser angle of approach for reasons of contour, terrain or matching of existing patterns.

(4) *Minimum widths.* The minimum width of proposed streets, measured from lot line to lot line, shall be as shown on the major street plan, or, if not shown on such plan, shall be a minimum of 50 feet. Local service drives or other minor streets which cannot be extended in the future shall be not less than 50 feet in width; alleys, if permitted, shall not be less than 20 feet nor more than 28 feet in width.

(5) *Construction requirements.* In cases where state department of transportation specifications are lacking or less restrictive than the requirements of this chapter, this chapter shall prevail. The grades of streets submitted on subdivision plats shall be approved by the agent upon recommendation of the highway engineer prior to final action by the agent. Wherever feasible, street grades shall not exceed ten percent.

(6) *Culs-de-sac.* Generally, minor terminal streets (culs-de-sac) designed to have one end permanently closed shall be no longer than 400 feet to the beginning of the turnaround. Each cul-de-sac must be terminated by a turnaround of not less than 100 feet in diameter.

(7) *Alleys.* Alleys should be avoided wherever possible. Dead-end alleys, if unavoidable, shall be provided with adequate turnaround facilities as determined by the agent.

(8) *Private streets and reserve strips.* There shall be no private streets platted in any subdivision. Every subdivided property shall be served from a publicly dedicated street. There shall be no reserve strips controlling access to streets.

(9) *Names.* Proposed streets which are obviously in alignment with other already existing and named streets shall bear the names of the existing streets. In no case shall the names of proposed streets duplicate existing street names, irrespective of the use of the suffix (street, avenue, boulevard, drive, way, place, lane or court). Street names shall be indicated on the preliminary and final plats and shall be approved by the agent. Names of existing streets shall not be changed except by approval of the council.

(10) *Identification signs.* Street identification signs of a design approved by the agent shall be installed at all intersections.

(Code 2003, § 171-33)

State Law reference— Grading streets, Code of Virginia, title 15.2, ch. 20.

Sec. 28-211. - Water facilities generally.

Where public water is available, the service shall be extended to all lots within a subdivision, including fire hydrants, by the subdivider in accordance with the design standards and specifications for water, construction and improvements in the town and meeting the approval of the agent. Every subdivision containing 25 or more lots to which public water cannot or will not be provided shall be supplied by the subdivider with a complete central water supply and distribution system to serve each and every lot containing less than 20,000 square feet per lot.

(Code 2003, § 171-34)

Sec. 28-212. - Sewerage facilities generally.

Where public sewerage facilities are available, the service shall be extended to all lots within a subdivision and septic tanks will not be permitted. Every subdivision shall be provided by the subdivider with a satisfactory and sanitary means of sewage collection and disposal in accordance with the design standards and specifications for sewerage construction and improvements, in accordance with state health department specifications and meeting the approval of the agent, provided the average prevailing lot size is less than 20,000 square feet. In the case of a subdivision in which the size of lots are 20,000 square feet or more in area, an individual sewage disposal system for each lot may be provided by the subdivider, subject to the approval by the health officer.

(Code 2003, § 171-35)

Sec. 28-213. - Private water and/or sewerage facilities.

Nothing in this chapter shall prevent the installation of privately owned water and/or sewerage facilities in areas where public water and/or sewerage facilities are not available; provided, however, that such installations must meet all the requirements of the state water control board, the state health department and any other state or local regulation having authority over such installation.

(Code 2003, § 171-36)

State Law reference— State water control board, Code of Virginia, § 62.1-44.7 et seq.

Sec. 28-214. - Storm drainage.

The subdivider shall provide all necessary information needed to determine what improvements are necessary to properly develop the subject property, including contour intervals, drainage plans and flood control devices. The subdivider shall also provide plans for all such improvements together with a properly qualified certified engineer's or surveyor's statement that such improvements, when properly installed, will be adequate for proper development. The highway engineer shall then approve or disapprove the plans. The subdivider shall also provide any other information required by the highway engineer.

(Code 2003, § 171-37)

State Law reference— Local stormwater management program, Code of Virginia, §§ 10.1-603.3, 15.2-2114.

Sec. 28-215. - Fire protection.

The installation of adequate fire hydrants in a subdivision at locations approved by the agent may be required, provided necessary public water is available. The agent shall consult with the proper authority before approving such location.

(Code 2003, § 171-38)

Sec. 28-216. - Easements.

The agent may require that easements for drainage through adjoining property be provided by the subdivider. Easements of not less than ten feet in width shall be provided for water, sewer, power lines and other utilities in the subdivision when required by the agent.

(Code 2003, § 171-39)

Sec. 28-217. - Submission of plans.

Two blue or black line prints of the plans and specifications for all required physical improvements to be installed shall be prepared by an engineer and shall be submitted to the agent for approval or disapproval within 45 days. If approved, one copy bearing certification of such approval shall be returned to the subdivider. If disapproved, all papers shall be returned to the subdivider with the reason for disapproval in writing. If no action is taken in 45 days, such subdivision shall be deemed approved.

(Code 2003, § 171-40)

Secs. 28-218—28-242. - Reserved.

DIVISION 2. - MONUMENTS

Sec. 28-243. - Installation and inspection requirements.

As required by this chapter, all monuments must be installed by the subdivider and shall meet the minimum specifications. Upon completion of subdivision streets, sewers and other improvements, the subdivider shall make certain that all monuments required by the agent are clearly visible for inspection and use. Such monuments shall be inspected and approved by the agent before any improvements are accepted by the council.

(Code 2003, § 171-41)

Sec. 28-244. - Concrete.

Concrete monuments four inches in diameter or square and three feet long, with a flat top, shall be placed at all street corners, at all points where the street line intersects the exterior boundaries of the subdivision and at appropriate points as determined by the subdivision administrator along the rear lot lines, but in no instance shall there be less than three monuments in any given site distance. The top of the monument shall have an appropriate mark to properly identify the location and shall be set flush with finished grade.

(Code 2003, § 171-42)

Sec. 28-245. - Iron pipe.

All lot corners other than those specified in section 28-244 shall be marked with iron pipe less than three-fourths of an inch in diameter and 24 inches long and driven so as to be flush with the finished grade. When rock is encountered, a hole shall be drilled four inches deep in the rock, into which shall be cemented a steel rod one-half-inch in diameter, the top of which shall be flush with the finished grade line.

(Code 2003, § 171-43)

Secs. 28-246—28-268. - Reserved.

ARTICLE VI. - ROAD SPECIFICATIONS

Sec. 28-269. - Compliance with state requirements; additional standards and specifications required.

The intent of the council is to require the necessary street and highway construction requirements needed to make all subdivision roads eligible for acceptance into the secondary road system of the state department of transportation. Before approval of the roads in any final subdivision plat shall be given, the highway resident engineer for the county shall submit in writing that all requirements and specifications of the state department of transportation for acceptance into the secondary road system have been met. This approval does not indicate, however, that such roads will be immediately accepted into the secondary road system of the state department of transportation. The roads must render a public service, that is, from a standpoint of occupied dwellings and continuing traffic service to the same. After the effective date of the ordinance from which this chapter was originally derived, all subdivisions shall incorporate the following requirements, standards and specifications:

(1) Right-of-way width shall be not less than 50 feet.

(2) Roadway graded to 30 feet exclusive of side ditches.

(3) The following requirements concerning drainage shall apply:

   a. Drainage structures including culverts approved by the state department of transportation shall be provided.

   b. Drainage easements within subdivisions and easements for drainage outlets leaving subdivisions are to be shown on recorded plat of subdivision.

(4) Aggregate base for pavement shall be a minimum of 20 feet in width and five inches in depth and shall be of satisfactory stabilizing material meeting the requirements of the current state department of transportation specifications.

(5) Pavement shall be a minimum width of 20 feet consisting of a prime and double seal treatment of bituminous material and aggregate. The rates of application and the material shall meet the requirements of the current state department of transportation specifications.

(6) Side ditches and outlet ditches shall be paved in accordance with the state department of transportation's current specifications, if deemed necessary by the highway resident engineer for the county.

(7) All drainage structures under driveways shall be a minimum of 12 inches in diameter.

(8)

The inclusion of new subdivision roads into the secondary road system of the state department of transportation at any time other than July 1 will require the developer to pay a maintenance fee based on the rates and relevant criteria as established from time to time.

(9) The developer shall contact the highway resident engineer for the county to determine the requirements necessary to be met to comply with the state department of transportation design standards and specifications.

(Code 2003, § 171-44)

Chapter 30 - TAXATION

Footnotes:
*--- (**1**) ---*
***State Law reference—** Vote for tax levy by council, Code of Virginia, title 15.2, ch. 14; amount of municipal taxes and assessments to be collected, Code of Virginia, § 15.2-1104; priority of taxes in distribution of assets of person or corporation, Code of Virginia, § 58.1-6 et seq.; Setoff Debt Collection Act, Code of Virginia, § 58.1-520 et seq.; local sales and use taxes, Code of Virginia, § 58.1-605 et seq.; local bank franchise tax, Code of Virginia, § 58.1-1208 et seq.; local taxes generally, Code of Virginia, § 58.1-3000 et seq.; enforcement, collection, refunds, remedies and review of local taxes, Code of Virginia, § 58.1-3900 et seq.*

ARTICLE I. - IN GENERAL

Secs. 30-1—30-20. - Reserved.

ARTICLE II. - TAX ON REAL ESTATE AND PERSONAL PROPERTY

Footnotes:
*--- (**2**) ---*
***State Law reference—** Real property tax, Code of Virginia, § 58.1-3200 et seq.; tangible personal property tax and machinery and tools tax, Code of Virginia, § 58.1-3500 et seq.*

Sec. 30-21. - Levy and collection.

(a) There shall be levied and collected, for each calendar year, a tax of $0.12 on every $100.00 of the assessed value of all real estate, tracts of land, lots or mobile homes permanently affixed to the land with the improvements thereon, not exempted from taxation by the laws of the state. The assessed value of such real estate shall be 100 percent of the appraised value of such real estate. All new buildings substantially completed or fit for use, occupancy and enjoyment prior to November 1 of the year of completion shall be assessed when so completed or fit for use, occupancy and enjoyment, and the commissioner of the revenue of the county shall enter in the

books the fair market value of such building, provided that no such partial assessment shall become effective until information as to the date and amount of such assessment is recorded in the office of the official authorized to collect taxes on real property and made available for public inspection. The tax on such new building for that year shall be computed according to the ratio which the portion of the year such building is substantially completed or fit for use, occupancy and enjoyment bears to the entire year.

(b) There shall be levied and collected, for each calendar year, a tax of $0.55 on every $100.00 of the appraised value of all personal property, machinery and tools, boats, motor vehicles, and mobile homes not permanently affixed to the land.

(c) All taxes under this section shall be due and payable in the town office by September 30 of each year. There shall be a penalty of ten percent of the amount due for any tax not paid by the due date, and interest shall accrue at the rate of ten percent per annum for such due date.

(Code 2003, § 175-1; Ord. of 6-8-2015)

State Law reference— What real estate to be taxed, amount of assessment, Code of Virginia, § 58.1-3201.

Secs. 30-22—30-41. - Reserved.

ARTICLE III. - BANK FRANCHISE TAX

Footnotes:
*--- (**3**) ---*
***State Law reference—** Bank franchise tax, Code of Virginia, § 58.1-1200 et seq.; town tax, Code of Virginia, § 58.1-1209.*

Sec. 30-42. - Definitions.

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

Bank. The term "bank" is defined as provided in Code of Virginia, § 58.1-1201.

Net capital means a bank's net capital computed pursuant to Code of Virginia, § 58.1-1205.

(Code 2003, § 175-2)

Sec. 30-43. - Imposition of tax.

(a) Pursuant to the provisions of Code of Virginia, § 58.1-1200 et seq., there is hereby imposed upon each bank located within the boundaries of the town a tax on net capital equaling 80 percent of the state rate of franchise tax set forth in Code of Virginia, § 58.1-1204.

(b) If any bank located within the boundaries of the town also has offices that are located outside the corporate limits of the town, the tax shall be apportioned as provided by Code of Virginia, § 58.1-1211.

(Code 2003, § 175-3)

Sec. 30-44. - Filing of return and payment of tax.

(a) On or after January 1 of each year, but not later than March 1 of any such year, all banks whose principal offices are located within the town shall prepare and file with the commissioner of the revenue a return as provided by Code of Virginia, § 58.1-1207, in duplicate, which shall set forth the tax on net capital computed pursuant to Code of Virginia, § 58.1-1200 et seq. The commissioner of the revenue shall certify a copy of the bank's return and schedules and shall forthwith transmit such certified copy to the state department of taxation.

(b) If the principal office of a bank is located outside the corporate boundaries of the town and such bank has branch offices located within the town, in addition to the filing requirements set forth in subsection (a) of this section, any bank conducting such branch business shall file with the town treasurer a copy of the real estate deduction schedule, apportionment and other items which are required by Code of Virginia, §§ 58.1-1207, 58.1-1211 and 58.1-1212.

(c) Each bank, on or before June 1 of each year, shall pay into the treasurer's office of the town all taxes imposed pursuant to this article.

(Code 2003, § 175-4)

State Law reference— Filing of return and payment of tax, Code of Virginia, § 58.1-1207.

Sec. 30-45. - Penalty upon bank for failure to comply with article.

Any bank which fails to file a return or pay the tax required by this article or fails to comply with any other provision of this article shall be subject to a penalty of five percent of the tax due. If the commissioner of the revenue is satisfied that such failure is due to providential or other good cause, such return and payment of tax shall be accepted exclusive of such penalty but with interest determined in accordance with Code of Virginia, § 58.1-15.

(Code 2003, § 175-5)

State Law reference— Penalty upon bank for failure to comply with law, Code of Virginia, § 58.1-1216.

Secs. 30-46—30-62. - Reserved.

ARTICLE IV. - MEALS TAX

Footnotes:

*--- (**4**) ---*

***State Law reference—** Authority for municipal meals tax, Code of Virginia, § 58.1-3840.*

Sec. 30-63. - 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:

Cater means the furnishing of food, beverages, or both, on the premises of another, for compensation.

Collector means the treasurer or designee.

Food means all food, beverages, or both, including alcoholic beverages, purchased in or from a food establishment, whether prepared in such food establishment or not, and whether consumed on the premises or not, and without regard to the manner, time or place of service.

Food establishment means any place in or from which food or food products are prepared, packaged, sold or distributed in the town, including, but not limited to, any restaurant, dining room, grill, coffee shop, cafeteria, cafe, snack bar, lunch counter, convenience store, movie theater, delicatessen, confectionery, bakery, eating house, eatery, drugstore, ice cream/yogurt shop, lunch wagon or truck, pushcart or other mobile facility from which food is sold, public or private club, resort, bar, lounge, or other similar establishment, public or private, and shall include private property outside of and contiguous to a building or structure operated as a food establishment at which food or food products are sold for immediate consumption.

Meal means any prepared food or drink offered or held out for sale by a food establishment for the purpose of being consumed by any person to satisfy the appetite and is ready for immediate consumption. All such food and beverage, unless otherwise specifically exempted or excluded herein, shall be included, whether intended to be consumed on the seller's premises or elsewhere, whether designed as breakfast, lunch, snack, dinner, supper or by some other name, and without regard to the manner, time or place of service.

Treasurer means the treasurer and any duly designated deputies, assistants, inspectors or other employees.

(Code 2003, § 175-6; Ord. of 8-28-2000; Ord. of 6-10-2013)

Sec. 30-64. - Levy.

There is hereby imposed and levied by the town on each person a tax at the rate of eight percent on the amount paid for meals purchased from any food establishment, whether prepared in such food establishment or not, and whether consumed on the premises or not.

(Code 2003, § 175-7; Ord. of 8-28-2000; Ord. of 6-10-2013)

State Law reference— Retail sales and use tax, Code of Virginia, § 58.1-600 et seq.

Sec. 30-65. - Collection of tax by seller.

Every person receiving any payment for food with respect to which a tax is levied hereunder shall collect and remit the amount of the tax imposed by this article from the person on whom the same is levied or from the person paying for such food at the time payment for such food is made; provided, however, no blind person operating a vending stand or other business enterprise under the jurisdiction of the department for the blind and vision impaired and located on property acquired and used by the United States for any military or naval purpose shall be required to collect or remit such taxes. All tax collections shall be deemed to be held in trust for the town.

(Code 2003, § 175-8; Ord. of 8-28-2000; Ord. of 6-10-2013)

State Law reference— Retail sales and use tax, Code of Virginia, § 58.1-600 et seq.

Sec. 30-66. - Compensation of seller.

For the purpose of compensating sellers for the collection of the tax imposed by this article, every seller shall be allowed three percent of the amount of the tax due and accounted for, in the form of a deduction on such seller's monthly return, provided that the amount due is not delinquent at the time of payment.

(Code 2003, § 175-9; Ord. of 8-28-2000; Ord. of 6-10-2013)

Sec. 30-67. - Exemptions; limits on application.

(a) The tax imposed under this article shall not be levied on the following items when served exclusively for off-premises consumption:

(1) Factory-prepackaged donuts, ice cream, crackers, nabs, chips, cookies, candy, gum, nuts and other items of essentially the same nature.

(2) Food sold in bulk. For the purposes of this subsection, the term "bulk sale" means the sale of any item that would exceed the normal, customary and usual portion sold for on-premises consumption (e.g., a whole cake, a gallon of ice cream). The term "bulk sale" shall not include any food or beverage that is catered or delivered by a food establishment for off-premises consumption.

(3) Alcoholic and nonalcoholic beverages sold in factory-sealed containers.

(4) Any food or food product purchased with food coupons issued by the United States Department of Agriculture under the food stamp program or drafts issued through the state special supplemental food program for women, infants, and children.

(5) Any food or food product purchased for home consumption as defined in the Federal Food Stamp Act of 1977, 7 USC 2012, as amended, except hot food or hot food products ready for immediate consumption. For the purposes of administering the tax levied hereunder, the following items, whether or not purchased for immediate consumption, are excluded from the said definition of the term "food" in the Federal Food Stamp Act: sandwiches, salad bar items sold from a salad bar, prepackaged single-serving salads consisting primarily of an assortment of vegetables, and non-factory-sealed beverages. This subsection shall not affect provisions set forth in subsection (c)(3) through (5) of this section.

(b) A grocery store, supermarket or convenience store shall not be subject to the tax except for any portion or section therein designated as a delicatessen or designated for the sale of prepared food and beverages.

(c) The tax imposed hereunder shall not be levied on the following purchases of food and beverages:

(1) Food and beverages furnished by food establishments to employees as part of their compensation when no charge is made to the employee.

(2) Food and beverages sold by day care centers, public or private elementary or secondary schools or any college or university to their students or employees.

(3) Food and beverages for use or consumption and which are paid for directly by the commonwealth, any political subdivision of the commonwealth or the United States.

(4) Food and beverages furnished by a hospital, medical clinic, convalescent home, nursing home, home for the aged, infirm, handicapped, battered women, narcotic addicts or alcoholics, or other extended care facility to patients or residents thereof and the spouses and children of such persons.

(5) Food and beverages provided by a public or private nonprofit charitable organization or establishment to elderly, infirm, blind, persons with a disability or needy persons in their homes, or at central locations.

(6) Food and beverages provided by private establishments that contract with the appropriate agency of the commonwealth to offer food, food products, or beverages for immediate consumption at concession prices to elderly, infirm, blind, persons with a disability or needy persons in their homes or at central locations.

(7) Food and beverages sold by volunteer fire departments and rescue squads, nonprofit churches or other religious bodies, educational, charitable, fraternal, or benevolent organizations, on an occasional basis, not exceeding three times per calendar year as a fundraising activity, the gross proceeds of which are to be used by such church, religious body or organization exclusively for nonprofit educational, charitable, benevolent or religious purposes.

(8)

Food and beverages served by churches for their members as a regular part of their religious observances.

(9) Food and beverages served by age-restricted apartment complexes or residences with restaurants, not open to the public, where meals are served and fees are charged for such food and beverages and are included in rental fees.

(10) Food and beverages sold through vending machines.

(Code 2003, § 175-10; Ord. of 8-28-2000; Ord. of 6-10-2013)

Sec. 30-68. - Gratuities and service charges.

The tax imposed by this article shall not be levied on:

(1) That portion of the amount paid by the purchaser as a discretionary gratuity in addition to the sale price of the meal; and

(2) That portion of the amount paid by the purchaser as a mandatory gratuity or service charge added by the food establishment in addition to the sales price of the meal, but only to the extent that such mandatory gratuity or service charge does not exceed 20 percent of the sales price.

(Code 2003, § 175-11; Ord. of 8-28-2000; Ord. of 6-10-2013)

Sec. 30-69. - Report of taxes collected; remittance; preservation of records.

(a) It shall be the duty of every seller required by this article to pay to the town the taxes imposed by this article to register with the treasurer providing such information as the treasurer may prescribe.

(b) Every seller required by this article to pay to the town the taxes imposed by this article shall file a report with the treasurer within 20 days after the last day of each calendar month on forms prescribed by the treasurer, signed by such person, reporting all purchases taxable under this article, the amount charged the purchaser for each such purchase, the date thereof, the taxes collected thereon and the amount of tax required to be collected by this article. Each such report shall be accompanied by a remittance of the amount of the taxes due thereon for the preceding month.

(c) Such records shall be kept and preserved for a period of five years. The treasurer shall have the power to examine such records at reasonable times and without unreasonable interference with the business of such person, for the purpose of administering and enforcing the provisions of this article, and to make transcripts of all or any parts thereof. In such administration and enforcement, the treasurer shall also have the powers set forth in section 30-73.

(Code 2003, § 175-12; Ord. of 8-28-2000; Ord. of 6-10-2013)

State Law reference— Penalties and interest on delinquent taxes, Code of Virginia, § 58.1-3916.

Sec. 30-70. - Interest and penalties for failure to file a report or make remittances.

(a) When any seller shall fail to make any report or remit the tax required by this article, there shall be imposed, in addition to any other penalties provided in this section, a specific penalty to be added to the tax in the amount of ten percent; provided, however, that in no case shall the penalty be less than $10.00, and such minimum penalties shall apply whether or not any tax is due for the period for which the report was required.

(b) Interest shall accrue at the rate of ten percent per annum which shall be computed on the taxes and penalty commencing 30 days from the date the report or remittance is due.

(Code 2003, § 175-13; Ord. of 8-28-2000; Ord. of 6-10-2013)

Sec. 30-71. - Obligations upon going out of business.

Whenever any person required to collect and pay to the town a tax under this article shall cease to operate or otherwise dispose of the business of said person, any tax payable to the town shall become immediately due and payable through such date, and the person shall make a report and remittance thereof within ten days of such date.

(Code 2003, § 175-14; Ord. of 8-28-2000; Ord. of 6-10-2013)

Sec. 30-72. - Civil warrant for collection of delinquent tax.

The treasurer is authorized, when any tax becomes delinquent under this article, to cause a civil warrant to be issued for the collection of the tax, penalty and interest as soon as the tax becomes delinquent against the seller or person liable for payment of the tax.

(Code 2003, § 175-15; Ord. of 8-28-2000; Ord. of 6-10-2013)

Sec. 30-73. - Promulgation of article regulations.

(a) The town treasurer shall monitor and oversee the accuracy, timeliness and completeness of the filing of reports and payment of taxes levied under this article. The town treasurer shall adopt and promulgate such rules and regulations and such forms not inconsistent with the provisions of this article as deemed necessary for the effective administration of this article.

(b) In administering the provisions of this article, the town treasurer may give any seller ten days' notice to appear before the town treasurer, with such books, records and papers as the town treasurer may require relating to the seller's business for the taxable period in question. The town treasurer may require that such seller or its agents and employees give testimony or answer

interrogatories under oath administered by the town treasurer respecting the meals provided and the revenues therefrom which are or may be subject to the tax imposed hereby, or the failure to make a report thereof as provided in this article.

(Code 2003, § 175-16; Ord. of 8-28-2000; Ord. of 6-10-2013)

Sec. 30-74. - Violations and penalties.

(a) Any person willfully failing or refusing to file a return as required under this article or to comply with any other provision of this article shall, upon conviction, be guilty of a Class 1 misdemeanor.

(b) Except as provided in subsection (a) of this section, any corporate, partnership or limited liability company officer, as defined in Code of Virginia, § 58.1-3906, or any other person required to collect, account for, or pay over the meals tax imposed under this article, who willfully fails to collect or truthfully account for or pay over such tax, or who willfully evades or attempts to evade such tax or payment thereof, shall, in addition to any other penalties provided by law, be guilty of a Class 1 misdemeanor.

(c) Each violation of or failure to comply with this article shall constitute a separate offense. Conviction of any such violation shall not relieve any person from the payment, collection or remittance of the tax as provided in this article.

(Code 2003, § 175-17; Ord. of 8-28-2000; Ord. of 6-10-2013)

Secs. 30-75—30-90. - Reserved.

ARTICLE V. - LODGING TAX

Footnotes:
*--- (**5**) ---*
***State Law reference—** Municipal excise tax on transient room rentals, Code of Virginia, § 58.1-3840.*

Sec. 30-91. - 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:

Hotel means any public or private hotel, inn, hostelry, tourist home or house, motel, roominghouse or other lodging place within the town offering lodging for compensation to any transient.

Transient means any natural person or individual who, for any period of fewer than 30 consecutive days, occupies a lodging room in any hotel for which occupancy a charge is made, whether such charge is paid by the occupant or by another. The term "transient" also means any natural person or individual who rents a

meeting, banquet, or other hotel space for purposes other than lodging for any period of fewer than 30 consecutive days. Contracting and paying for the occupancy of a lodging room for 30 consecutive days or more, when the lodging room is occupied by different individuals or by different groups of individuals for fewer than 30 consecutive days, constitutes transient occupancy or use of the room and is subject to the tax provided by this article.

(Code 2003, § 175-18; Ord. of 6-1-2003)

Sec. 30-92. - Levied; amount.

There is hereby imposed and levied by the town on each transient a lodging tax in the amount of five percent of the charge made for each room rented to such transient. Such tax shall be collected from such transient at the time required by and in accordance with this article.

(Code 2003, § 175-19)

Sec. 30-93. - Collection.

Every person receiving any payment for lodging with respect to which a tax is levied under this article shall collect the amount of such tax so imposed from the person paying for such lodging at the time payment for such lodging is made. The tax required to be collected under this section shall be deemed to be held in trust by the person required to collect such taxes as provided in this article.

(Code 2003, § 175-20)

Sec. 30-94. - Reports required.

The person collecting any tax, as provided in this article, shall make out a report thereof upon such forms and setting forth such information as the town treasurer may prescribe and require, showing the amount of lodging charge collected and the tax required to be collected, and shall sign and deliver such report to the town treasurer's office with remittance of such tax. Such report and remittance as required by the town treasurer shall be made at least once monthly and not later than the tenth day of the month next following in which such tax was collected.

(Code 2003, § 175-21)

Sec. 30-95. - Penalties for late payment.

If a person shall fail or refuse to remit to the town treasurer the tax required to be collected and paid under this article within the time and in the amount specified, there shall be added to such tax by the town treasurer a penalty in the amount of ten percent thereof and interest thereon at the rate of ten percent per

annum, which shall be computed upon the taxes and penalty from the first day of the month next following the month in which such taxes are due and payable.

(Code 2003, § 175-22)

State Law reference— Penalties and interest on delinquent taxes, Code of Virginia, § 58.1-3916.

Sec. 30-96. - Compensation of the collector.

For the purpose of compensating a person for accounting for and remitting the tax levied by this article, such person shall be allowed three percent of the amount of tax due and accounted for in the form of a deduction in submitting the return of such person and paying the amount due by the person, provided that the amount due was not delinquent at the time of payment.

(Code 2003, § 175-23; Ord. of 2-28-2006)

Sec. 30-97. - Failure or refusal to collect and report tax.

It shall be unlawful for any person to fail or refuse to collect the taxes imposed under this article and to make reports and remittances as required. If any person shall fail or refuse to collect the tax imposed under this article and to make, within the time provided in this article, the reports and remittances required in this article, the treasurer shall proceed in such manner as the treasurer may deem best to obtain facts and information on which to base the estimate of the tax due. As soon as the treasurer shall procure such facts and information as the treasurer is able to obtain upon which to base the assessment of any tax payable by any person who has failed or refused to collect such tax, and to make such report and remittance, the treasurer shall proceed to determine and assess against such person such tax, penalty and interest, as provided for in this article, and shall notify such person by registered or certified mail sent to the person's last known place of address of the amount of such tax, interest and penalty, and the total thereof shall be payable within ten days from the date of the mailing of such notice.

(Code 2003, § 175-24; Ord. of 2-28-2006)

Sec. 30-98. - Records.

It shall be the duty of every person liable for the collection and payment to the town of any tax imposed by this article to keep and to preserve for a period of four years such suitable records as may be necessary to determine and show accurately the amount of such tax as the person may have been responsible for collecting and paying to the town. The treasurer may inspect such records at all reasonable times.

(Code 2003, § 175-25; Ord. of 2-28-2006)

Sec. 30-99. - Procedure upon cessation of business.

Whenever any person required to collect and pay to the town a tax under this article shall cease to operate or shall dispose of said person's business, the person shall notify the treasurer of such fact, and any tax payable under this article to the town shall become immediately due and payable on the date such person shall cease to operate or shall dispose of the person's business and such person having made a report through such date for the collection of such taxes thereafter. Otherwise, such person shall be liable for such taxes through the succeeding collection date.

(Code 2003, § 175-26; Ord. of 2-28-2006)

Sec. 30-100. - Violations and penalties.

Any person subject to the provisions of this article failing or refusing to collect the full amount of the tax levied hereby, failing to make payment thereof to the town, failing or refusing to furnish any report required to be made in this article, failing or refusing to furnish supplemental or other data required by the treasurer, making a false or fraudulent claim for refund, or violating any other provision of this article shall be guilty of a Class 2 misdemeanor. Each failure, refusal, neglect or violation, and each day's continuance thereof, shall constitute a separate offense. Conviction of such violation shall not relieve such person from the liability for taxes, penalties and interest or from the duty of collection and remittance of the tax provided for in this article. An agreement by any person to pay the taxes provided for in this article by a series of installment payments shall not relieve any person of criminal liability for violation of this article until the full amount of taxes agreed to be paid by such person is received by the treasurer.

(Code 2003, § 175-27; Ord. of 2-28-2006)

Secs. 30-101—30-116. - Reserved.

ARTICLE VI. - PERSONAL PROPERTY TAX RELIEF

Sec. 30-117. - Purpose; definitions; relation to other ordinances.

(a) The purpose of this article is to provide for the implementation of the changes to the Personal Property Tax Relief Act of 1998 (PPTRA) effected by legislation adopted during the 2004 Special Session I and the 2005 Regular Session of the general assembly of the state.

(b) Terms used in this article that have defined meanings set forth in PPTRA shall have the same meanings as set forth in Code of Virginia, § 58.1-3523.

(c) To the extent that the provisions of this article conflict with any prior ordinance or provision of this Code, this article shall control.

(Code 2003, § 175-28; Ord. of 12-27-2005)

State Law reference— Code of Virginia, § 58.1-3523 et seq.

Sec. 30-118. - Method of computing and reflecting tax relief.

(a) For tax years commencing in 2006, the town adopts the provisions of Item 503E of the 2005 Appropriations Act providing for computation of tax relief as a specific dollar amount to be offset against the total taxes that would otherwise be due but for PPTRA and the reporting of such specific dollar relief on the tax bill.

(b) The council shall by ordinance set the rate of tax relief at such a level that it is anticipated fully to exhaust PPTRA relief funds provided to the town by the commonwealth. Any amount of PPTRA relief not used within the town's fiscal year shall be carried forward and used to increase the funds available for personal property tax relief in the following fiscal year.

(c) Personal property tax bills shall set forth on their face the specific dollar amount of relief credited with respect to each qualifying vehicle, together with an explanation of the general manner in which relief is allocated.

(Code 2003, § 175-29; Ord. of 12-27-2005)

Sec. 30-119. - Allocation of relief among taxpayers.

(a) Allocation of PPTRA relief shall be provided in accordance with the general provisions of this section, as implemented by the specific provisions of the town's annual budget relating to PPTRA relief.

(b) Relief shall be allocated in such a manner as to eliminate personal property taxation on each qualifying vehicle with an assessed value of $1,000.00 or less.

(c) Relief with respect to qualifying vehicles with assessed values of more than $1,000.00 shall be provided at a rate annually fixed in the town budget and applied to the first $20,000.00 in value of each such qualifying vehicle that is estimated fully to use all available state PPTRA relief. The rate shall be established annually as a part of the adopted budget for the town.

(Code 2003, § 175-30; Ord. of 12-27-2005)

Sec. 30-120. - Transitional provisions.

(a) Pursuant to authority conferred in Item 503D of the 2005 Appropriations Act, the town treasurer is authorized to issue a supplemental personal property tax bill, in the amount of 100 percent of tax due without regard to any former entitlement to state PPTRA relief, plus applicable penalties and interest, to any taxpayer whose taxes with respect to a qualifying vehicle for tax year 2005 or any prior tax year remain unpaid on September 1, 2006, or such date as state funds for reimbursement of the state share of such bill have become available, whichever earlier occurs.

(b)

Penalty and interest with respect to bills issued pursuant to subsection (a) of this section shall be computed on the entire amount of tax owed. Interest shall be computed at the rate provided in the town Code from the original due date of the tax.

(Code 2003, § 175-31; Ord. of 12-27-2005)

Secs. 30-121—30-138. - Reserved.

ARTICLE VII. - CIGARETTE TAX

Sec. 30-139. - 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:

Agent means every local dealer and other person who shall be authorized by the town treasurer to purchase and affix stamps to packages of cigarettes under the provisions of this article.

Dealer means every manufacturer, jobber, wholesale dealer or other person who supplies a seller with cigarettes.

Package means every package, box, can or other container of any cigarettes to which the Internal Revenue Service stamp of the United States government is required to be affixed by and under federal statutes and regulations and in which retail sales of such cigarettes are normally made or intended to be made.

Sale means every act or transaction, irrespective of the method or means employed, including the use of vending machines and other mechanical devices, whereby title to any cigarettes shall be transferred from the seller, as defined in this section, to any other person within the town.

Seller means every person engaged in the business of selling cigarettes whose transfer title or in whose place of business title to any such cigarettes is transferred within the town for any purpose other than resale.

Stamp means the small gummed piece of paper or decalcomania to be sold by the town treasurer and to be affixed by the agent to every package of cigarettes; it shall also denote any insignia or symbol printed by a meter machine upon any such package under authorization of the town treasurer.

Treasurer means the town treasurer and every person duly authorized by the town treasurer to serve as the representative of the town treasurer.

(Code 2003, § 175-32; Ord. of 6-9-2014)

Sec. 30-140. - Tax levied; amount.

There is hereby levied and imposed by the town, in addition to any other taxes which may be or have been imposed, a tax to be paid and collected, as provided in this article, on each and every sale of cigarettes made in the town. The tax is to be paid by the seller, local dealer or other agent by affixing a stamp, or causing a stamp to be affixed, to every package of cigarettes, in the kind and manner required in this article and at the applicable rates as follows: The rate or amount of tax levied or imposed on cigarettes shall be at the rate of $0.27 for each 20 cigarettes or fractional part thereof.

(Code 2003, § 175-33; Ord. of 6-9-2014)

Sec. 30-141. - Preparation and sale of stamps; duties of treasurer.

(a) The town treasurer shall acquire, keep and sell necessary stamps to local dealers and other agents, the stamps to be of such denominations and quantities as may be necessary for the payment of the tax imposed in this article.

(b) In the sale of such stamps to a local dealer or other agent, the treasurer shall allow a discount of $0.02 per stamp of the face value thereof to cover the cost which will be incurred by such dealer or agent in affixing the stamps to packages of cigarettes.

(c) The town treasurer may, from time to time and as often as said treasurer deems advisable, provide for the issuance and exclusive use of stamps of a new design and forbid the use of stamps of any other design. The treasurer is empowered to make and carry into effect such reasonable rules and regulations relating to the preparation, furnishing, sale and redemption of stamps as the treasurer may deem necessary. In redeeming stamps or making refunds for destroyed stamps, the treasurer shall not in any case refund more than 90 percent of the face value of such redeemed or destroyed stamps. The treasurer is further authorized and empowered to prescribe the method to be employed, the conditions to be observed, and any other necessary requirements not contrary to this article in the use of meter machines for printing upon packages of cigarettes an insignia to represent the payment of the tax and in lieu of stamps.

(d) In addition to powers granted in subsections (a) through (c) of this section, the town treasurer is further authorized and empowered to:

(1) Prescribe, adopt, promulgate and enforce rules and regulations relating to the method and means to be used in the cancellation of stamps;

(2) Delegate the powers of the town treasurer to agents or others, including the police officers of the town;

(3) Act in any other matters pertaining to the administration and enforcement of the provisions of this article.

(Code 2003, § 175-34; Ord. of 6-9-2014)

Sec. 30-142. - Inspections.

The town treasurer, or duly authorized agent, is empowered to examine books, records, invoices and papers related to purchases, sales, etc., of cigarettes, and to examine all cigarettes in and upon any premises where cigarettes are placed, sold, stored, offered for sale or displayed for sale by a seller.

(Code 2003, § 175-35; Ord. of 6-9-2014)

Sec. 30-143. - Seizure and disposition of untaxed cigarettes.

(a) If the town treasurer or the agent of the town treasurer discovers any cigarettes subject to the tax imposed under this article, but upon which such tax has not been paid and upon which stamps have not been affixed or evidence of payment is not shown thereon by printed markings of a meter machine in compliance with the provisions of this article, then the treasurer or duly authorized agents or officers, any of them, may seize and take possession forthwith of such cigarettes, which shall thereupon be deemed to be forfeited to the town. Such cigarettes may, within a reasonable time thereafter, and after written notice is posted at the front door of the municipal building at least five days before the date given therein for sale, be sold by the town in the place designated in such notice.

(b) Any property, other than motor vehicles, used in the furtherance of any illegal evasion of the tax may be seized, confiscated and disposed of as provided in subsection (a) of this section. No credit from any sale or other disposition shall be allowed toward any tax or penalties owed.

(c) The seizure and sale of any property shall not be deemed to relieve any of the persons of any other penalties provided in this article.

(Code 2003, § 175-36; Ord. of 6-9-2014)

Sec. 30-144. - Obligation of dealers and agents regarding stamps.

(a) Every local dealer in cigarettes and every agent appointed under this section shall purchase necessary stamps from the town treasurer to pay the tax imposed under this article and shall affix or cause to be affixed a stamp of the monetary value provided by this article to each package of cigarettes prior to delivering or furnishing such cigarettes to any seller who is not also an agent.

(b) Nothing contained in this section shall be deemed to preclude any dealer from authorizing and employing any agent to purchase and affix such stamps in the behalf of said dealer or to have a stamp meter machine used in lieu of stamps to effectuate the provisions of this article.

(c)

Stamps or printed markings of a meter machine shall be placed upon each package of cigarettes in such a manner as to be readily visible to the purchaser.

(d) It shall be the responsibility of every seller to determine that each package of cigarettes offered for sale shall have a proper stamp affixed thereto in compliance with the provision of this article.

(e) If inspection by the agents of the town discloses unstamped or improperly stamped packages of cigarettes, the seller, when such cigarettes were obtained from a local dealer, shall immediately notify such dealer, and upon such notification, such dealer shall forthwith either affix to the unstamped or improperly stamped package, container or item the proper amount of stamps or the dealer shall replace such package, container or item with others to which stamps have been properly affixed. If a seller, who is not also an agent, acquires or has in possession unstamped or improperly stamped cigarettes, the seller shall forthwith notify the treasurer of such fact. The treasurer shall thereupon affix or cause to be affixed the proper stamps to such cigarettes. The cost of such stamps at face value shall be advanced by such seller.

(f) The treasurer, by proper rules and regulations, may require every local dealer, agent or seller to cancel stamps upon all packages of cigarettes in the possession of such local dealers, agents, or sellers.

(g) Every local dealer and seller shall maintain and keep for a period of at least two years such records of cigarettes received and sold by said dealer or seller as may be required by the treasurer; such records shall be made available for examination in the town by the treasurer upon demand, and the means, facilities and opportunities for making any such examination shall be made available at all reasonable times.

(Code 2003, § 175-37; Ord. of 6-9-2014)

Sec. 30-145. - Presumptions based on quantity.

Cigarettes found in quantities of more than six cartons within the town shall be conclusively presumed for sale therein and may be seized and confiscated if:

(1) They are in transit and are not accompanied by a bill of lading or other document indicating the true name and address of the consignor or seller and of the consignee or purchaser, and the brands and quantity of cigarettes so transported, or they are in transit and accompanied by a bill of lading or other document which is false or fraudulent, in whole in part;

(2) They are in transit and are accompanied by a bill of lading or other document indicating:

a. A consignee or purchaser in another state or the District of Columbia who is not authorized by the law of such other jurisdiction to receive or possess such cigarettes on which the taxes imposed by such other jurisdiction have not been paid, unless the tax of the state or district of destination has been paid and the products bear the tax stamps of that state or district; or

b. A consignee or purchaser in the commonwealth but outside the town who does not possess a state sales and use tax certificate, a state retail cigarettes license and, where applicable, both a business license and retail cigarettes license issued by the local jurisdiction of destination; or

(3) They are not in transit and the tax has not been paid, nor have approved arrangements for payment been made, provided that this subsection shall not apply to cigarettes in the possession of distributors or public warehouses which have filed notice and appropriate proof with the town that those cigarettes are temporarily within the town and will be sent to consignees or purchasers outside the jurisdiction in the normal course of business.

(Code 2003, § 175-38; Ord. of 6-9-2014)

Sec. 30-146. - Presumption based upon stamps or markings.

If any package of cigarettes is found in the possession of a seller without proper stamps or authorized printed markings thereon, and the seller is unable to submit evidence establishing that the seller received such packages, containers or items within the immediately preceding 48 hours, and that the seller has not offered the same for sale, then it shall be presumed that such packages, containers, or items are being kept in violation of the provisions of this article, and the seller shall be subject to the tax and a penalty in the amount of 50 percent thereof, even though such seller is also an agent.

(Code 2003, § 175-39; Ord. of 6-9-2014)

Sec. 30-147. - Disposition of revenue.

Revenue derived from the tax imposed in this article shall be deposited by the town treasurer to the credit of the general fund of the town for utilization for such legal purposes as the council of the town may from time to time determine.

(Code 2003, § 175-40; Ord. of 6-9-2014)

Sec. 30-148. - Illegal acts.

It shall be unlawful and a violation of this article for any dealer or other person liable for the tax to:

(1) Perform any act or fail to perform any act for the purpose of evading the payment of any tax imposed by this article or of any part thereof, or to fail or refuse to perform any of the duties imposed under said dealer or other person liable for the tax under the provisions of this article or to fail or refuse to obey any lawful order which may be issued under this article;

(2) Falsely or fraudulently make, or cause to be made, any invoices or reports, or to falsely or fraudulently forge, alter or counterfeit any stamp, or to procure or cause to be made, forged, altered or counterfeited any such stamp or knowingly and willfully to alter, publish, pass or

tender as true any false, altered, forged or counterfeited stamps;

(3) Sell, offer for sale or authorize or approve the sale of any cigarettes upon which the town stamp has not been affixed;

(4) Possess, store, use, authorize or approve the possession, storage or use of any cigarettes in quantities of more than 60 cigarettes upon which the town stamp has not been affixed;

(5) Transport, authorize or approve the transportation of any cigarettes in quantities of more than 60 packages into or within the town upon which the town stamp has not been affixed, if they are:

a. Not accompanied by a bill of lading or other document indicating the true name and address of the consignor or seller and the consignee or purchaser and the brands and quantity of cigarettes transported;

b. Accompanied by a bill of lading or other document which is false or fraudulent in whole or part; or

c. Accompanied by a bill of lading or other document indicating:

1. A consignee or purchaser in another state or the District of Columbia who is not authorized by the law of such other jurisdiction to receive or possess such tobacco products on which the taxes imposed by such other jurisdiction have not been paid unless the tax on the jurisdiction of destination has been paid and such cigarettes bear the tax stamps of the jurisdiction; or

2. A consignee or purchaser in the state but outside the taxing jurisdiction who does not possess a state sales and use tax certification, a state retail tobacco license and, where applicable, a business license and a retail tobacco license issued by the local jurisdiction of destination;

(6) Reuse or refill with cigarettes any package from which cigarettes have been removed, for which the tax imposed has been theretofore paid; or

(7) Remove from any package any stamp with intent to use or cause the package to be used after such package has already been used or to buy, sell or offer for sale or give away any used, removed, altered or restored stamps to any person, or to reuse any stamp which had therefor been used for evidence of the payment of any tax prescribed by this article or to sell, or offer to sell, any stamp provided for in this article.

(Code 2003, § 175-41; Ord. of 6-9-2014)

Sec. 30-149. - Violations and penalties.

Any persons violating any of the provisions of this article shall be guilty of a Class 1 misdemeanor. Any fine and/or imprisonment pursuant to conviction of a Class 1 misdemeanor shall not relieve any such person from the payment of any tax, penalty or interest imposed by this article.

(Code 2003, § 175-42; Ord. of 6-9-2014)

Sec. 30-150. - Each violation a separate offense.

The sale of any quantity or the use, possession, storage or transportation of more than 60 packages of cigarettes upon which the town stamp has not been affixed shall be and constitutes a separate violation. Each continuing day of violation shall be deemed to constitute a separate offense.

(Code 2003, § 175-43; Ord. of 6-9-2014)

Chapter 32 - TRAFFIC AND VEHICLES

Footnotes:
*--- (**1**) ---*
State Law reference— *Inoperable motor vehicles, etc., on residential or commercial property in certain localities, Code of Virginia, § 15.2-905; municipal regulation of traffic, Code of Virginia, § 15.2-2028; abandoned vehicles, Code of Virginia, § 46.2-1200 et seq.; removal of vehicles involved in accidents, Code of Virginia, § 46.2-1212; removal or immobilization of motor vehicles against which there are outstanding parking violations, Code of Virginia, § 46.2-1216; general powers of local governments as to motor vehicles, Code of Virginia, § 46.2-1300 et seq.*

ARTICLE I. - IN GENERAL

Secs. 32-1—32-18. - Reserved.

ARTICLE II. - ABANDONED VEHICLES

DIVISION 1. - GENERALLY

Sec. 32-19. - Title.

This division shall be known and cited by its short title, "Abandoned Auto Ordinance."

(Code 2003, § 181-1)

Sec. 32-20. - Definitions.

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

Abandoned or inoperable automobiles means any motor vehicle having any major component missing, such as engine, transmission, wheels, steering mechanism or other components which are necessary for the safe and normal operation of such vehicle, and which is exposed to the weather and unlicensed by the state department of motor vehicles at the time of any violation of this division. Vehicles may be covered by a tarpaulin or other suitable automobile cover (plastic wrapping or bagging material is not suitable).

Person means any individual, firm, partnership, association, corporation, company or organization of any kind, whether that person is the owner, tenant, lessee or occupant of private property.

Private property means any lot or area which is subdivided or under one ownership. Any person shall be deemed in violation of this division if such conditions, as are herein provided, exist on any one lot or area, irrespective of whether or not such person owns or controls areas or lots contiguous or adjacent to the lot or area alleged to be in violation of this division.

(Code 2003, § 181-2)

Sec. 32-21. - Purpose.

The purpose of this division is to prevent the accumulation of inoperable and/or abandoned motor vehicles or parts thereof in unapproved and inappropriate locations in the town, inasmuch as the same constitute an unsightly, obnoxious and insanitary condition within the town. The presence of such motor vehicles increases the danger of certain communicable diseases by providing a breeding place for rats, mice and other known disease carriers and constitutes a condition detrimental to the mental and economic well-being of the citizens of the town. It is therefore deemed imperative for the preservation of health, safety, peace and the general public welfare requiring it that adequate regulations concerning abandoned or inoperable motor vehicles are adopted requiring property owners, tenants, occupants or lessees to remove such vehicles from their premises.

(Code 2003, § 181-3)

Sec. 32-22. - Applicability.

This division shall apply throughout the town.

(Code 2003, § 181-4)

Sec. 32-23. - Storage or accumulation prohibited; visibility.

Except where permitted by provisions of chapter 36, no person shall permit, place or have or aid in permitting, placing or having one or more inoperable or abandoned automobiles upon private property. Such vehicles shall not be visible from any public roads or public property or any residence. If the owner uses an automobile cover to comply with this section, the cover must be approved by the town manager who shall consider the town's approved list of covers.

(Code 2003, § 181-5)

Sec. 32-24. - Right of entry.

The county sheriff or any deputy sheriff shall have the right to enter the property without consent of the owner or occupant at any time during daylight hours and at such other reasonable times as may be necessary to enforce this division, but entry into private residences is prohibited.

(Code 2003, § 181-6)

Sec. 32-25. - Violations and penalties.

Failure to comply with any provision of this division shall constitute a Class 1 misdemeanor. Each and every week that a violation continues shall be deemed a separate offense.

(Code 2003, § 181-7)

Secs. 32-26—32-53. - Reserved.

DIVISION 2. - LICENSE TAX

Sec. 32-54. - Definitions.

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

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 and which is licensed for operation by the town.

Motor vehicle means every vehicle which is self-propelled or designed for self-propulsion.

Vehicle means every device in, upon or by which any person or property is or may be transported or drawn upon a highway, except devices moved by human power or used exclusively upon stationary rails or tracks.

(Code 2003, § 181-8)

Sec. 32-55. - Statutory authority.

This division is enacted pursuant to authority contained in Code of Virginia, § 46.2-262.

(Code 2003, § 181-9)

Sec. 32-56. - Imposition of tax.

There is hereby imposed a license tax of $250.00 per year upon the owner of each motor vehicle located within the town which is visible from any public road, public property or residence, which such motor vehicle does not display current license plates and which is not otherwise exempted thereby.

(Code 2003, § 181-10)

Sec. 32-57. - Exceptions.

The tax levied under this division shall not apply to the following:

(1) Motor vehicles which are exempted from the requirements of displaying such license plates under the provisions of Code of Virginia, §§ 46.2-650 through 46.2-750, inclusive.
(2) Motor vehicles which are in a public landfill.
(3) Motor vehicles which are in an automobile graveyard.
(4) Motor vehicles which are in the possession of a licensed junk dealer or licensed motor vehicle dealer, provided that the vehicles are located on the same premises as the dealership is licensed for. If located on adjacent or other property, the tax shall apply.
(5) Motor vehicles which are being held or stored by or at the discretion of any governmental authority.
(6) Motor vehicles which are owned by a member of the armed forces on active duty.
(7) Motor vehicles which are regularly stored within a structure or covered by a tarpaulin or other suitable automobile cover (plastic wrapping or bagging material is not suitable).
(8) School buses being used for storage of perishable commodities or products.
(9) Motor vehicles which are out of sight of a public road or other public property or any residence.

(Code 2003, § 181-11)

Sec. 32-58. - Term of license year.

For the purpose of this division, the license year shall begin on April 1 and extend through March 31 of each next succeeding year.

(Code 2003, § 181-12)

Sec. 32-59. - Payment dates.

For the first license year, the license tax imposed under this division shall be paid not later than May 15 of the tax year, but the tax may be paid on or after April 15 preceding such license year. For each succeeding license year, the license tax imposed in this division shall be paid not later than March 31 of the tax year, but the tax may be paid on or after March 1 preceding such license year.

(Code 2003, § 181-13)

Sec. 32-60. - Issuance of decal upon payment; display.

The license tax imposed by this division shall be paid to the town treasurer, whereupon the treasurer shall issue to the motor vehicle owner an appropriate license decal or other insignia which shall show thereon the word "Appomattox," an indication of the year for which it was issued, the number of the license and the words "unlicensed vehicle," which such license decal the owner shall display in a prominent place on the motor vehicle for which it was purchased, which such decal shall be clearly visible from outside the motor vehicle.

(Code 2003, § 181-14)

Sec. 32-61. - Disposition of revenue.

The revenue derived from the tax levied under this division shall be paid into the general fund of the town.

(Code 2003, § 181-15)

Sec. 32-62. - Right of entry.

The county sheriff or any deputy sheriff shall have the right to enter the property without consent of the owner or occupant at any time during daylight hours and at such other reasonable times as may be necessary to enforce this division, but entry into structures is prohibited.

(Code 2003, § 181-16)

Sec. 32-63. - Violations and penalties.

Any person failing or refusing to pay the license tax provided for in this division or failing to display the license decal provided for in this division shall be deemed guilty of a Class 1 misdemeanor.

(Code 2003, § 181-17)

Secs. 32-64—32-84. - Reserved.

ARTICLE III. - LICENSING AND OTHER REGULATIONS

Footnotes:

*--- (**2**) ---*

***State Law reference—** Inoperable motor vehicles, etc., on residential or commercial property in certain localities, Code of Virginia, § 15.2-905; limited access streets, Code of Virginia, § 15.2-2026; municipal regulation of traffic, Code of Virginia, § 15.2-2028; identification of disabled parking spaces by above grade signage, Code of Virginia, § 36-99.11; local vehicle license, Code of Virginia, § 46.2-752 et seq.; abandoned vehicles, Code of Virginia, § 46.2-1200 et seq.; removal of vehicles involved in accidents, Code of Virginia, § 46.2-1212; removal or immobilization of motor vehicles against which there are outstanding parking violations, Code of Virginia, § 46.2-1216; parking regulations in cities, towns and certain counties, Code of Virginia, § 46.2-1220; general powers of local governments as to motor vehicles, Code of Virginia, § 46.2-1300 et seq.*

DIVISION 1. - GENERALLY

Sec. 32-85. - Compliance required.

It shall be unlawful for any person to refuse, fail or neglect to comply with any of the provisions of this article or any rule or regulation promulgated pursuant thereto.

(Code 2003, § 185-1)

Sec. 32-86. - Adoption of state law by reference.

Pursuant to the authority of Code of Virginia, § 46.2-1313, as now or hereafter amended, all of the provisions and requirements of the laws of the state contained in Code of Virginia, title 46.2, and Code of Virginia, § 18.2-266 et seq., as now or hereafter amended, except those provisions and requirements the violation of which constitutes a felony and except those provisions and requirements which by their very nature can have no application to or within the town, are hereby adopted and incorporated in this article by reference and made applicable within the town. References to highways of the state contained in such provisions and requirements hereby adopted shall be deemed to refer to the streets, highways and other public ways within the town. Such provisions and requirements are hereby adopted, mutatis mutandis, and made a part of this article as fully as though set forth at length herein, and it shall be unlawful for any person within the town to violate or to fail, neglect or refuse to comply with any provisions of Code of Virginia, title 46.2, or Code of Virginia, § 18.2-266 et seq., which is adopted by this section, provided that in no event shall the penalty imposed for the violation of any provision or requirement hereby adopted exceed the penalty imposed for a similar offense under Code of Virginia, title 46.2, or Code of Virginia, § 18.2-266 et seq.

(Code 2003, § 185-2)

State Law reference— Local ordinances incorporating state law by reference, Code of Virginia, § 1-220; prohibiting driving while under influence of intoxicating liquor, Code of Virginia, title 15.2, ch. 17.

Sec. 32-87. - Applicability to residential subdivisions.

The provisions of this article shall apply to all roadways open to the public within residential subdivisions in the town, whether or not such roadways are in public ownership or have been accepted into the state highway system.

(Code 2003, § 185-3)

State Law reference— Authority for section, Code of Virginia, § 46.2-1305.

Sec. 32-88. - Applicability to town-owned property and to parking lots.

The provisions of this article shall apply to all town-owned property and to parking lots open to the public designed to accommodate 50 or more vehicles.

(Code 2003, § 185-4)

State Law reference— Authority for section, Code of Virginia, § 46.2-1219.

Sec. 32-89. - Purpose.

Pursuant to the authority granted to the town by the state code and its general police powers, the town does hereby adopt the following sections in order to provide for the public health, safety, and general welfare in the town, to ensure the free and safe passage of pedestrians and vehicles on the public rights-of-way, and to ensure the safe and unimpaired use and enjoyment of public property in places open to the general public and otherwise to regulate and control the time, place, and manner of activities that would otherwise threaten or impair the public health, safety, and welfare in the town, while also encouraging the exercise of the rights to free speech and assembly in the town.

(Code 2003, § 185-5.1; Ord. of 2-10-2020)

Sec. 32-90. - Definitions.

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

Parade means any march, demonstration, procession, or motorcade consisting of people, animals, or vehicles, or a combination thereof upon the streets, sidewalks, or other public areas within the town with an intent or likely effect of attracting public attention that interferes with or has a tendency to interfere with the

normal flow or regulation of pedestrian or vehicular traffic upon the streets, sidewalks, or other public property.

Picket means anyone who participates in a public assembly, demonstration, march, parade, picket line, procession, rally, or spontaneous event on the streets, sidewalks, or other public areas of the town, either as an individual or as part of a group.

Public assembly means any meeting, demonstration, picket line, rally, or gathering of more than ten people for a common purpose as a result of prior planning that interferes with or has a tendency to interfere with the normal flow or regulation of pedestrian or vehicular traffic upon the streets, sidewalks, or other public property within the town or that interferes with or has a tendency to interfere with the normal use of any public property in a place open to the general public.

Spontaneous event means an unplanned or unannounced coming together of people, animals, or vehicles in a parade or public assembly which was not contemplated beforehand by any participant therein and which is caused by or in response to unforeseen circumstances or events occasioned by news or affairs first coming into public knowledge within five days of such parade or public assembly.

(Code 2003, § 185-5.2; Ord. of 2-10-2020)

Sec. 32-91. - Permit required.

(a) It shall be unlawful for any person to conduct or participate in a public assembly, demonstration, or parade on the public streets, sidewalks, or other public property of the town in a place open to the general public for which a written permit has not been issued in accordance with the provisions of this division. Whenever the free passage of any street or sidewalk in the town shall be obstructed by a crowd, congregation, parade, meeting, assembly, or procession, or the conduct of two or more persons, except as authorized by any permit issued pursuant to this division, the persons comprising said group shall disperse or move when directed to do so by the town manager or designee. It shall be unlawful for any person to refuse, and said refusal shall be a violation of this division.

(b) The provisions of this permit shall not apply to:

(1) Spontaneous events;

(2) Recreational activities, including jogging or walking, that do not require closing public streets or other public rights-of-way and that do not interfere with or have a tendency to interfere with the normal use of any public property in a place open to the general public;

(3) Door-to-door advocacy, including canvassing, pamphleteering, religious, or political proselytizing and the distribution of written materials, and similar activities that do not interfere with or have a tendency to interfere with the free passage of pedestrians and

vehicles on the public rights-of-way or the normal use of any public property in a place open to the general public.

(4) Door-to-door sales of goods or services, and similar activities that do not interfere with or have a tendency to interfere with the free passage of pedestrians and vehicles on the public rights-of-way or the normal use of any public property in a place open to the general public; provided, however, that any persons or organizations engaging in such activities shall comply with any other applicable requirements of this Code;

(5) Funeral processions;

(6) Students going to and from school classes or participating in educational activities, provided that such conduct is under the immediate direction and supervision of the proper school authorities;

(7) The United States Army, Navy, Air Force, and Coast Guard, the military forces of the state, and the law enforcement and fire divisions of the county;

(8) A governmental agency acting within the scope of its functions;

(9) Parks and recreation areas that are owned by the town. Permits for a public assembly, demonstration, or parade in parks and recreation areas shall be issued in accordance with the guidelines contained in this division, and participants in such activities are subject to the restrictions of section 32-99(d).

(c) Permits may be granted if they are requested by individuals or organizations who desire to have a permit, even though the permit is not required under this section.

(d) Nothing in this article or any permit issued under it shall authorize a person to:

(1) Obstruct the entrance to any building, property, or vehicle, except to the extent expressly allowed by a permit;

(2) Cross police lines, perimeters, or barricades set up pursuant to Code of Virginia, § 15.2-1714;

(3) Trespass on private property in violation of Code of Virginia, § 18.2-119, or on school property in violation of Code of Virginia, § 18.2-128;

(4) Obstruct the free passage of others in violation of Code of Virginia, § 18.2-404, except to the extent expressly allowed by a permit;

(5) Create an unlawful assembly or riot in violation of Code of Virginia, § 18.2-405 or 18.2-406;

(6) Engage in disorderly conduct in violation of Code of Virginia, § 18.2-415;

(7) Engage in picketing that violates the National Labor Relations Act or Code of Virginia, § 18.2-418, 18.2-419, 40.1-53, or 40.1-66; or

(8) Otherwise violate applicable law.

(Code 2003, § 185-5.3; Ord. of 2-10-2020)

Sec. 32-92. - Application.

(a) Any person desiring to conduct a parade or public assembly shall make a written application to the town manager, or designee, at least 15 working days prior to such parade or public assembly. Such application shall set forth the following information:

(1) The name, address, and telephone number of the person requesting the permit;

(2) The name and address of any organization or group the applicant is representing;

(3) The name, address, and telephone number of the person who will act as the parade or public assembly leader or chairperson and who will be responsible for the conduct of the parade or public assembly;

(4) The type of public assembly, including a description of the activities planned during the event;

(5) The date and time (starting and ending) of the parade or public assembly;

(6) If an assembly, the specific location of the assembly;

(7) If a parade, the specific assembly and dispersal locations, the specific route, and the plans, if any, for assembly and dispersal;

(8) The approximate number of people, animals, and vehicles that will constitute such parade or public assembly, and the type of animals and a description of the vehicles;

(9) A statement as to whether the parade or public assembly will occupy all or only a portion of the width of the streets or sidewalks or other public rights-of-way proposed to be traversed or used;

(10) A description of any recording equipment, sound amplification equipment, banners, signs, or other attention-getting devices to be used in connection with the parade or public assembly;

(11) A copy of any bond and/or insurance coverage sufficient to protect the town against claims of damages arising from the event; and

(12) Such other information as the town manager, or designee, may deem reasonably necessary in order to properly provide for traffic control, street and property maintenance, administrative arrangements, law enforcement and fire protection, and for the protection of public health, safety, and welfare.

(b) The town manager, or designee, shall not issue the permit if any information supplied by the applicant is false or intentionally misleading.

(c) The town manager, or designee, shall have the authority to consider an application hereunder which is filed less than 15 working days before the date the parade or assembly is proposed to be conducted if, after due consideration of the date, time, place, and nature of the parade or public assembly, the anticipated number of participants, and the town and county services required in

connection with the event, and where good cause is otherwise shown, the town manager, or designee, determines that the waiver of the permit application deadline will not present an undue hazard to public safety.

(d) The town manager is authorized to adopt such additional procedures as the town manager deems advisable to govern parades and public assemblies.

(Code 2003, § 185-5.4; Ord. of 2-10-2020)

Sec. 32-93. - Issuance or denial of permit.

(a) The town manager, or designee, shall issue the permit, which may include such terms and conditions as the town manager considers appropriate, within ten working days of receipt of the completed application, or in any event prior to the scheduled parade or public assembly if the proposed parade or public assembly will not endanger the public health, welfare, or safety, applying the following criteria and finding that:

(1) The time, duration, route, and size of parade or assembly will not unreasonably interrupt the safe and orderly movement of vehicular or pedestrian traffic or the normal use of public property in a place open to the general public, or create a risk to the health and safety of the participants or citizens of the town;

(2) The parade or assembly is not of such a nature that it will require diversion of so great a number of law enforcement and fire personnel to properly police the line of movement in the areas contiguous thereto so as to impair the normal protection of the remainder of the town;

(3) The applicant has, where appropriate, designated monitors sufficient to control the orderly conduct of the parade or assembly in conformity with such permit;

(4) The conduct of the parade or assembly will not unduly interfere with the proper fire and law enforcement protection of, or ambulance service to, the remainder of the town, or unreasonably disrupt other public services and protection normally provided to the town;

(5) The parade or assembly will not interfere with another parade or assembly for which a permit has been granted; and

(6) The parade or assembly proposed will not violate, and will conform with, all applicable state regulations and laws governing the proposed event.

(b) For parades or public assemblies held on a regular or recurring basis at the same location, an application for an annual permit covering all such parades or assemblies during the calendar year may be filed with the town manager, or designee, at least 20 and not more than 60 working days before the date and time at which the first such parade or public assembly is proposed to commence. The town manager, or designee, may make reasonable efforts to waive the minimum 20-working-day period after due consideration of the factors specified in section 32-92(c).

(c)

If the town manager, or designee, denies an application, the town manager will notify the applicant of the action of the town manager, stating the reasons for the denial of the permit, and notifying the applicant of the right of the applicant to appeal the denial pursuant to section 32-98.

(d) If two or more applications are submitted requesting a permit under this division for a parade or assembly to be used at the same time and place, the application first filed shall be granted if it meets the requirements of this division.

(e) If persons promoting different objectives, causes, actions, or policies desire to use a street, sidewalk, or public area for which a permit has already been issued, the town manager, or designee, shall allot a number of pickets promoting each objective to use such street, sidewalk, or public area on an equitable basis, proportionate to the number of objectives being promoted. The town manager, or designee, may also physically separate groups of persons promoting different causes through the use of barricades or similar devices, or assign each group of persons designated areas in which to promote their different objectives, causes and actions, in order to promote the public safety by keeping such groups apart from one another.

(f) Nothing in this division shall permit the town manager, or designee, to deny a permit based upon political, social, or religious grounds, or reasons based upon the content of the views expressed. Denial of a permit on such grounds is prohibited.

(Code 2003, § 185-5.5)

Sec. 32-94. - Alternative permit.

The town manager, or designee, in denying a permit for a parade or public assembly shall be empowered to authorize the conduct of the parade or assembly on a date, at a time, at a place, or over a route different from that proposed by the applicant. An applicant desiring to accept an alternative permit shall file a written notice of acceptance with the town manager, or designee. An alternative permit shall conform to the requirements of and shall have the effect of a permit under this division.

(Code 2003, § 185-5.6; Ord. of 2-10-2020)

Sec. 32-95. - Notice to town and other officials.

Upon the issuance of a permit, the town manager, or designee, may provide notice of such issuance to town and other officials who can provide assistance with the parade or public assembly.

(Code 2003, § 185-5.7; Ord. of 2-10-2020)

Sec. 32-96. - Compliance with directions and conditions.

Every person to whom a permit is issued under this article shall substantially comply with all permit terms and conditions and with all applicable laws and ordinances. The parade or assembly chairperson or other person heading or leading the parade or assembly shall carry the permit upon the person of said chairperson or other person during the conduct of the parade or assembly, and show the permit when requested to do so.

(Code 2003, § 185-5.8; Ord. of 2-10-2020)

Sec. 32-97. - Revocation of permit and authority to disperse crowds.

(a) The town manager, or designee, shall have the authority to revoke any permit issued pursuant to this division if any information supplied by the applicant is discovered to be false or intentionally misleading or if any term, condition, restriction, or limitation of the permit has been substantially violated or if there is any continued violation of the terms, conditions, restrictions, or limitations of the permit after the applicant or anyone acting in concert with the applicant is notified of a violation of the permit by the town manager, or designee.

(b) The town manager, or designee, may, in the event of an assemblage of persons who attempt to intimidate pickets pursuing their lawful objective through conduct having a direct tendency to cause acts of violence by the persons at whom such conduct is directed, or through the use of violent abusive language in a manner reasonably calculated to provoke a breach of the peace, direct the dispersal of the persons so assembled and may arrest any person who fails to absent oneself from the place of assemblage when so directed by the town manager, or designee.

(Code 2003, § 185-5.9; Ord. of 2-10-2020)

Sec. 32-98. - Appeal.

(a) Any person aggrieved by the refusal of the town manager, or designee, to grant a permit, or by the revocation of a permit after one has been issued, may but is not required to appeal the denial to the council, or its designee, by filing with the mayor, within five working days after the date of denial or revocation, a written notice of the appeal setting forth the grounds therefor. The council, or its designee, shall act upon the appeal within 30 working days after its receipt.

(b) The decision of the council, or its designee, may be appealed to the circuit court of the county, in accordance with the laws of the state.

(c) In any appeal under this section, the town shall have the burden of demonstrating that the denial of the permit was justified under section 32-93.

(Code 2003, § 185-5.10; Ord. of 2-10-2020)

Sec. 32-99. - Public conduct during parades, demonstrations, assemblies, and spontaneous events.

(a) *Interference.* No person shall unreasonably hamper, obstruct, impede, or interfere with any parade, demonstration, or assembly, or with any person, vehicle, or animal participating or used in a parade, demonstration or assembly for which a written permit has been issued in accordance with the provisions of this division.

(b) *Driving through parade.* No driver of a vehicle shall drive between the vehicles, persons, or animals comprising a parade, demonstration, or funeral procession except when otherwise directed by the town manager, or designee. This shall not apply to emergency vehicles.

(c) *Parking on parade, demonstration, or assembly route.* The town manager, or designee, shall have the authority, when reasonably necessary, to prohibit or restrict the parking of vehicles along the public streets or public rights-of-way constituting a part of the route of a parade, demonstration, or assembly. The town manager, or designee, shall post signs to such effect, and it shall be unlawful for any person to park or leave unattended any vehicle in violation thereof. No person shall be liable for parking on a street unposted in violation of this division.

(d) *Prohibited.* No person who participates in an assembly, demonstration, march, parade, picket line, procession, rally, or spontaneous event on the streets, sidewalks, or other public areas within the town shall:

(1) Carry bats, clubs, or similar items;

(2) Wear masks as prohibited by Code of Virginia, § 18.2-422;

(3) Carry chemical irritant sprays or caustic substances;

(4) Carry shields;

(5) Carry torches or any other burning substances attached to a stick or rod (candles are permitted);

(6) Wear a helmet (unless riding a motorcycle, bicycle, or similar device in a parade or procession);

(7) Carry aerosol containers that can be used as incendiary devices; or

(8) Carry any item that can be used as a projectile.

(e) *Placards, signs, flags, etc.* It is permissible to carry written or printed placards, signs, flags, banners, etc., but such items shall not be attached to poles or rods.

(Code 2003, § 185-5.11; Ord. of 2-10-2020)

Sec. 32-100. - Authority of mayor to promulgate emergency regulations for control of traffic, parking, and closing of streets.

The mayor shall have the power and authority, in cases of emergency or temporary expediency, to promulgate rules and regulations for the control of traffic, both vehicular and pedestrian, the parking of vehicles, the closing of streets to traffic temporarily, either in whole or in part, when needful for the safety of the citizens and protection and preservation of property.

(Code 2003, § 185-6)

State Law reference— Motor vehicles immobilized by weather conditions or emergencies, Code of Virginia, § 46.2-1210.

Sec. 32-101. - Closing streets to traffic during repair.

If deemed necessary, the town manager may stop travel on any street when such street is being repaired, repaved or improved. When travel is so stopped on a street, it shall be done by ropes or some proper barricade which shall be lighted at night to give warning to traffic upon such street. It shall be unlawful for any person, in any way, to interfere with such ropes, barricades or lights.

(Code 2003, § 185-7)

State Law reference— Temporary closing of rights-of-way in certain circumstances, Code of Virginia, § 15.2-2014.

Sec. 32-102. - Blocking or impeding traffic.

It shall be unlawful for any person to drive, stop or park any motor or other vehicle on the streets of the town in such a manner as to block or impede traffic, except momentarily for the purpose of taking on or letting off passengers, unless it is under the direction of the police department or of a member thereof.

(Code 2003, § 185-8)

Sec. 32-103. - Violations and penalties.

Every person convicted of a violation of any of the provisions of this article or any rule or regulation promulgated pursuant thereto for which no other penalty is provided shall be guilty of a traffic infraction punishable by a fine of not more than $250.00.

(Code 2003, § 185-9; Ord. of 2-28-2006)

State Law reference— Violations of motor vehicle law, penalties, Code of Virginia, § 46.2-113; local penalties not to be greater than those imposed for a similar offense under motor vehicle law, Code of Virginia, § 46.2-1300(C).

Secs. 32-104—32-134. - Reserved.

DIVISION 2. - VEHICLE LICENSE FEE

Sec. 32-135. - Required licensing and fee; grace period; situs; student owners.

(a) Every person who shall own or lease a motor vehicle normally garaged, stored or parked in the town shall pay an annual town license fee for such vehicle, as required herein.

(b) Persons who establish residence in the town during the license year shall comply with the provisions of this division within 30 days subsequent to establishing such residence.

(c) The situs for the imposition of licensing fees under this division shall in all cases, except as hereinafter provided, be the locality in which the motor vehicle is normally garaged, stored, or parked. If it cannot be determined where the personal property is normally garaged, stored, or parked, the situs shall be the domicile of its owner. In the event the owner of the motor vehicle is a full-time student attending an institution of higher education, the situs shall be the domicile of such student, provided the student has presented sufficient evidence that the student has paid a personal property tax on the motor vehicle in the domicile of said student.

(Code 2003, § 185-10; Ord. of 4-10-1995; Ord. of 6-30-2008)

State Law reference— Limitations on imposition of motor vehicle license taxes, Code of Virginia, § 46.2-755.

Sec. 32-136. - Assessment of license fee; exemptions for volunteers.

(a) There is hereby assessed to any person owning a motor vehicle normally garaged, stored or parked in the town on January 1 of each year a town motor vehicle license fee.

(b) The chief of each volunteer fire department and volunteer emergency rescue squad will prepare and certify a list of active members of the department or squad of said chief who regularly respond to calls or perform other duties for the department or squad and who reside within the corporate limits. The certified list will include the complete name of each individual, the residence address of said individual, and the identification number and description of the cars owned or leased by such active member and to be certified for the exemption. Each individual so certified will complete the required application form and submit it to the chief of the individual, who will attach all individual applications to the certified listing and submit to the town treasurer. After reviewing and comparing the certified listings and applications with the personal property tax rolls, the treasurer will exempt to each certified member two license fees without charge. No member of a volunteer rescue squad or volunteer fire department shall be issued an exception for more than two vehicles free of charge.

(Code 2003, § 185-11; Ord. of 4-10-1995; Ord. of 6-30-2008)

Sec. 32-137. - Amount of fee for passenger motor vehicles, trucks and motorcycles; transitional provisions for 2008 license year only.

(a) On each and every passenger vehicle and truck, there shall be an annual license fee of $25.00; and on each and every motorcycle, with or without a sidecar, a license fee of $24.00.

(b) The amount of the license fee imposed by the town under this division shall not be greater than the amount of the license fee imposed by the commonwealth on said vehicle.

(Code 2003, § 185-12; Ord. of 4-10-1995; Ord. of 6-30-2008)

Sec. 32-138. - Exemptions; deposit of fees in general fund.

(a) The provisions of this division shall not be construed so as to impose a license fee upon any motor vehicle when the motor vehicle is operated by a common carrier of persons or property operating between cities and towns in the commonwealth and not in intracity transportation or between cities and towns on the one hand and points and places without cities and towns on the other and not in intracity transportation.

(b) Antique motor vehicles and antique trailers, as defined in Code of Virginia, § 46.2-100, registered and licensed by the state in accordance with Code of Virginia, § 46.2-730A, shall be exempt from the payment of the license fee levied under this division, provided that other conditions prescribed herein are met.

(c) In order to qualify for exemption hereunder, an antique motor vehicle and antique trailer registered and licensed under Code of Virginia, § 46.2-730, shall not be used for general transportation purposes, including, but not limited to, daily travel to and from the owner's place of employment, but shall be used only:

(1) For participation in club activities, exhibits, tours, parades, and similar events; and

(2) On the highway of the commonwealth for the purpose of testing their operation, obtaining repairs or maintenance, transportation to and from events as described in subsection (c)(1) of this section, and for occasional pleasure-driving not exceeding 250 miles from the residence of the owner.

(d) All fees collected pursuant to this division shall be deposited by the treasurer in the general fund of the town.

(Code 2003, § 185-13; Ord. of 4-10-1995; Ord. of 6-30-2008)

Sec. 32-139. - Payment of personal property taxes and license fee prior to licensing.

(a) No motor vehicle shall be licensed by the department of motor vehicles until the applicant for such license has paid all personal property taxes and the license fee assessed hereunder upon the motor vehicle to be licensed, and until the department of motor vehicles has been provided satisfactory evidence by the treasurer of the town that any delinquent motor vehicle, personal property taxes or license fees which have been properly assessed or are assessable against the applicant by the town have been paid.

(b) No motor vehicle license shall be issued by the state department of motor vehicles unless the tangible personal property taxes properly assessed or assessable by the town on any tangible personal property used or usable as a dwelling and owned by the taxpayer have been paid.

(c) No motor vehicle license shall be issued by the state department of motor vehicles to an owner of a motor vehicle as to which a fee is required to be paid pursuant to this division, qualified under the provisions hereof for a waiver of the fee, until the applicant for such license or registration from the department of motor vehicles has produced before the town treasurer, or the agent of the town treasurer, satisfactory evidence that all personal property taxes upon the motor vehicle have been paid and satisfactory evidence of any delinquent personal property taxes due with respect to the vehicle which have been properly assessed or are assessable against the owner have been paid.

(Code 2003, § 185-14; Ord. of 4-10-1995; Ord. of 6-30-2008)

Sec. 32-140. - License year.

The license year with respect to which the fee required to be paid under section 32-135 is assessed shall be January 1 through December 31 of each year. The fee assessed under this division shall be assessed to the owner of each motor vehicle as provided in this division for motor vehicles owned January 1 of each year. The fee shall be payable on or before September 30 of each year. The fee herein assessed will be based upon ownership of vehicles on fee day, that is, January 1 of each year.

(Code 2003, § 185-15; Ord. of 4-10-1995; Ord. of 6-30-2008; Ord. of 4-11-2016)

Sec. 32-141. - Failure to pay license fee or personal property tax; registration withholding; violations and penalties.

(a) In the event that the license fee required by this division is not paid, or if any personal property taxes, properly assessed against such vehicle, are not paid on or before September 30 of each year, with respect to each owner or co-owner of any motor vehicle as to which the license fee has not been paid, or any personal property taxes have not been paid, the treasurer shall mail to the owner/co-owner by first class mail notice of intent to request the state department of motor vehicles under the vehicle registration withholding program to deny the registration renewal of

said owner/co-owner with respect to the vehicle which is subject to the license fee or personal property tax herein. In the event of payment of the vehicle license fee and/or delinquent personal property taxes, the treasurer shall provide the vehicle owner/co-owner an approved numbered receipt that clearly indicates the vehicle fees and delinquent taxes to the locality, together with the penalty, interests and administrative fee set forth in this division.

(b) It shall be unlawful for any owner of a motor vehicle to fail to pay the local license fee or personal property taxes assessed with respect to each motor vehicle after September 30 of each year, and with respect to any fees not paid at that time, a fee of $45.00 to reimburse the town for costs associated with administration of the vehicle registration withholding program with the commonwealth department of motor vehicles shall be assessed.

(c) A violation of this section shall constitute a Class 4 misdemeanor and shall be punished by a fine of $100.00.

(d) A violation of this section by the registered owner of the vehicle shall not be discharged by prepayment of a fine or by payment of a fine imposed by the court except upon presentation of satisfactory evidence that the required license has been obtained.

(Code 2003, § 185-16; Ord. of 4-10-1995; Ord. of 6-30-2008; Ord. of 7-13-2015; Ord. of 8-29-2017)

Secs. 32-142—32-165. - Reserved.

DIVISION 3. - STOPPING, STANDING AND PARKING

Footnotes:

*--- (**3**) ---*

State Law reference— *Authority of town to provide off-street automobile parking facilities and to open them to the public, with or without charge, Code of Virginia, § 15.2-967; conditions precedent to issuance of summons for violation of parking ordinance, notice, Code of Virginia, § 46.2-941; abandoned vehicles, Code of Virginia, § 46.2-1200 et seq.; immobilized and unattended vehicles, Code of Virginia, § 46.2-1231 et seq.; trespassing vehicles, parking and towing, Code of Virginia, § 46.2-1216 et seq.*

Sec. 32-166. - Parking regulations.

The town manager shall prescribe all parking regulations, subject to approval of the council.

(Code 2003, § 185-18)

Sec. 32-167. - Parking in conformity with signs; yellow curb markings.

No motor vehicle or other vehicle shall be parked on any of the streets or alleys of the town at any time except in strict conformity with the signs or markings controlling such parking. Yellow curb marking means no parking allowed.

(Code 2003, § 185-19)

State Law reference— Uniform marking and signing of highways, Code of Virginia, § 46.2-830.

Sec. 32-168. - Use of rear entrance required for making deliveries to business establishment.

No person shall stop or park any motor vehicle or other vehicle in any street for the purpose of making deliveries to or from any business establishment when such establishment has a rear entrance for that purpose.

(Code 2003, § 185-20)

Sec. 32-169. - Parking in fire lanes and areas for town trash containers prohibited; penalty.

(a) It shall be unlawful for any person to park a vehicle within any area on public or privately owned property which is designated to be a fire lane or an area reserved for town trash containers or to block access to a town trash container.

(b) Designation of a fire lane shall be made in at least one of the following manners:

(1) Installation of fire lane signs; or

(2) Marking of the pavement constituting such fire lane with block lettering reading "NO PARKING - FIRE LANE."

(c) Any person violating the provisions of this section shall be fined $50.00. Any vehicle violating the provisions of this section will be towed away at the expense of the owner thereof.

(Code 2003, § 185-21; Ord. of 2-28-2006; Ord. of 10-14-2014)

Sec. 32-170. - Removal and disposition of unattended, abandoned or immobile vehicles.

(a) Whenever any motor vehicle, trailer or semitrailer or part thereof is left unattended on a public highway or other public property and constitutes a traffic hazard; is illegally parked; is left unattended for more than ten days either on public property or on private property without the permission of the property owner, lessee or occupant; or is immobilized on a public roadway by weather conditions or other emergency situation, any such motor vehicle, trailer or semitrailer or part thereof may be removed for safekeeping by or under the direction of a police officer to a storage area, provided that no such vehicle or part thereof shall be so removed from privately owned premises without the written request of the owner, lessee or occupant thereof. The

person at whose request such motor vehicle, trailer or semitrailer or part thereof is removed from privately owned property shall indemnify the town against any loss or expense incurred by reason of the removal, storage or sale thereof.

(b) It shall be presumed that a motor vehicle, trailer or semitrailer, or part thereof, is abandoned if:

(1) It lacks either:

a. A current license plate;

b. A current county, city or town license plate or sticker; or

c. A valid state inspection certificate or sticker; and

(2) It has been in a specific location for four days without being moved.

(c) Each removal of a motor vehicle, trailer or semitrailer or part thereof under this section shall be reported immediately to the town office, and notice thereof given to the owner of the motor vehicle, trailer or semitrailer as promptly as possible. The owner of such motor vehicle, trailer, semitrailer or part thereof, before obtaining possession thereof, shall pay to the persons entitled thereto all reasonable costs incidental to the removal, storage and locating of the owner of the motor vehicle, trailer or semitrailer. Should such owner fail or refuse to pay the cost or should the identity or whereabouts of such owner be unknown and unascertainable after a diligent search has been made, and after notice to such owner at the last known address of said owner and to the holder of any lien of record in the office of the state department of motor vehicles against the motor vehicle, trailer, semitrailer or part thereof, the vehicle shall be treated as an abandoned vehicle under the provisions of Code of Virginia, § 46.2-1200 et seq.

(Code 2003, § 185-22)

State Law reference— Removal and disposition of unattended or immobile vehicles, Code of Virginia, § 46.2-1213.

Sec. 32-171. - Reserved parking for the disabled.

(a) It shall be unlawful for a vehicle not displaying disabled parking license plates, an organizational removable windshield placard, a permanent removable windshield placard, or a temporary removable windshield placard issued under Code of Virginia, § 46.2-731, or DV disabled parking license plates issued under Code of Virginia, § 46.2-739B, to be parked in a parking space reserved for persons with disabilities that limit or impair their ability to walk or for a person who is not limited or impaired in the ability of said person to walk to park a vehicle in a parking space so designated except when transporting a person with such disability in the vehicle.

(b) Any person violating this section shall be fined $100.00.

(c)

A summons or parking ticket for the offense may be issued by law enforcement officer or other uniformed personnel employed by the county to enforce parking regulations within the town without the necessity of a warrant being obtained by the owner of the private parking lot.

(Code 2003, § 185-23; Ord. of 9-9-1996; Ord. of 1-13-2014)

Sec. 32-172. - Presumption where vehicle illegally parked.

In any prosecution charging a violation of any parking regulation contained in this division, proof that the vehicle described in the complaint, summons or warrant was parked in violation of such regulation, together with proof that the defendant was at the time of such parking the registered owner of the vehicle, as required by Code of Virginia, title 46.2, ch. 3, shall constitute in evidence a prima facie presumption that such registered owner of the vehicle was the person who parked the vehicle at a place where, and for the time during which, such violation occurred.

(Code 2003, § 185-24; Ord. of 1-13-2014)

Chapter 34 - UTILITIES

Footnotes:
*--- (**1**) ---*
Federal law references—Development and implementation of pretreatment program requirements by publicly owned treatment works, 40 CFR 403.8(f); general pretreatment regulations, 40 CFR 403.1 et seq.
***State Law reference—** Construction of dams, etc., for water supply purposes, Code of Virginia, § 15.2-2134 et seq.; water-saving ordinances, Code of Virginia, § 15.2-923; water supply emergency ordinances, Code of Virginia, § 15.2-924; general local powers pertaining to public utilities, Code of Virginia, § 15.2-2109 et seq.; local sewage disposal, Code of Virginia, title 15.2, chs. 11 and 21; local water supply systems, Code of Virginia, title 15.2, ch. 21; municipal water, sewage, refuse disposal, electricity and gas, Code of Virginia, §§ 15.2-2143, 15.2-2144; health regulations pertaining to sewage disposal, Code of Virginia, § 32.1-163 et seq.; health regulations pertaining to public water supplies, Code of Virginia, § 32.1-167 et seq.; State Water Control Law, Code of Virginia, § 62.1-44.2 et seq.*

ARTICLE I. - IN GENERAL

Sec. 34-1. - 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:

Air gap separation means the unobstructed vertical distance through the free atmosphere between the lowest opening from any pipe or faucet supplying pure water to a tank, plumbing fixture or other device and the rim of the receptacle.

Auxiliary water system means any water system on or available to the premises other than the waterworks. These auxiliary waters may include water from another purveyor's waterworks, water from a source such as wells, lakes or streams, process fluids or used water. They may be polluted or contaminated or objectionable, or constitute a water source or system over which the water purveyor does not have control.

Backflow means the flow of contaminants, pollutants, process fluids, used water, untreated water, chemicals, gases, or nonpotable waters into any part of a waterworks.

Backflow prevention device means any approved device, method or type of construction intended to prevent backflow into a waterworks.

BOD (biochemical (biological) oxygen demand) means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20 degrees Celsius, expressed in parts per million by weight.

Building drain means that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five feet outside the inner face of the building wall.

Building sewer means the extension from the building drain to the public sewer or other place of disposal.

Combined sewer means a sewer receiving both surface runoff and sewage.

Consumer means the owner or person in control of any premises supplied by or in any manner connected to a waterworks.

Consumer's water system means any water system located on the consumer's premises, supplied by or in any manner connected to a waterworks.

Contamination means any introduction into pure water of microorganisms, wastewater, undesirable chemicals or gases.

Cross-connection means any connection or structural arrangement, direct or indirect, to the waterworks whereby backflow can occur.

Degree of hazard. The term "degree of hazard" is a term derived from an evaluation of the potential risk to health and the adverse effect upon the waterworks.

Double gate-double checkvalve assembly means an approved assembly composed of two single, independently acting checkvalves, including tightly closing shutoff valves located at each end of the assembly and petcocks and test gauges for testing the watertightness of each checkvalve.

Garbage means solid wastes from the preparation, cooking and dispensing of food and from the handling, storage and sale of produce.

Health hazard means any condition, device or practice in a waterworks or its operation that creates, or may create, a danger to the health and well-being of the water consumer.

Industrial wastes means the liquid wastes from industrial processes, as distinct from sanitary sewage.

Interchangeable connection means an arrangement or device that will allow alternate but not simultaneous use of two sources of water.

Natural outlet means any outlet into a watercourse, pond, ditch, lake or other body of surface water or groundwater.

pH means the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

Pollution means the presence of any foreign substance (chemical, physical, radiological or biological) in water that tends to degrade its quality so as to constitute an unnecessary risk or impair the usefulness of the water.

Pollution hazard means a condition through which an aesthetically objectionable or degrading material may enter the waterworks or a consumer's water system.

Process fluids means any fluid or solution which may be chemically, biologically or otherwise contaminated or polluted and which would constitute a health, pollutional or system hazard if introduced into the waterworks. The term "process fluids" includes, but is not limited to:

(1) Polluted or contaminated water.

(2) Process waters.

(3) Used waters originating from the waterworks which may have deteriorated in sanitary quality.

(4) Cooling waters.

(5) Contaminated natural waters taken from wells, lakes, streams or irrigation systems.

(6) Chemicals in solution or suspension.

(7) Oils, gases, acids, alkalis and other liquid and gaseous fluids used in industrial or other processes, or for firefighting purposes.

Properly shredded garbage means the wastes from the preparation, cooking and dispensing of food that have been shredded to such degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half inch in any dimension.

Public sewer means a sewer in which all owners of abutting properties have equal rights and which is controlled by public authority.

Pure water or *potable water* means water fit for human consumption and use which is sanitary and normally free of minerals, organic substances and toxic agents in excess of reasonable amounts for domestic usage in the area served and normally adequate in supply for the minimum health requirement of the persons served.

Reduced pressure principle backflow prevention device means a device containing a minimum of two independently acting checkvalves together with an automatically operated pressure differential relief valve located between the two checkvalves. During normal flow, the pressure between these two checks shall be less than the supply pressure. In case of leakage of either checkvalve, the differential relief valve, by discharging to the atmosphere, shall operate to maintain the pressure between the checkvalves at less than the supply pressure. The unit must include tightly closing shutoff valves located at each end of the device and each device shall be fitted with properly located test cocks. These devices must be of the approved type.

Sanitary sewer means a sewer which carries sewage and to which stormwaters, surface waters and groundwaters are not intentionally admitted.

Service connection (sewer) means the terminal end of a service line from the sewer collection system; the service connection shall normally consist of a cleanout at the property line.

Service connection (water) means the terminal end of a service line from the waterworks. If a meter is installed at the end of the service, then the term "service connection" means the downstream end of the meter.

Sewage means a combination of the water-carried wastes from residences, business buildings, institutions and industrial establishments, together with such groundwaters, surface waters and stormwaters as may be present.

Sewage treatment plant means any arrangement of devices and structures used for treating sewage.

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

Sewer means a pipe or conduit for carrying sewage.

Sewerage facilities means all structures and appurtenances used in the collection and/or pumping of wastewater and the treatment and discharge of wastewater.

Storm sewer, storm drain means a sewer which carries stormwaters and surface waters and drainage, but excludes sewage and polluted industrial wastes.

Superintendent means the superintendent of public works of the town or authorized deputy, agent or representative.

Suspended solids means solids that either float on the surface of, or are in suspension in, water, sewage or other liquids, and which are removable therefrom by laboratory filtering.

System hazard means a condition posing an actual or potential damage to the physical properties of the waterworks, sewerage facilities or a consumer's water system.

Used water means any water supplied by a water purveyor from waterworks to a consumer's water system after it has passed through the service connection.

Water purveyor means any person who supplies water to any person within the state from or by means of any waterworks.

Watercourse means a channel in which a flow of water occurs, either continuously or intermittently.

Waterworks means all structures and appurtenances used in connection with the sources of water and the collection, storage, purification and treatment of water for drinking or domestic use and the distribution thereof to the public or residential consumers.

(Code 2003, § 190-1)

State Law reference— Definitions pertaining to sewage disposal, Code of Virginia, § 32.1-163; definitions pertaining to public water supplies, Code of Virginia, § 32.1-167; definitions pertaining to State Water Control Law, Code of Virginia, § 62.1-44.3.

Sec. 34-2. - Rates and charges policy.

From time to time, the council shall review its rates and charges and other specific rules and regulations governing the rates and charges associated with the use of the water and sewer systems, the specific rules and regulations governing the use of the system, to include a specific cross-connection and backflow prevention policy and its general standards of construction for water and sewage facilities constructed as part of or connecting to the town's facilities. These policies, rules and regulations, when properly and duly adopted by the council, shall be considered a part of this chapter.

(Code 2003, § 190-2)

Sec. 34-3. - Right of entry.

(a) Every person occupying any premises into which water is conveyed under this chapter or which is connected with the town sewerage facilities shall permit the town manager or the agent of the town manager or any authorized agent of the town to enter such premises at reasonable hours to inspect the works therein, or to see if the provisions of this Code and other ordinances of the town relative to the water and sewer systems have been kept and performed.

(b) The superintendent and other duly authorized employees of the town bearing proper credentials and identification shall be permitted to enter upon all properties for the purposes of inspection, observation, measurement, sampling and testing, in accordance with the provisions of this chapter.

(Code 2003, § 190-3)

Sec. 34-4. - Maintenance of private facilities; installation of septic tanks.

All persons shall, at all times, keep and maintain their private water and sewer facilities in a good and sanitary condition. No one shall install a sewer septic tank within the town without prior approval of the council, and then only in accordance with the instructions from the council.

(Code 2003, § 190-4)

State Law reference— Septic tanks in municipalities, Code of Virginia, § 15.2-2157.

Sec. 34-5. - Waterworks and sewerage facility capacity.

The council shall periodically review the operation of its waterworks and sewerage facilities with respect to the permitted capacity of each and the present levels of use of these utilities. The available capacity of its waterworks and sewerage facilities shall be determined. The council shall utilize this information when considering new connections to its waterworks and sewerage facilities.

(Code 2003, § 190-5)

Sec. 34-6. - Who may make connections; approval; applications for sewer service.

No person other than the town manager or the agent of the town manager or other authorized persons shall lay water lines, sewer lines or other fixtures in the streets or easements for the purpose of sewer or water connection for the use of any premises. No other person shall dig up the streets for such purpose or shall make any such connection without the express written approval of the council. Applications for sewer service shall be made at the town office.

(Code 2003, § 190-6)

Sec. 34-7. - Repair of plumbing and sewer fixtures on all premises connected to town water system and/or town sewerage facilities.

The owner of all premises located both inside and outside the corporate limits of the town, which premises are connected with the town water and/or sewer system, shall be responsible for keeping all plumbing and sewer fixtures on the premises of the owner in proper repair.

(Code 2003, § 190-7)

Sec. 34-8. - When and where bills for water and sewer service payable.

All bills for water and sewer service shall be due and payable as indicated on such bills at the town office.

(Code 2003, § 190-8)

Sec. 34-9. - Notice of violations.

Any person found to be violating any provisions of this chapter shall be served by the town with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.

(Code 2003, § 190-9)

Sec. 34-10. - Continuance of violation beyond time limit provided in notice; penalties.

Any person served with a notice as provided in section 34-9 who shall continue the violation in question beyond the time limit provided for in such notice, as provided in section 34-9, shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished as provided in section 1-21 for each violation. Each day in which any such violation shall continue shall be deemed a separate offense.

(Code 2003, § 190-10)

Sec. 34-11. - Liability for damage by person violating chapter.

In addition to the penalty provided in section 34-10:

(1) Every user of the town's sewerage system shall be civilly liable in damages to the town for any damages to the town's sewerage system, or for any injuries to third persons for which the town is liable, caused by or resulting from a violation of any of the provisions of this chapter.

(2) Every user of the town's sewerage system shall be civilly liable in damages to the town for any injuries to the town's sewerage system, or any injuries to third persons for which the town is liable, caused by or resulting from such user discharging into the town's sewerage system sewage or waste of a nature or in quantities prohibited by the statutes of the state, or prohibited by the state water control board, or prohibited by the state health department or any subdivision thereof, or prohibited by any other state agency.

(3) Every user of the town's sewerage system shall be liable as provided in subsections (1) and (2) of this section if any such damage as therein provided is caused by such user, any member or guest of the household of said user, or by any of the agents, servants or employees of said user.

(Code 2003, § 190-11)

Secs. 34-12—34-40. - Reserved.

ARTICLE II. - POWERS AND DUTIES OF TOWN MANAGER

Sec. 34-41. - Protection of systems.

The town manager shall have authority on behalf of the council to do all things needful or necessary for the protection of the water and sewer systems of the town. The town manager shall also have the authority to delegate the powers and duties of this office as related to the waterworks and sewerage facilities of the town.

(Code 2003, § 190-12)

Sec. 34-42. - Deposit for water and sewer service.

The town manager shall require a deposit or other fees as outlined in the current town water and sewer user policy in advance from any applicant desiring the use of town water and sewer facilities.

(Code 2003, § 190-13)

Sec. 34-43. - Changes and extensions of systems.

The town manager shall have authority to make such changes and extensions of the waterworks and sewerage facilities as may be necessary and proper as outlined in this chapter.

(Code 2003, § 190-14)

Sec. 34-44. - Rules and regulations.

The town manager shall have authority to promulgate such orders, rules, resolutions or regulations as the town manager deems necessary for the protection, repair, extension or improvement of the watershed, storage dams, reservoir, wells, and waterworks and sewerage facilities of the town.

(Code 2003, § 190-15)

Sec. 34-45. - Records of changes.

When there is any extension or change in water or sewer mains or lines, the town manager shall make or shall have made an accurate, permanent record, showing such extensions or changes and the location and the time of making the same. In like manner, the town manager shall keep accurate, permanent records of branch lines, hydrants and other water and sewer fixtures and facilities so that the same can be located with reasonable accuracy thereafter.

(Code 2003, § 190-16)

Secs. 34-46—34-63. - Reserved.

ARTICLE III. - WATER SERVICE

Footnotes:
*--- (**2**) ---*
***State Law reference—** Authority of council to acquire, maintain, operate, etc., waterworks within or without the limits of the town, Code of Virginia, § 15.2-2109; State Water Control Law, Code of Virginia, § 62.1-44.2 et seq.*

DIVISION 1. - GENERALLY

Sec. 34-64. - Compliance with Code and ordinances prerequisite to application for water connection.

The town manager shall refuse any application for water connection to the owner who has not complied with all the provisions of this Code and other ordinances of the town with reference to building lines, street planning and to the use and occupation of real estate within the town.

(Code 2003, § 190-17)

Sec. 34-65. - Application for connection to town water system of premises within corporate limits.

The owner of any real estate within the corporate limits desiring to connect such real estate with the town water system shall make written application therefor to the town manager or other officer designated to receive such application. Such application shall describe the location and nature of the premises, the purpose and estimated quantity of water desired, and shall provide such other information as may reasonably be required.

(Code 2003, § 190-18)

Sec. 34-66. - When service connection required.

(a) Except as specified herein, all occupied buildings within the corporate limits that are located within 500 feet of a public water main shall be connected with the public water system. The owner or tenants occupying such buildings shall use only the town-owned system for water consumed or used in and about the premises on which such buildings are located, except for minor or incidental use of bottled water or cistern-collected water. Once a building is connected to the public water system, it may not thereafter be disconnected. However, no person shall be required to cross the private property of any other person to make the connection described in this subsection.

(b)

Buildings connected to a private well system prior to March 28, 2006, shall be exempt from this section for so long as such well system functions in accordance with department of health requirements. When such existing well system ceases to do so, the property shall comply with subsection (a) of this section.

(c) If the pressure available to the occupied building is not adequate to meet minimum department of health requirements, then the requirements of subsection (a) of this section shall be waived.

(Code 2003, § 190-18.1; Ord. of 3-28-2006)

Sec. 34-67. - Installation, extensions in corporate limits of water meters and cutoff.

Upon approval by the town manager or the council of the application for connection of premises within the corporate limits to the town water system as required herein, the town shall cause to be installed at a place to be designated by the town manager, on or near one of the streets or public alleys of the town, a meter and cutoff for use pursuant to such application. Any extensions of water line or appurtenance required to connect such new premises shall be paid for by the applicant. Extensions shall be made in accordance with council direction and the town's construction standards. Such water line so extended shall be of a capacity consistent with the permitted use of such water. Such meter and cutoff shall be owned, controlled and used exclusively by the town or its agents.

(Code 2003, § 190-19)

Sec. 34-68. - Application for town water outside corporate limits.

(a) The council may permit, in its sole discretion, connections of premises located outside the corporate limits of the town with the town water system. The owner of any such premises wishing to make a connection shall make written application to the town manager or designee, giving the location and classification of the property of the owner, the proposed water uses, a statement of the maximum and minimum intended use proposed and such other information as may be required. The town manager or designee shall review the application and make a nonbinding recommendation to the council. The council shall determine whether to grant the request. No such request shall be granted without an affirmative vote of two-thirds of all the members elected to council. The decision of the council shall not be subject to appeal and shall be subject to approval of plans and specifications by council as required by section 34-69. An applicant whose request for permission to connect has been denied shall not be permitted to make application for the same premises within 12 months from the date of the decision by the council.

(b) In determining whether to permit a connection of premises located outside the corporate limits of the town to town water lines, the council may consider the following factors:

(1) Economic advantages and disadvantages of the connection to the town and its citizens.

(2) Distance of the property from the town limits.

(3)

Anticipated increase in usage resulting from the connection, and whether such increase may affect or jeopardize availability of water and related services to existing customers and town citizens.

(4) Topographic, geologic, hydrologic or other similar conditions which may relate to the connection.

(5) Extenuating or unusual circumstances of the landowner, including availability of water from other sources and any reasons for the landowner's need to connect.

(6) Circumstances resulting from federal, state, county, town or other governmental laws, ordinances, regulations or rules which relate to the connection.

(7) Any other matters deemed relevant by the council.

(c) The town manager may prepare a report for review by the council summarizing these factors as they relate to a particular application.

(d) At any time after granting a permit pursuant to this section, the council shall have the right to impose, modify and revoke conditions of usage of town water, as such conditions are deemed appropriate in the sole discretion of the council, for users outside the town limits. The grant of a permit to connect to the town water system benefiting a user outside the corporate limits of the town shall not create any contract, promise or guarantee that the town will renew or continue such permit for any specific period of time.

(Code 2003, § 190-20; Ord. of 3-10-2008)

Sec. 34-69. - Submission of plans and specifications for water service supplied to premises outside corporate limits.

Any person wishing to make use of town water service for business, commercial, industrial, institutional, residential or other purposes in favor of premises located outside the corporate limits shall, in advance of any construction, submit to the council for approval detailed plans and specifications, showing clearly the proposed location, size and type of lines and construction. The proposed plans shall be in conformity with good engineering practices. No construction shall begin until approval is granted by the council.

(Code 2003, § 190-21; Ord. of 3-10-2008)

Sec. 34-70. - Installation and ownership of water lines, facilities and water meters serving premises outside corporate limits.

No water line installed for the benefit of premises located outside the town limits may be connected to the town's water system unless the applicant causes to be conveyed to the town such temporary and permanent easements and deeds of conveyance for such water lines and related facilities as the town may deem necessary. All water meters serving premises located outside the corporate limits shall be installed and owned by the town.

(Code 2003, § 190-22; Ord. of 3-10-2008)

Sec. 34-71. - Payment of costs by owner of premises.

All costs of establishing water lines and facilities to benefit properties located outside the town limits shall be borne entirely by the persons or entities that will derive benefit therefrom. The town shall calculate such cost and include such terms as it deems necessary in any permit issued to ensure timely receipt of payment in full, including a requirement that the applicant shall deposit with the town treasurer, in cash, a minimum of 110 percent of the estimated total cost, as determined by the town, prior to the commencement of construction of such water lines, which funds may be applied by the council toward the cost of establishing the water lines and facilities.

(Code 2003, § 190-22.1; Ord. of 3-10-2008)

Sec. 34-72. - Water connection and other charges.

All charges for water taps or connections shall be based on the town's water and sewer user policy current at the time application is made. The charges shall be payable immediately upon approval of the application for service.

(Code 2003, § 190-23)

Sec. 34-73. - Metering generally.

The amount of water used by a customer shall be determined by direct metering of the water passing through the service line, and the town shall not be required to remeter any water for the purpose of determining the amount used by any branch line.

(Code 2003, § 190-24)

Sec. 34-74. - Separate connection and meter for each housekeeping unit.

Each housekeeping unit under a separate roof shall have an individual water connection and water meter. It shall be unlawful for any person to extend a water service line through the meter of said person to another housekeeping unit not under the same roof.

(Code 2003, § 190-25)

Sec. 34-75. - Records of meters.

The town manager shall keep an accurate record of all water meters installed, and their number, location and cost.

(Code 2003, § 190-26)

Sec. 34-76. - Investigation and testing of meters.

It shall be the duty of the town manager to inspect and test any water meter which the town manager believes is not in proper repair. Upon the written complaint of any water customer, the town manager shall forthwith investigate such complaint and inspect and test the meter in question.

(Code 2003, § 190-27)

Sec. 34-77. - Use of water by poor persons.

When deemed expedient and necessary, the mayor and council may grant to any poor person, without charge therefor, or for reduced charge, permission to use town water.

(Code 2003, § 190-28)

Sec. 34-78. - Use of unmetered water.

It shall be unlawful for any person to use unmetered water by hose or sprinkler for the purpose of irrigation.

(Code 2003, § 190-29)

Sec. 34-79. - Wasting of water.

The owner or occupant of premises having a connection with the town water system shall not permit the water to be wasted as a result of leaks or other causes, but shall have any such leak forthwith repaired or the condition resulting in such waste corrected. Upon failure to so repair leaks or correct conditions resulting in waste of water, the water service to the premises involved may be discontinued, in addition to such other punishment as may be imposed.

(Code 2003, § 190-30)

Sec. 34-80. - Discontinuance of water service outside corporate limits.

The town reserves the right to discontinue the water service at any time to any and all customers outside the corporate limits of the town when, in the unlimited discretion of the mayor or council or the state health department, this may be deemed necessary for the protection of the water supply to the citizens of the town.

(Code 2003, § 190-31)

Sec. 34-81. - Injuring or tampering with waterworks facilities.

It shall be unlawful for any person to break, destroy, interfere or tamper with, injure or deface any house, well, meter, pipe, main line valve, fire hydrant or any machinery, equipment, facilities or fixtures used in connection with or pertaining to the waterworks or town water system.

(Code 2003, § 190-32)

Sec. 34-82. - Placing rubbish or building material on valve; obstructing or opening fire hydrant or valve.

No person shall place any building material, rubbish or other matter on the valve of a street main or water service pipe, or obstruct access to any pipe, fire hydrant, or valve which is part of the town water system, or open any of them so as to allow wastewater to enter the town water system.

(Code 2003, § 190-33)

Sec. 34-83. - Unauthorized use of town water.

No person shall use the town water for which said person has neither paid nor obtained permission to use.

(Code 2003, § 190-34)

Sec. 34-84. - Allowing use of water by others.

It shall be unlawful for the owner or occupant of any premises connected to the town water system to habitually allow or permit water to be used, taken or received by any person other than said person, the occupant or members of the family of said person or visitors at the house of said person.

(Code 2003, § 190-35)

Sec. 34-85. - Using water from premises of another.

If the water facilities of any customer are temporarily out of repair, by and with the consent of the owner of other premises, said customer may temporarily use town water from such other premises. Said customer shall, however, forthwith take steps to remedy the defects in the customer's own water facilities and if the water shall be cut off for the nonpayment of water or sewer service, the same shall not be construed to give the party any rights to use town water from the lot of another.

(Code 2003, § 190-36)

Sec. 34-86. - Hydrants subject to freezing.

All hydrants connected in any way with the town water system which are used and so located as to be subject to freezing shall be of a frostproof type approved by the town manager. Any existing hydrants that do not meet this specification shall be changed at the expense of the landowner within ten days from the date of receipt of the notice from the town manager to that intent.

(Code 2003, § 190-37)

Sec. 34-87. - Disconnection of premises located outside corporate limits upon waste or improper use of water.

The town reserves the right to disconnect premises located outside of the corporate limits of the town and which are connected with the town water system from the town water system should it be evident to the council that the water is wasted or improperly used.

(Code 2003, § 190-38)

Sec. 34-88. - Unauthorized restoration of water service.

If the water service to the premises of any person has been lawfully cut off, it shall be unlawful for any person to reconnect such premises to the town water system or to turn such water service on again without the express authority of the town manager.

(Code 2003, § 190-39)

Sec. 34-89. - Rates to be charged for town water.

(a) *Schedule.* The council shall periodically and as necessary establish water rates. The water rates shall be included in the town's water and sewer rates and charges policy and the properly and duly adopted policy shall be made a part of this chapter. The rates outlined in the town's water and sewer rates and charges policy shall apply to all individual units using water. For the purposes of this section, the term "unit" shall mean individual family quarters (apartments, mobile home, duplexes, etc.) or an individual business, industrial or like establishment which requires separate water using facilities.

(b) *General billing criteria.* All general billing criteria shall be as outlined in the town water and sewer rates and charges policy referred to in subsection (a) of this section.

(Code 2003, § 190-40)

Secs. 34-90—34-106. - Reserved.

DIVISION 2. - CROSS-CONNECTION CONTROL; BACKFLOW PREVENTION

Sec. 34-107. - Purpose.

The purpose of this division is to abate or control actual or potential cross-connections and protect the public health. This division provides for establishment and enforcement of a program of cross-connection control and backflow prevention in accordance with the commonwealth, state board of health, Waterworks Regulations 1995, or as amended. This division is directed at service line protection (containment).

(Code 2003, § 190-46.1; Ord. of 5-4-2011)

Sec. 34-108. - Authority.

The authority for this division is the commonwealth, department of health, Waterworks Regulations, part II, article 3, Cross-Connection Control and Backflow Prevention in Waterworks.

(Code 2003, § 190-46.2; Ord. of 5-4-2011)

Sec. 34-109. - Administration.

(a) The town shall administer and enforce the provisions of this division under the direction of the town manager.

(b) It shall be the duty of the town to cause assessment to be made of properties served by the waterworks where cross-connection with the waterworks is deemed possible. The method of determining potential cross-connection with the waterworks and the administrative procedures shall be established by the town in a cross-connection control program (program) approved by the commonwealth, department of health, office of drinking water.

(c) The responsibility to carry out the program lies with the town manager or designee.

(Code 2003, § 190-46.3; Ord. of 5-4-2011)

Sec. 34-110. - Enforcement; violations and penalties.

(a) *Assessment.* Upon request, the owner or occupants of property served shall furnish to the town manager, or designee, pertinent information regarding the consumer's water supply system on such property for the purpose of assessing the consumer's water supply system for cross-connection hazards and determining the degree of hazard, if any. The refusal of such information, when requested, shall be deemed evidence of the presence of a high degree of hazard cross-connection.

(b)

Notice of violation. Any consumer's water supply system owner found to be in violation of any provision of this division shall be served a written notice of violation sent certified mail to the consumer's water supply system owner's last known address, stating the nature of the violation, corrective action required and providing a reasonable time limit, not to exceed 30 days, from the date of receipt of the notice of violation, to bring the consumer's water supply system into compliance with this division or have water service terminated.

(c) *Penalties.* Any owner of properties served by a connection to the waterworks found guilty of violating any of the provisions of this division, or any written order of the town manager, in pursuance thereof, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than $100.00 or more than $500.00 for each violation. Each day upon which a violation of the provisions of this division shall occur shall be deemed a separate and additional violation for the purposes of this division.

(Code 2003, § 190-46.4; Ord. of 5-4-2011)

Sec. 34-111. - Responsibilities of town.

Effective cross-connection control and backflow prevention requires the cooperation of the town, the town manager, the director of public works, the owner of the property served, the local building official and the backflow prevention device tester.

(1) The program shall be carried out in accordance with the commonwealth, state board of health, waterworks regulations, and shall as a minimum provide containment of potential contaminants at the consumer's service connection.

(2) The town has full responsibility for water quality and for the construction, maintenance and operation of the waterworks beginning at the water source and ending at the service connection.

(3) The owner of the property served and the town have shared responsibility for water quality and for the construction, maintenance, and operation of the consumer's water supply system from the service connection to the free-flowing outlet.

(4) The town shall, to the extent of its jurisdiction, provide continuing identification and evaluation of all cross-connection hazards. This shall include an assessment of each consumer's water supply system for cross-connections to be followed by the requirement, if necessary, of installation of a backflow prevention device or separation. Assessments shall be performed at least annually.

(5) In the event of the backflow of pollution or contamination into the waterworks, the town shall promptly take or cause corrective action to confine and eliminate the pollution or contamination. The town shall report to the appropriate commonwealth department of health office of drinking water field office in the most expeditious manner (usually by

telephone) when backflow occurs and shall submit a written report by the tenth day of the month following the month during which backflow occurred addressing the incident, its causes, effects, and preventative or control measures required or taken.

(6) The town shall take positive action to ensure that the waterworks is adequately protected from cross-connections and backflow at all times. If a cross-connection exists or backflow occurs into a consumer's water supply system or into the waterworks or if the consumer's water supply system causes the pressure in the waterworks to be lowered below 20 psi gauge, the town may discontinue the water service to the consumer, and water service shall not be restored until the deficiencies have been corrected or eliminated to the satisfaction of the town.

(7) In order to protect the occupants of a premises, the town manager, or designee, should inform the consumer's water supply system owner of any cross-connection beyond the service connection that should be abated or controlled by application of an appropriate backflow prevention device or separation. An appropriate backflow prevention device or separation should be applied at each point of use and/or applied to the consumer's water supply system, isolating an area which may be a health or pollutional hazard to the consumer's water supply system or to the waterworks.

(8) Records of backflow prevention devices, separations, and consumers' water supply systems, including inspection records, records of backflow incidents, and records of device tests shall be maintained by the town for ten years.

(Code 2003, § 190-46.5; Ord. of 5-4-2011)

Sec. 34-112. - Responsibilities of consumer's water supply system owner.

(a) The consumer's water supply system owner, at its own expense, shall install, operate, test, and maintain required backflow prevention devices or backflow prevention by separations.

(b) The consumer's water supply system owner shall provide copies of test results, maintenance records and overhaul records to the town within 30 days of completion of testing or work. Such testing or work shall have been performed by device testers which have obtained a certificate of completion of a course recognized by the American Water Works Association, the state department of health or the state cross-connection control association for cross-connection control and backflow prevention inspection, maintenance and testing or otherwise be certified by a commonwealth tradesman certification program.

(Code 2003, § 190-46.6; Ord. of 5-4-2011)

Sec. 34-113. - Preventative and control measures for containment.

(a) Service line protection. Backflow prevention device or separation shall be installed at the service connection to a consumer's water supply system where, in the judgment of the town, a health or pollutional hazard to the consumer's water supply system or to the waterworks exists or may exist unless such hazards are abated or controlled to the satisfaction of the town.

(b) Special conditions.

(1) When, as a matter of practicality, the backflow prevention device or separation cannot be installed at the service connection, the device or separation may be located downstream of the service connection but prior to any unprotected takeoffs.

(2) Where all actual or potential cross-connections can be easily correctable at each point of use and where the consumer's water supply system is not intricate or complex, point-of-use isolation protection by application of an appropriate backflow prevention device or backflow prevention by separation may be used at each point of use in lieu of installing a containment device at the service connection.

(c) A backflow prevention device or backflow prevention by separation shall be installed at each service connection to a consumer's water supply system serving premises where the following conditions exist:

(1) Premises on which any substance is handled in such a manner as to create an actual or potential hazard to a waterworks (this shall include premises having auxiliary water systems or having sources or systems containing process fluids or waters originating from a waterworks which are no longer under the control of the waterworks owner).

(2) Premises having internal cross-connections that, in the judgment of the town, may not be easily correctable or intricate plumbing arrangements which make it impracticable to determine whether or not cross-connections exist.

(3) Premises where, because of security requirements or other prohibitions or restrictions, it is impossible or impractical to make an evaluation of all cross-connection hazards.

(4) Premises having a repeated history of cross-connections being established or reestablished.

(5) Other premises specified by the town where cause can be shown that a potential cross-connection hazard not enumerated in this subsection (c) exists.

(d) Premises having booster pumps or fire pumps connected to the waterworks shall have the pumps equipped with a pressure-sensing device to shut off or regulate the flow from the booster pump when the pressure in the waterworks drops to a minimum of 20 psi gauge at the service connection.

(e) An approved backflow prevention device or backflow prevention by separation shall be installed at each service connection to a consumer's water supply system or installed under subsection (b) of this section, serving, but not necessarily limited to, the following types of facilities:

(1) Hospitals, mortuaries, clinics, veterinary establishments, nursing homes, dental offices and medical buildings;

(2) Laboratories;

(3) Piers, docks, waterfront facilities;

(4) Sewage treatment plants, sewage pumping stations, or stormwater pumping stations;

(5) Food and beverage processing plants;

(6) Chemical plants, dyeing plants and pharmaceutical plants;

(7) Metal plating industries;

(8) Petroleum or natural gas processing or storage plants;

(9) Radioactive materials processing plants or nuclear reactors;

(10) Car washes and laundries;

(11) Lawn sprinkler systems, irrigation systems;

(12) Fire service systems;

(13) Slaughterhouses and poultry processing plants;

(14) Farms where the water is used for other than household purposes;

(15) Commercial greenhouses and nurseries;

(16) Health clubs with swimming pools, therapeutic baths, hot tubs or saunas;

(17) Paper and paper products plants and printing plants;

(18) Pesticide or exterminating companies and their vehicles with storage or mixing tanks;

(19) Schools or colleges with laboratory facilities;

(20) High-rise buildings (four or more stories);

(21) Multiuse commercial, office, or warehouse facilities;

(22) Others specified by the town when reasonable cause can be shown for a potential backflow or cross-connection hazard.

(f) Where lawn sprinkler systems, irrigation systems or fire service systems are connected directly to the waterworks with a separate service connection, a backflow prevention device or backflow prevention by separation shall be installed at the service connection or installed under subsection (b)(1) of this section.

(Code 2003, § 190-46.7; Ord. of 5-4-2011)

Sec. 34-114. - Type of protection required.

The type of protection required shall depend on the degree of hazard which exists or may exist. The degree of hazard, either high, moderate, or low, is based on the nature of the contaminant; the potential health hazard; the probability of the backflow occurrence; the method of backflow either by back pressure

or by back siphonage; and the potential effect on waterworks structures, equipment, and appurtenances used in the storage, collection, purification, treatment, and distribution of pure water. Table 1 of the ordinance from which this article is derived shall be used as a guide to determine the degree of hazard for any situation.

(1) An air gap or physical disconnection gives the highest degree of protection and shall be used whenever practical to do so in high-hazard situations subject to back pressure.

(2) An air gap, physical disconnection and a reduced pressure principle backflow prevention device will protect against back pressure when operating properly.

(3) Pressure vacuum breakers will not protect against back pressure but will protect against backsiphonage when operating properly. Pressure vacuum breakers may be used in low-, moderate- or high-hazard situations subject to backsiphonage only.

(4) A double-gate double-check valve assembly shall not be used in high-hazard situations.

(5) Barometric loops are not acceptable.

(6) Interchangeable connections or changeover devices are not acceptable.

(Code 2003, § 190-46.8; Ord. of 5-4-2011)

Sec. 34-115. - Backflow prevention devices; backflow prevention by separation for containment.

(a) Backflow prevention devices for containment include the reduced pressure principle backflow prevention assembly, the double-gate double-check valve assembly, and the pressure vacuum breaker assembly.

(b) Backflow prevention by separation shall be an air gap or physical disconnection. The minimum air gap shall be twice the effective opening of a potable water outlet unless the outlet is a distance less than three times the effective opening away from a wall or similar vertical surface, in which case the minimum air gap shall be three times the effective opening of the outlet. In no case shall the minimum air gap be less than one inch.

(c) Backflow prevention devices shall be of the approved type and shall comply with the most recent American Water Works Association Standards and shall be approved for containment by the University of Southern California Foundation for Cross-Connection Control and Hydraulic Research.

(d) Backflow prevention devices shall be installed in a manner approved by the town and in accordance with the University of Southern California Foundation for Cross-Connection Control and Hydraulic Research recommendations and the manufacturer's installation instructions. Vertical or horizontal positioning shall be as approved by the University of Southern California Foundation for Cross-Connection Control and Hydraulic Research.

(e)

Existing backflow prevention devices approved by the town prior to the effective date of the ordinance from which this division is derived shall, except for inspection, testing, and maintenance requirements, be excluded from the requirements of section 34-116(c) and (d) if the town is assured that the devices will protect the waterworks.

(f) For the purpose of application to section 34-113(b)(2), point-of-use isolation devices or separations shall be as specified by the town where reasonable assurance can be shown that the device or separation will protect the waterworks. As a minimum, point-of-use devices should bear an appropriate American Society of Sanitary Engineering standard number.

(g) Backflow prevention devices with openings, outlets, or vents that are designed to operate or open during backflow prevention shall not be installed in pits or areas subject to flooding.

(Code 2003, § 190-46.9; Ord. of 5-4-2011)

Sec. 34-116. - Maintenance and inspection requirements.

(a) It shall be the responsibility of the consumer's water supply system owner to maintain all backflow prevention devices or separations installed in accordance with section 34-113 in good working order and to make no piping or other arrangements for the purpose of bypassing or defeating backflow prevention devices or separations.

(b) Operational testing and inspection schedules shall be established by the town as outlined in the cross-connection control program for all backflow prevention devices and separations which are installed at the service connection or installed under section 34-113(b).The interval between testing and inspection of each device shall be established in accordance with the age and condition of the device and the device manufacturer's recommendations. Backflow prevention device and separation inspection and testing intervals shall not exceed one year.

(c) Backflow prevention device overhaul procedures and replacement parts shall be in accordance with the manufacturer's recommendations.

(d) Backflow prevention device testing procedures shall be in accordance with the University of Southern California Foundation for Cross-Connection Control and Hydraulic Research Backflow Prevention Assembly Field Test Procedure and the manufacturer's instructions.

(Code 2003, § 190-46.10; Ord. of 5-4-2011)

Sec. 34-117. - 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:

Air gap means the unobstructed vertical distance through the free atmosphere between the lowest point of the potable water outlet and the rim of the receiving vessel.

Auxiliary water system means any water system on or available to the premises other than the waterworks. These auxiliary waters may include water from a source such as wells, lakes, or streams; process fluids; or used water. They may be polluted or contaminated or objectionable or constitute an unapproved water source or system over which the water purveyor does not have control.

Backflow means the flow of water or other liquids, mixtures, or substances into a waterworks from any source or sources other than its intended source.

Backflow prevention by separation (separation) means preventing backflow by either an air gap or by physical disconnection of a waterworks by the removal or absence of pipes, fittings, or fixtures that connect a waterworks directly or indirectly to a nonpotable system or one of questionable quality.

Backflow prevention device (device) means any approved device intended to prevent backflow into a waterworks.

Back-pressure backflow means backflow caused by pressure in the downstream piping which is superior to the supply pressure at the point of consideration.

Backsiphonage backflow means backflow caused by a reduction in pressure which causes a partial vacuum creating a siphon effect.

Consumer means person who drinks water from a waterworks.

Consumer's water supply system (consumer's system) means the water service pipe, water distributing pipes, and necessary connecting pipes, fittings, control valves, and all appurtenances in or adjacent to the building or premises.

Containment means the prevention of backflow into a waterworks from a consumer's water supply system by a backflow prevention device or by backflow prevention by separation at the service connection.

Contaminant means any objectionable or hazardous physical, chemical, biological, or radiological substance or matter in water.

Cross-connection means any connection or structural arrangement, direct or indirect, to the waterworks whereby backflow can occur.

Degree of hazard means either a high, moderate or low hazard based on the nature of the contaminant; the potential health hazard; the probability of the backflow occurrence; the method of backflow either by back pressure or by backsiphonage; and the potential effect on waterworks structures, equipment, and appurtenances used in the storage, collection, purification, treatment, and distribution of pure water.

Distribution main means a water main whose primary purpose is to provide treated water to service connections.

Division means the state department of health, office of drinking water.

Domestic use or usage means normal family or household use, including drinking, laundering, bathing, cooking, heating, cleaning and flushing toilets (see Code of Virginia, title 32.1, art. 2, app. A).

Double-gate double-check valve assembly means an approved assembly designed to prevent backsiphonage or back-pressure backflow and used for moderate- or low-hazard situations, composed of two independently operating, spring-loaded check valves, tightly closing shutoff valves located at each end of the assembly and fitted with properly located test cocks.

Entry point means the place where water from the source is delivered to the distribution system.

Health hazard means any condition, device, or practice in a waterworks or its operation that creates, or may create, a danger to the health and well-being of the water consumer.

Isolation means the prevention of backflow into a waterworks from a consumer's water supply system by a backflow prevention device or by backflow prevention by separation at the sources of potential contamination in the consumer's water supply system. The term "isolation" is also called "point-of-use isolation." Isolation of an area or zone within a consumer's water supply system confines the potential source of contamination to a specific area or zone. This is called "area or zone isolation."

Maximum contaminant level means the maximum permissible level of a contaminant in water which is delivered to the free-flowing outlet of the ultimate user of a waterworks, except in the cases of turbidity and VOCs, where the maximum permissible level is measured at each entry point to the distribution system. Contaminants added to the water under circumstances controlled by the user, except those resulting from corrosion of piping and plumbing caused by water quality, are excluded from this definition. Maximum contaminant levels may be either primary (PMCL), meaning based on health considerations, or secondary (SMCL), meaning based on aesthetic considerations.

Plumbing fixture means a receptacle or device which is either permanently or temporarily connected to the water distribution system of the premises and demands a supply of water therefrom; discharges used water, waste materials, or sewage either directly or indirectly to the drainage system of the premises; or requires both a water supply connection and a discharge to the drainage system of the premises.

Pollution means the presence of any foreign substance (chemical, physical, radiological, or biological) in water that tends to degrade its quality so as to constitute an unnecessary risk or impair the usefulness of the water.

Pollution hazard means a condition through which an aesthetically objectionable or degrading material may enter the waterworks or a consumer's water system.

Premises means a piece of real estate, house or building and its land.

Pressure vacuum breaker means an approved assembly designed to prevent backsiphonage backflow and used for high-, moderate-, or low-hazard situations, composed of one or two independently operating, spring-loaded check valves; an independently operating, spring-loaded air inlet valve; tightly closing shutoff

valves located at each end of the assembly; and fitted with properly located test cocks.

Process fluids means any kind of fluid or solution which may be chemically, biologically, or otherwise contaminated or polluted which would constitute a health, pollutional, or system hazard if introduced into the waterworks. The term "process fluids" includes, but is not limited to:

(1) Polluted or contaminated water;

(2) Process waters;

(3) Used water, originating from the waterworks, which may have deteriorated in sanitary quality;

(4) Cooling waters;

(5) Contaminated natural waters taken from wells, lakes, streams, or irrigation systems;

(6) Chemicals in solution or suspension; and

(7) Oils, gases, acids, alkalis, and other liquid and gaseous fluid used in industrial or other processes or for firefighting purposes.

Pure water or *potable water* means water fit for human consumption and domestic use which is sanitary and normally free of minerals, organic substances, and toxic agents in excess of reasonable amounts for domestic usage in the area served and normally adequate in quantity and quality for the minimum health requirements of the persons served.

Reduced pressure principle backflow prevention device (RPZ device) means an approved assembly designed to prevent backsiphonage or back-pressure backflow used for high-, moderate-, or low-hazard situations, composed of a minimum of two independently operating, spring-loaded check valves together with an independent, hydraulically operating pressure differential relief valve located between the two check valves. During normal flow and at the cessation of normal flow, the pressure between these two checks shall be less than the supply pressure. The unit must include tightly closing shutoff valves located at each end of the assembly and be fitted with properly located test cocks.

Service connection means the point of delivery of water to a customer's building service line as follows:

(1) If a meter is installed, the service connection is the downstream side of the meter;

(2) If a meter is not installed, the service connection is the point of connection to the waterworks;

(3) When the water purveyor is also the building owner, the service connection is the entry point to the building.

System hazard means a condition posing a threat of or actually causing damage to the physical properties of the waterworks or a consumer's water supply system.

Used water means water supplied from the waterworks to a consumer's water supply system after it has passed through the service connection.

Water supply means the water that shall have been taken into a waterworks from all wells, streams, springs, lakes, and other bodies of surface water (natural or impounded), and the tributaries thereto, and all impounded groundwater. The term "water supply" does not include any waters above the point of intake of such waterworks.

Waterworks means a system that serves piped water for drinking or domestic use to the public, at least 15 connections, or an average of 25 individuals for at least 60 days out of the year. The term "waterworks" includes all structures, equipment, and appurtenances used in the storage, collection, purification, treatment, and distribution of pure water except the piping and fixtures inside the building where such water is delivered (see Code of Virginia, title 32.1, art. 2).

Waterworks owner means an individual, group of individuals, partnership, firm, association, institution, corporation, government entity, or the federal government which supplies or proposes to supply water to any person within the state from or by means of any waterworks (see Code of Virginia, title 32.1, art. 2).

(Code 2003, § 190-46.11; Ord. of 5-4-2011)

Secs. 34-118—34-147. - Reserved.

DIVISION 3. - WATER CONSERVATION

Sec. 34-148. - Authority to declare water emergencies.

(a) During the continued existence of climatic, hydrological and other extraordinary conditions, the protection of the health, safety, and welfare of the residents of the town may require that certain uses of water not essential to public health, safety and welfare be reduced, restricted or curtailed. As the shortage of potable water becomes increasingly more critical, conservation measures to reduce consumption or curtail essential water use may be necessary.

(b) The town manager, with the approval of the council, is authorized to declare water emergencies in the town affecting the use of water in any area of the town and to control and restrict the use of water during an emergency caused by a water shortage or other cause.

(Code 2003, § 190-47; Ord. of 2-28-2006)

Sec. 34-149. - Publication of declaration.

Upon the declaration of a water emergency pursuant to section 34-148, the town manager shall immediately post a written notice of the emergency at the front door of the municipal office, in a newspaper of general circulation in the area, announce on television and radio, and use any other appropriate means of communication.

(Code 2003, § 190-48; Ord. of 2-28-2006)

Sec. 34-150. - Use of water restricted.

(a) Upon the declaration of a water emergency pursuant to section 34-148, the town manager is authorized and directed to implement conservation measures by ordering the restricted use or absolute curtailment of the use of water for certain nonessential purposes for the duration of the water shortage in the manner hereinafter set out. In exercising this discretionary authority, and making the determinations set forth in section 34-152 thereof, the town manager shall give due consideration to water levels; available/usable storage on hand; draw down rates and the projected supply capability in source reservoirs in the town; supply capacity; daily water consumption and consumption projections of the system's customers prevailing and forecast weather conditions; fire service requirements; pipeline conditions, including breakages, stoppages and leaks; estimates of minimum essential supplies to preserve public health and safety; and such other data pertinent to the past, current and projected water demands.

(b) All data collected and considered by the town manager shall be reduced to writing and maintained by the town manager.

(Code 2003, § 190-49; Ord. of 2-28-2006)

Sec. 34-151. - Limitation of restrictions.

The provisions of this section, or regulations promulgated hereunder the town manager, which are hereby authorized, shall not apply to any governmental activity, institution, business or industry which shall be declared by the town manager, upon a proper showing, to be necessary for the public health, safety and welfare or the prevention of severe economic hardship or the substantial loss of employment. Any activity, institution, business or industry aggrieved by the finding of the town manager may appeal that decision to a water conservation appeals board appointed by the council consisting of three members selected as follows: a single representative from the department of engineering, and two citizens from the public at large.

(Code 2003, § 190-50; Ord. of 2-28-2006)

Sec. 34-152. - Water conservation measures.

(a) Upon a determination by the town manager of the existence of the following conditions, the town manager shall take the following actions, which shall apply to any person whose water supply is furnished by the town water system:

(1) Condition 1: Normal operations, with up to 75 percent of time flow is equaled or exceeded. No restriction imposed.

(2)

Condition 2: Drought watch, with up to 75 percent to 90 percent of time flow is equaled or exceeded. Voluntary restrictions imposed.

(3) Condition 3: Drought warning, with up to 90 percent to 95 percent of time flow is equaled or exceeded. Partial mandatory restrictions imposed.

(4) Condition 4: Drought emergency, with up to 95 percent of time flow is equaled or exceeded. Mandatory restrictions imposed.

(b) The determination of Conditions 2, 3 and 4 by the town manager shall be accomplished by a written report which shall set out the criteria utilized and data relied upon in making such determination, including a narrative summary supporting the determination. Each report shall be available for public inspection in the town manager's office. The town manager shall forthwith transmit a copy of each report to the council.

(Code 2003, § 190-51; Ord. of 2-28-2006)

Sec. 34-153. - Violations and penalties.

Any person who shall violate any of the provisions of this article, or any of the conservation regulations promulgated by the town manager pursuant thereto, shall, upon conviction thereof, in addition to additional charges set forth by the town, be fined not less than $100.00 nor more than $2,500.00. Each act or each day's continuation of a violation shall be considered a separate offense. In addition to the foregoing, the town manager may suspend water service to any person continuing to violate the provisions of this article or the regulations promulgated thereunder. If such water service is terminated, the person shall pay a reconnection fee and all outstanding charges before service is restored.

(Code 2003, § 190-52; Ord. of 2-28-2006)

Sec. 34-154. - Notification of end of water emergency.

The town manager shall notify the council when, in the opinion of the town manager, the water emergency situation no longer exists. Upon concurrence of the council, the water emergency shall be declared to have ended.

(Code 2003, § 190-53; Ord. of 2-28-2006)

Secs. 34-155—34-176. - Reserved.

ARTICLE IV. - SEWAGE DISPOSAL

Footnotes:
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State Law reference— *Assessments for local improvements, Code of Virginia, § 15.2-2404 et seq.; authority of town to require owners or occupiers of real estate to connect to sewers, Code of Virginia, § 15.2-2117; sewage disposal systems generally and charges for the use and services thereof, Code of Virginia, § 15.2-2122 et seq.; health regulations pertaining to sewage disposal, Code of Virginia, § 32.1-163 et seq.*

DIVISION 1. - GENERALLY

Secs. 34-177—34-205. - Reserved.

DIVISION 2. - SEWER SERVICE

Subdivision I. - In General

Sec. 34-206. - Application for connection to the sewerage facilities.

(a) Applications for sewer service for residential customers shall be reviewed by the town manager and/or designated representative. Location, method of connection, and connection and other fees shall be determined. If sewage and waterworks capacity is available, connections can be made. The council shall be made aware of this action.

(b) Business, commercial, industrial or institutional applicants, to include apartment or multiple-family developments, for water and/or sewer service shall be required to submit estimates of projected water usage and sewer contribution, a site plan, use and square footage data, and other associated information as may be required by the council. This data and use estimates shall be evaluated by the town manager, staff or authorized representatives. Based on such estimates, recommendations with respect to making the requested connection and data to support the proposed connection or other fees shall be submitted to the council for action. Notice of the council's action shall be given to the applicant in a timely manner. With the authorization of the council, the town manager or other authorized representative shall notify the business, commercial, industrial or institutional applicant of the council's actions with respect to the application for this connection and, if applicable, the connection and other associated fees, or conditions associated with the connection. Connection and other fees shall be based on the applicable charges at the time of application. Connection fees or other fees, except monthly user charges, shall be paid upon approval of the application for service and within the timeframes established by the council.

(c) Applicants for residential sewer connections under this chapter, with reference to premises not using or not to use town water or using or proposing to use nonmetered town water, shall be required to state the number of fixtures or the proposed number of fixtures on their premises at

the time of application for a sewer connection. The term "fixture," as used in this section, shall be taken to mean sinks, including slop sinks and laundry tubs, water closets, tubs, individual showerheads not over tubs, urinals and automatic washing machines when not used in conjunction with a sink.

(d) Business, commercial, industrial or institutional applicants, including multiple-family developments with reference to premises not using or not to use town water or using or proposing to use nonmetered town water shall be required to provide site plans, estimates of water usage and sewage contributions and square footage of proposed development.

(Code 2003, § 190-54)

State Law reference— Authority of town to require owners and occupiers of real estate to connect to sewers, Code of Virginia, § 15.2-2117.

Sec. 34-207. - Application for connection of swimming pool with town sewer system.

At the time of application for connection with the town sewer system of a swimming pool, within or without the corporate limits of the town, whether using town water or not, the size of such pool shall be stated in the application.

(Code 2003, § 190-55)

Sec. 34-208. - Rates for sewer service.

The council shall periodically and as necessary establish sewer rates and other charges. These rates and charges shall be included in the town's water and sewer rates and charges policy and the properly and duly adopted policy shall be made a part of this division.

(Code 2003, § 190-56)

Sec. 34-209. - Depositing excrement, garbage, objectionable wastes upon public or private property.

It shall be unlawful for any person to place or deposit or permit to be placed or deposited in an insanitary manner, upon public or private property within the town or in any area under the jurisdiction of the town, any human or animal excrement, garbage or other objectionable waste.

(Code 2003, § 190-57)

State Law reference— Land disposal of treated sewage, stabilized sewage sludges or stabilized septage, Code of Virginia, § 32.1-164.2.

Sec. 34-210. - Discharge of sanitary sewage, industrial wastes or other polluted waters to natural outlet.

It shall be unlawful for any person to discharge into any natural outlet within the town or in any area under the jurisdiction of the town any sanitary sewage, industrial wastes or other polluted waters, except where suitable treatment has been provided in accordance with the provisions of this chapter.

(Code 2003, § 190-58)

Sec. 34-211. - Construction or use of privies, septic tanks and cesspools generally.

Except as provided in this chapter, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool or other facility intended or used for the disposal of sewage.

(Code 2003, § 190-59)

Sec. 34-212. - Installation and connection of toilet and plumbing facilities in places used for human occupancy located on streets containing public sewer.

The owner of any house, building or property used for human occupancy, employment, recreation or other purpose situated within the town and abutting on any street, alley or right-of-way in which there is now located or may in the future be located a public sanitary or combined sewer of the town shall, at the expense of the owner, install toilet and plumbing facilities therein and connect such facilities directly with the proper public sewer in accordance with the provisions of this division, provided that such public sewer is within 100 feet of the property line.

(Code 2003, § 190-60)

Sec. 34-213. - Requests for inspection.

Notice shall be given to the superintendent when the work on any building sewer is sufficiently advanced for such purpose, and it shall be the duty of the superintendent, within 24 hours after such notice, to inspect such work, and in case any change therein shall be found necessary, the superintendent shall direct in writing that the change be made.

(Code 2003, § 190-61)

Sec. 34-214. - Sewerage and plumbing not to be covered until inspected.

No drainage, sewerage or plumbing shall be covered or concealed in any way until it has been examined and approved by the superintendent. The superintendent shall have the right to enter any building under construction for the purpose of making the proper inspection under this division.

(Code 2003, § 190-62)

Sec. 34-215. - Supervision of connection of building sewer to public sewer.

The connection of a building sewer to the public sewer shall be made under the supervision of the superintendent.

(Code 2003, § 190-63)

Sec. 34-216. - Payment of costs and expenses of installation and connection of building sewer.

The owner of the property in question shall bear all costs and expenses incident to the installation and connection of the building sewer on the property of said owner.

(Code 2003, § 190-64)

Sec. 34-217. - Separate and independent building sewer for every building.

A separate and independent building sewer shall be provided for every building; provided, however, that, where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer.

(Code 2003, § 190-65)

Sec. 34-218. - Injury to sewers and appurtenances.

No person, while engaged in the construction of a building sewer or otherwise, shall injure, break or move any portion of any public sewer or appurtenance thereof, or do any injury to streets or sidewalks. No penalty fixed by the ordinances of the town or this Code shall prevent the town or other property owner from recovering any damages sustained by reason of such injury by appropriate civil action or otherwise.

(Code 2003, § 190-66)

Sec. 34-219. - Interfering or tampering with sewer system.

It shall be unlawful for any person to break, destroy, interfere or tamper with the sewer mains or pipes or any machinery, equipment or treatment facilities incident to or connected with the town sewer system in any way.

(Code 2003, § 190-67)

Sec. 34-220. - Deposit of certain waste prohibited.

(a) No person shall discharge or deposit any of the following waste material into any town sewer:

(1) Rain or surface water from any roof or yard drain.

(2) Any water or waste which contains more than 100 parts per million by weight of fat, oil or grease, exclusive of soap.

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

(4) Any garbage that has particles greater than one-half inch in any dimension.

(5) Any ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood or other substance of physical, chemical or biological characteristics capable of causing obstruction to flow in sewers or other interference with the proper operation of or injury to the sewerage works.

(b) Violators of any of the provisions of this section shall be given reasonable notice to take satisfactory corrective measures. Persons responsible for violations not corrected after that time shall be guilty of a misdemeanor.

(Code 2003, § 190-68)

Sec. 34-221. - Sewage strength.

(a) Except as provided in this division or specifically approved by the superintendent, no person or other parties shall discharge or cause to be discharged into any public sanitary sewer any of the following described waters or wastes:

(1) Any water or wastewater with five-day biochemical oxygen demand (BOD) in excess of 240 parts per million and/or a chemical oxygen demand (COD) in excess of 400 parts per million, or substantial amounts of phosphorus and ammonia as determined by the town.

(2) Any water or waste which may contain more than 100 parts per million, by weight, of fat, oil or grease; provided, however, that hotels, hospitals, restaurants and other institutions or commercial establishments designated by the superintendent may discharge such water or waste into the public sewer, provided the establishment or institution in question has a grease trap approved by the superintendent.

(3) Any water or waste from auto wash racks and gasoline waste and waste motor oil, except that car washes may discharge to the sewer if a suitable grease, soil and grit trap approved by the superintendent is installed.

(4) Any bitumen derivates such as gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid or gas.

(5) Any waters or wastes having a pH lower than 5.5 or higher than 9.0, or having any other corrosive property capable of causing damage or hazard to the structures, equipment and personnel of the sewage collection system or wastewater treatment facilities.

(6) Any waters or wastes containing a toxic or poisonous substance in sufficient quantity, either singly or by interaction with other waste, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals or create any hazard in the receiving waters of the wastewater treatment plant.

(7) Any waters or wastes containing suspended solids in excess of 240 parts per million or of such character and quantity that unusual attention or expense is required to handle such materials at the wastewater treatment plant.

(8) Any noxious or malodorous gas or substance capable of creating a public nuisance.

(9) Any waters or wastes containing strong acids.

(10) Any waters or wastes having colors in such concentrations as to affect the operations of the wastewater treatment plant, or after treatment in the municipal waste treatment facilities to create a nuisance or interfere directly or indirectly with specified uses of state waters in the receiving streams.

(11) Any waters or wastes containing substances which are not amenable to treatment or reduction by the wastewater treatment processes employed, or are amenable to treatment only to such degree that the wastewater treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.

(12) No septage shall be disposed in the town's wastewater collection system of manholes and sanitary sewer or at the wastewater treatment facility without the expressed, written permission of the town.

(b) The town shall control any and all wastes entering the town's system, and where such wastes as outlined in this section are accepted for treatment by the town, and when these wastes have characteristics that add unduly to the cost of operation and maintenance, the dischargers shall be subject to rate surcharges established in accordance with the added costs of treatment and/or damage to the sewerage system facilities.

(Code 2003, § 190-69)

Sec. 34-222. - Grease, oil and sand interceptors, when required; standards.

Grease, oil and sand/grit interceptors shall be provided by the owner at the expense of the owner, when, in the opinion of the plant manager and the utility manager, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts or any flammable wastes, sand or other harmful ingredients; except that such interceptors shall not be required for private living quarters of dwelling units. All interceptors shall be of a type of capacity approved by the utility manager; as identified in the fats, oil and grease program adopted by the council; and shall be located as to be readily and easily accessible for cleaning and inspection. Grease and oil interceptors shall be constructed of impervious materials capable of withstanding abrupt and extreme changes in temperature. They shall be of substantial construction,

watertight, and equipped with easily removable covers which when bolted in place shall be gastight and watertight. All chambers for this purpose shall be maintained by the property owner, at the expense of the property owner, in continuously efficient operation at all times.

(Code 2003, § 190-70; Ord. of 6-14-1999; Ord. of 1-9-2018)

Sec. 34-223. - Connections requiring extension of public sewer within the town.

Should application be made for a connection to property in the town where there is no public sewer in an adjoining street or right-of-way, such application shall not be acted on by the superintendent but shall be postponed until the next meeting of the council. The council shall discuss whether such public sewer should be constructed and the amount to be charged to the applicant for such construction. Generally, the applicant shall be required to bear all cost of the extension in addition to the connection and availability charges and user charge provided for in this division. Decisions of the council concerning the extension of public sewer within the town shall be made within a reasonable period.

(Code 2003, § 190-71)

Sec. 34-224. - Connections requiring extension of public sewer beyond town limits.

Each application for sewer service outside the corporate limits which involves the construction of a public sewer or involves the construction of a lateral of such length or in such a location that there is a possibility of future connections to such lateral shall be referred by the superintendent to the council, which shall consider the project and determine whether such project should be undertaken, and shall determine the cost to be charged to the applicant for such project; generally, the applicant shall be required to bear all costs of the extension in addition to the connection fee and user charge or other fees as provided for in this division. No such extensions to the town sewer system outside of the town limits shall be undertaken until the statutory notice has been given to the appropriate governing body of the county in which the extension is contemplated.

(Code 2003, § 190-72)

State Law reference— Notice to county governing body prior to construction of sewerage system, Code of Virginia, § 15.2-2126.

Sec. 34-225. - User charges and billings.

Every person whose property shall be connected to the public sewer system of the town, whether inside or outside of the corporate limits, shall, for each such connection, pay to the town a charge at a rate to be established from time to time by the council for such connection, to be measured by the consumption of water at such property. Such charge shall be based on a percentage of the metered water consumption at each property each month, to be included in the water billing and to be collected as water accounts due the

town. However, nothing in this section shall be construed to abridge or deny the right of the council to alter or raise these rates; and when, in the opinion of the council, the water consumption at a property does not adequately represent the use being made of the town's sewage facilities, the council may establish such rate as it sees fit. If there is no water service to property to be served by the town sewage facilities, the sewer charge against such property shall be as established by the council.

(Code 2003, § 190-73)

Sec. 34-226. - Compliance with federal requirements.

The town's user charge system shall be based on actual or estimated use of the wastewater treatment services. The rates shall be based on proportionate operation and maintenance costs of treatment associated with each customer's service based on the user's proportionate contribution to the total wastewater loading from all users. Replacement costs may be included in the rate structure. The town shall review not less than every two years the wastewater contribution of all users. The total costs of operation and maintenance of the treatment works shall be included in its approved user charge system. Replacement costs may be included in the development of the user charge system. All users shall be notified by an appropriate and reasonable means at least annually of the total operation and maintenance cost associated with wastewater collection and treatment and current rates. The town shall revise its user charge system to maintain proportionate distribution of operation and maintenance costs among all users; generate sufficient revenue to pay the total operation and maintenance cost necessary to the proper operation and maintenance of the treatment works; and apply excess revenues collected in any year against operation and maintenance expenses in subsequent years. The town shall abide by the terms set forth in 40 CFR 35.2130, 35.2122 and 35.2208, dated February 27, 1984, as applicable.

(Code 2003, § 190-74)

Sec. 34-227. - User surcharge.

(a) A surcharge shall be added to the standard sewer user charges when biological oxygen demand (BOD), suspended solids (SS), or other pollutant concentrations discharged from any sewer system user exceed the range of concentration of these pollutants in normal domestic sewage, i.e., 240 mg/L of BOD or 240 mg/L of suspended solids. The surcharge shall be computed by the model formula given as follows:

$$Cs = Bc (B) + Sc (S) + Pc (P) Vu$$

Where:

Cs = Surcharge for wastewaters of excessive strength.

Bc = Operation and maintenance cost for treatment of a unit of biological oxygen demand (BOD).

B = Concentration of BOD from a user above the base level of 240 mg/L.

Sc = Operation and maintenance cost for treatment of a unit of suspended solids.

S = Concentration of suspended solids from a user above the base level of 240 mg/L.

Pc = Operation and maintenance cost for treatment of a unit of any pollutant.

P = Concentration of any pollutant from a user above a base level normally found in normal domestic sewage.

Vu = Volume contribution from a user per unit of time.

(b) The value of Bc and Sc shall be given in the town's water and sewer rates and charges policy. These factors shall be determined on an annual basis. The value of Pc, any other pollutant can be determined on an as-needed basis. See EPA 40 CFR, 40 CFR 35.2140.

(Code 2003, § 190-75)

Sec. 34-228. - Truck-hauled wastewaters.

Persons desiring to routinely discharge wastes taken from septic tanks within the town or the county and discharge into the sewer system of the town shall possess a valid septage haulers discharge permit.

(1) Permits shall be issued by the director of public works or the designee of said director and shall specifically identify the types of wastes which can be discharged. For the purposes of waste classification, there shall be only one acceptable type of waste:
   a. Residential: Waste collected from establishments where only household-type activities have occurred.

(2) All other types of hauled waste shall be subject to the conditions of contractual agreements between the wastewater facilities and the waste generator.

(3) All persons discharging a hauled waste to the sewage system of the town will adhere to the following conditions:
   a. All waste shall be brought to the designated discharge location at the wastewater facilities.
   b. A completed manifest form, containing the appropriate signatures and identifying the sources of the wastes, shall be presented to the wastewater treatment plant operator prior to discharge.
   c. No truck load will exceed 2,500 gallons unless prior permission has been granted by the director of public works or the designee of said director.
   d. Contractual loads cannot be mixed with any other types of waste.
   e.

All fees and charges will be accumulated over each calendar month and be billed on a monthly basis. In the case of contractual agreement payment will be subject to the conditions of the contract.

f. Any truckload which contains any amount of restaurant wastes or grease will be rejected and not allowed to unload.

g. Disposal services will be suspended for customers with an outstanding monthly bill (not paid by due date).

h. Disposal cost for residential waste will be assessed at a rate of $0.06 per gallon.

i. To cover the administrative cost of septic haulers discharge permit, $50.00 per year of permit term will be charged.

(Code 2003, § 190-76; Ord. of 3-25-2003; Ord. of 6-14-2004)

Secs. 34-229—34-249. - Reserved.

Subdivision II. - Connection Charges

Sec. 34-250. - Within corporate limits.

For all sewer connections within the corporate limits, there shall be paid a connection fee and other fees as outlined in the then-current town's water and sewer user policy.

(Code 2003, § 190-77)

Sec. 34-251. - Outside corporate limits.

For all sewer connections without the corporate limits, there shall be a charge as outlined in the then-current town's water and sewer user policy.

(Code 2003, § 190-78)

Sec. 34-252. - Payment.

All charges for sewer taps or connections shall be payable at the time when the application is approved as noted in section 34-206.

(Code 2003, § 190-79)

Sec. 34-253. - Industrial or commercial users.

A sewer service charge shall be made on industrial or commercial users of the town sewer system under this chapter, within or without the corporate limits, whether using town water or not. The sewer service connection charges shall be based on the water and sewer user policy in place when the application is placed and such fees shall be immediately payable when the application is approved.

(Code 2003, § 190-80)

Secs. 34-254—34-284. - Reserved.

Subdivision III. - Construction Standards

Sec. 34-285. - Compliance with provisions.

Any and all sanitary sewers to be constructed within the corporate limits (i.e., any sewers designed in accordance with the state health department regulations) shall meet the provisions of this division.

(Code 2003, § 190-81)

Sec. 34-286. - Design and construction standards generally.

(a) Sanitary sewer design and construction shall comply with the sewage regulations as promulgated by the commonwealth, as amended. The construction of sanitary sewer, including force main, gravity sewer and manholes, shall also conform to the general construction standards for sanitary sewage and waterworks facilities as adopted by the town.

(b) Sewer laterals shall be installed to the property line at the same time the sewer main is installed, and shall be tested as one complete system.

(Code 2003, § 190-82)

Sec. 34-287. - Infiltration/inflow.

(a) All new sewers shall be tested and meet the standards addressed in this division. Infiltration tests shall be performed on the completed sewer systems. Testing shall be performed manhole to manhole, including all service laterals to the property line. The term "sewer system" shall be defined as any portion of the wastewater treatment collection system between the treatment plant and the wall of any building, structure or dwelling which has wastewater service provided by the town.

(b)

Testing shall be accomplished by the methods in the general construction standards for sanitary sewer as adopted by the town. If any sewer fails to meet these testing requirements, repairs shall be made as necessary until such lines meet the requirements of such referenced general construction standards.

(Code 2003, § 190-83)

Secs. 34-288—34-307. - Reserved.

DIVISION 3. - PRIVATE SEWAGE DISPOSAL FACILITIES

Sec. 34-308. - Approval by superintendent as prerequisite to beginning construction of building for human occupancy.

It shall be unlawful for any person to begin construction of a building for human occupancy, employment or recreation within the town without making application and receiving approval by the council for a private sewage disposal system, as provided in this division; provided, however, that this section shall be construed to apply only where a public sanitary sewer is not available.

(Code 2003, § 190-84)

Sec. 34-309. - Where connection of building sewer to private sewage disposal system required.

Where a public sanitary sewer is not available, the building sewer may be connected to a private sewage disposal system complying with the provisions of this division when approved by the council and in a manner designated by the council.

(Code 2003, § 190-85)

Sec. 34-310. - Permit required.

Before commencement of construction of a private sewage disposal system within the corporate limits or authorized by council, the owner of the premises in question shall first obtain a written permit therefor, signed by the superintendent. The applicant shall apply for and submit to the town a copy of the approved on-site disposal permit from the state health department's local sanitarian.

(Code 2003, § 190-86)

Sec. 34-311. - Application for permit.

The application for a permit, as required in section 34-310, shall be made on a form furnished by the town, which the applicant shall supplement by any plans, specifications and other information as deemed necessary by the superintendent, i.e., approved state health department construction permit.

(Code 2003, § 190-87)

Sec. 34-312. - Permit and inspection fee.

No permit or inspection fee shall be charged under this division.

(Code 2003, § 190-88)

Sec. 34-313. - Completion of system to satisfaction of superintendent prerequisite to effectiveness of permit.

A permit for a private sewage disposal system shall not become effective until the installation is completed to the satisfaction of the superintendent and to the local state health department sanitarian.

(Code 2003, § 190-89)

Sec. 34-314. - Inspection of work by superintendent.

The superintendent shall be allowed to inspect the work at any stage of construction of the private sewage disposal system and, in any event, the applicant for the permit, as provided for in section 34-310, shall notify the superintendent when the work is ready for final inspection, and before any underground portions are covered. The inspection shall be made within 48 hours of the receipt of notice by the superintendent.

(Code 2003, § 190-90)

Sec. 34-315. - Type, capacity, location and layout of system generally.

The type, capacity, location and layout of a private sewage disposal system shall comply with all recommendations and requirements of the county health department.

(Code 2003, § 190-91)

Sec. 34-316. - Limitation on issuance of permit consequent upon area of lot.

No permit as provided in section 34-310 shall be issued for any private sewage disposal system employing subsurface soil absorption facilities where the area of the lot is less than the area required by chapter 36.

(Code 2003, § 190-92)

Sec. 34-317. - Connection with public sewer of property served by private disposal system upon availability of public sewer; abandonment of facilities.

(a) On or after April 1, 1997, at such time as new public sewer becomes available to a residential property served by a private sewage disposal system, as provided in section 34-212, a direct connection shall be made to the public sewer in compliance with this article within 90 days after date of official notice by the town to do so. If the private sewage disposal system in question is not working properly and if it does not meet with all the requirements of the county health department, when connection has been made with the public sewer, the private septic tank, cesspool or private sewage disposal facilities shall be properly abandoned.

(b) When the sewer line is available the town shall notify those people who are eligible to participate. In the case of single-family, owner-occupied units, payment of availability fee can be made immediately, up to 90 days with no interest or up to a year with monthly payments, having a ten percent simple interest added to it, spread out over 12 months. Connection fees will be paid at time of application for service.

(c) Multiple-family residential units and all others. Availability fees are due and payable within 30 days of the date lines are considered complete by the town and official notice by the town has been sent.

(Code 2003, § 190-93; Ord. of 3-25-1997)

Secs. 34-318—34-337. - Reserved.

ARTICLE V. - WASTEWATER PRETREATMENT

DIVISION 1. - GENERALLY

Sec. 34-338. - Purpose.

The purpose of this article is to provide for the maximum possible benefit of the town treatment system through regulation of sewer construction, sewer use, and wastewater discharges to provide for equitable distribution of the costs of the treatment system and to provide procedures for complying with the requirements contained herein.

(Code 2003, § 190-94; Ord. of 7-9-2001)

Sec. 34-339. - Scope.

(a) The definitions of terms used in this article are found in division 2 of this article. The provisions of this article shall apply to the discharge of all wastewater to the treatment system of the town. This article provides for use of the town's wastewater treatment system, regulation of sewer

construction, control of the quantity and quality of wastewater discharged, wastewater pretreatment, equitable distribution of costs, assurance that existing customers' capacity will not be preempted, approval of sewer construction plans, issuance of user permits, minimum sewer connection standards and conditions, and penalties and other procedures in cases of violation of this article.

(b) This article shall apply to the town and to persons outside the town who are, by contract, permit or agreement with the town, users of the town's wastewater system.

(Code 2003, § 190-95; Ord. of 7-9-2001)

Sec. 34-340. - Administration.

Except as otherwise provided herein, the town manager shall administer, implement, and enforce the provisions of this article.

(Code 2003, § 190-96; Ord. of 7-9-2001)

Sec. 34-341. - Fees and charges.

(a) All fees and charges payable under the provisions of this article shall be paid to the town. Such fees and charges shall be as set forth herein or as established in the latest edition of the town's sewer user charge policy.

(b) All user fees, penalties, and charges collected under this article (and the treatment works user charge ordinance) shall be used for the sole purpose of constructing, operating or maintaining the wastewater system of the town, or the retirement of debt incurred for same.

(c) All fees and charges payable under the provisions of this article are due and payable upon the receipt of charges. Unpaid charges shall become delinquent and shall be subject to penalty and interest charges, as provided for in the latest edition of the town's sewer user charge policy.

(Code 2003, § 190-97; Ord. of 7-9-2001)

Sec. 34-342. - Inspections.

(a) The town manager or designee or authorized state or federal officials, bearing the proper credentials and identification, shall be permitted to enter all premises where an effluent source or treatment system is located at any reasonable time for the purposes of inspection, observation, measurement, sampling, and/or copying records of the wastewater discharge to ensure that discharge to the treatment system is in accordance with the provisions of this article.

(b) The town manager or designee, bearing proper credentials and identification, shall be permitted to enter all private property through which the town holds an easement for the purposes of inspection, observation, measurement, sampling, repair, and maintenance of any of the town's

treatment system lying within the easement. All entry and any subsequent work on the easement shall be done in full accordance with the terms of the easement pertaining to the private property involved.

(c) While performing any necessary work on private properties referred to in subsections (a) and (b) of this section, the town manager or designee shall observe all safety and occupational rules established by the owner or occupant of the property and applicable to the premises.

(Code 2003, § 190-98; Ord. of 7-9-2001)

Sec. 34-343. - Vandalism.

No person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance or equipment which is a part of the town's treatment system. Any person who violates this section shall be guilty of a Class B misdemeanor.

(Code 2003, § 190-99; Ord. of 7-9-2001)

Sec. 34-344. - Amendments.

Public notice shall be given in accordance with applicable provisions of the Charter, other town ordinances, state and federal law, prior to adoption of any amendments of this article.

(Code 2003, § 190-100; Ord. of 7-9-2001)

Sec. 34-345. - Conflicts.

All other ordinances and parts of other ordinances inconsistent or conflicting with any part of this article are hereby repealed to the extent of the inconsistency or conflict.

(Code 2003, § 190-101; Ord. of 7-9-2001)

Secs. 34-346—34-363. - Reserved.

DIVISION 2. - DEFINITIONS

Sec. 34-364. - Specific definitions.

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

Act means the Federal Clean Water Act, 33 USC 1251 et seq.

Approval authority means the executive director or director of the department of environmental quality.

ASTM means the American Society for Testing and Materials.

Authorized representative of industrial user means:

(1) A principal executive officer of at least the level of vice-president, if the industrial user is a corporation;

(2) A general partner or proprietor if the industrial user is a partnership or sole proprietorship respectively; or

(3) A duly authorized representative of the individual designated in subsection (1) or (2) of this definition, if such representative is responsible for the overall operation of the facility from which the discharge to the POTS originates. The authorization must be submitted to the town manager prior to or together with any reports to be signed by the authorized representative.

BOD (biochemical oxygen demand) means the quantity of oxygen used in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20 degrees Celsius, expressed in milligrams per liter.

Building sewer means the extension from a building wastewater plumbing facility to the treatment works.

Categorical pretreatment standard or *categorical standard* means any regulation containing pollutant discharge limits promulgated by the EPA in accordance with sections 307(a) and 307(c) of the Act, which apply to specific category of industrial users which appear in 40 CFR ch. I, subch. N, pts. 405—471.

Combined sewer means a sewer intended to receive both wastewater and stormwater or surface water.

Day means the 24-hour period beginning at 12:01 a.m.

Discharger means a person, firm, company, industry, or other similar source of wastewater who introduces such into the POTS.

Easement means an acquired legal right for the specific use of land owned by others.

EPA means the United States Environmental Protection Agency.

Establishment means any industrial establishment, mill, factory, tannery, paper or pulp mill, mine, coal mine, colliery, breaker or coal processing operations, quarry, oil refinery, boat, vessel, and each and every other industry or plant or works the operation of which produces industrial wastes or other wastes or which may otherwise alter the physical, chemical, or biological properties of any state waters.

Existing source means any source of discharge, the construction or operation of which commenced prior to the publication of proposed categorical pretreatment standards which will be applicable to such source if the standard is thereafter promulgated in accordance with section 307 of the Act.

Garbage means the solid animal and vegetable wastes resulting from the domestic or commercial handling, storage, dispensing, preparation, cooking, and serving of foods.

Groundwater means any water beneath the land surface in the zone of saturation.

Indirect discharge means the introduction of (nondomestic) pollutants into the POTS from any nondomestic source regulated under section 307(b), (c) or (d) of the Act.

Industrial user or *significant discharger (Class II)* means a source of indirect discharge, or a nondomestic discharge to a treatment works.

Industrial wastes means liquid or other wastes resulting from any process of industry, manufacture, trade or business, or from the development of any natural resources.

Interference means an inhibition or disruption of the POTS, its treatment processes or operations, or its sludge processes, which clearly causes, in whole or in part, a violation of any requirement of the POTS's VPDES permit, including those discharges that prevent the use or disposal of sludge by the POTS in accordance with any federal or state laws, regulations, permits, or sludge management plans.

Municipality means a city, county, town, district association, authority or other public body created under the law and having jurisdiction over disposal of sewage, industrial, or other wastes.

Natural outlet means any outlet into a watercourse, pond, ditch, lake, or any other body of surface water or groundwater.

New source means the same meaning as provided in 40 CFR pt. 403.3(k) (1990).

Owner means the commonwealth or any of its political subdivisions, including, but not limited to, sanitation district commissions and authorities, and public or private institutions, corporations, associations, firms or companies organized or existing under the laws of this or any other state or country, or any person or group of persons acting individually or as a group.

Pass-through means the discharge of pollutants through a POTS into state waters in quantities or concentrations which are a cause in whole or in part of a violation of any requirement of the POTS's VPDES permit, including an increase in the magnitude or duration of a violation.

Person means any individual, firm, company, association, society, partnership, corporation, governmental entity, or other similar organization, agency, or group.

pH means the logarithm of the reciprocal of the hydrogen ion concentration expressed in grams per liter of solution as determined by Standard Methods.

Pollutant means any dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, medical waste, chemical waste, industrial waste, biological materials, radioactive material, heat-wrecked or discarded equipment, rock, sand, cellar dirt, agricultural and industrial waste, and the characteristics of the wastewater (i.e., pH, temperature, TSS, turbidity, color, BOD, COD, toxicity, and odor).

POTS (publicly owned treatment system) means any sewage treatment works that is owned by a state or municipality. Sewers, pipes, or other conveyances are included in this definition only if they convey wastewater to a POTS providing treatment.

Pretreatment means the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to discharge to the town treatment works.

Pretreatment coordinator means the town manager or the designee of the town manager.

Pretreatment requirement means any substantive or procedural requirement related to pretreatment imposed on an industrial user, other than a pretreatment standard.

Pretreatment standard means any regulation containing pollutant discharge limits promulgated by the EPA in accordance with section 307(b) and (c) of the Act, which applies to industrial users.

Prohibited discharges or *prohibited discharge standards* means absolute prohibition against the discharge of certain substances. These prohibitions appear in section 34-447.

Properly shredded garbage means garbage that has been shredded to such a degree that all particles will be carried freely under flow conditions normally prevailing in the treatment works, with no particle greater than one-half-inch in any dimension.

Residential user (Class I) means all premises used only for human residency and which is connected to the treatment works.

Sanitary wastewater means wastewater discharged from the sanitary conveniences of dwellings, office buildings, industrial plants, or institutions.

Significant industrial user means an industrial user which:

(1) Has a process wastewater flow of 25,000 gallons or more per average work day (excluding sanitary, noncontact cooling and oiler blowdown wastewater);

(2) Contributes a process waste stream which makes up five percent or more of the average dry weather hydraulic or organic capacity of the POTS;

(3) Is subject to categorical pretreatment standards; or

(4) Has significant impact, either singularly or in combination with other significant dischargers, on the treatment works or the quality of its effluent.

Slug load means any discharge at a flow rate or concentration which could cause a violation of the prohibited discharge standard in section 34-447 or any discharge of a nonroutine, episodic nature, including, but not limited to, an accidental spill or a noncustomary batch discharge.

Standard Methods means the latest edition of Standard Methods for the Examination of Water and Wastewater, published by the American Public Health Association, Water Pollution Control Federation, and American Water Works Association.

Storm sewer means a sewer for conveying stormwater, surface water, and other waters, which is not intended to be transported to a treatment works.

Surface water means:

(1) All waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide;

(2) All interstate waters, including interstate wetlands;

(3) All other waters such as interstate/intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds the use, degradation, or destruction of which would affect or could affect interstate or foreign commerce, including any such waters:

a. Which are or could be used by interstate or foreign travelers for recreational or other purposes;

b. From which fish or shellfish are or could be taken and sold in interstate or foreign commerce; or

c. Which are used or could be used for industrial purposes by industries in interstate commerce;

(4) All impoundments of waters otherwise defined as surface waters under this definition;

(5) Tributaries of waters identified in subsection (1) through (4) of this definition;

(6) The territorial sea; and

(7) Wetlands adjacent to waters, other than waters that are themselves wetlands, identified in subsection (1) through (6) of this definition.

Suspended solids means the total suspended matter that either floats on the surface of, or is in suspension in, water or wastewater as determined by Standard Methods.

Town manager means the town manager of the town or an authorized designee.

Treatment facility means only those mechanical-power-driven devices necessary for the transmission and treatment of pollutants (e.g., pump stations and unit treatment processes).

Treatment system means any devices and systems used for the storage, treatment, recycling and/or reclamation of sewage or liquid industrial waste, or other waste necessary to recycle or reuse water, including intercepting sewers, outfall sewers, sewage collection systems, individual systems, pumping, power, and other equipment and their appurtenances; extensions, improvements, remodeling, additions, or

alterations; and any works, including land that will be an integral part of the treatment process or is used for ultimate disposal of residues resulting from such treatment; or any other method or system used for preventing, abating, reducing, storing, treating, separating, or disposing of municipal waste, or industrial waste, including waste in combined sewer water and sanitary sewer systems.

Toxics means any of the pollutants designated by federal regulations pursuant to section 307(a)(1) of the Act.

User means a source of wastewater discharge into a POTS.

User permit means a document issued by the POTS to the user that permits the connection and/or introduction of wastes into the treatment works under the provisions of this article.

VPDES means Virginia Pollutant Discharge Elimination System permit program, as administered by the commonwealth.

Wastewater means a combination of liquid and water-carried wastes from residences, commercial buildings, industries, and institutions, together with any groundwater, surface water, or stormwater that may be present.

WPCF means the Water Pollution Control Federation.

(Code 2003, § 190-102; Ord. of 7-9-2001)

Sec. 34-365. - General definitions.

Unless the context of usage indicates otherwise, the meaning of terms in this article and not defined in section 34-364 shall be as defined in the Glossary: Water and Wastewater Control Engineering prepared by Joint Editorial Board of the American Public Health Association, American Society of Civil Engineers, American Water Works Association, and Water Pollution Control Federation, copyright 1969.

(Code 2003, § 190-103; Ord. of 7-9-2001)

Secs. 34-366—34-388. - Reserved.

DIVISION 3. - USE OF TOWN'S TREATMENT SYSTEM AND TREATMENT FACILITY

Sec. 34-389. - Waste disposal.

It shall be unlawful for any person to place, deposit, or permit to be deposited in any condition that may be considered as an unsanitary or unhygienic manner on public or private property within the town, or in any area under the jurisdiction of the town, any human or animal excrement, garbage, or other objectionable waste.

(Code 2003, § 190-104; Ord. of 7-9-2001)

Sec. 34-390. - Wastewater discharges.

It shall be unlawful under state and federal law to discharge without a VPDES permit to any natural outlet within the town, or in any area under its jurisdiction. Wastewater discharges to the town's treatment system are not authorized unless permitted by town manager in accordance with provisions of this article.

(Code 2003, § 190-105; Ord. of 7-9-2001)

Sec. 34-391. - Wastewater disposal.

Except as provided in this article, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of wastewater.

(Code 2003, § 190-106; Ord. of 7-9-2001)

Sec. 34-392. - Connection to treatment works required.

The owner of any house, building, or property which is used for commercial, industrial and/or residential purposes, abutting on any street, alley, or rights-of-way in which there is or may be located a sewer connected to the treatment works of the town is required at the owner's expense to install suitable toilet facilities therein, and to connect such facilities directly to the proper sewer in accordance with the provisions of this article, within 90 days after notice that sewer is available within 200 feet of the property line. This section shall not apply to any person served by a privately constructed, owned, operated, and maintained sewer and treatment facility which discharges directly to a natural outlet in accordance with the provisions of this article and applicable state and federal laws.

(Code 2003, § 190-107; Ord. of 7-9-2001)

Secs. 34-393—34-412. - Reserved.

DIVISION 4. - BUILDING SEWERS AND CONNECTIONS

Sec. 34-413. - Connection permit.

(a) *Required.* No person shall uncover, make any connections with, use, alter, or disturb any wastewater sewer or a storm sewer without first obtaining a written permit from the town manager.

(b) *Permit classes; application.*

(1)

There shall be two classes of permits for connections to the town's treatment works and treatment facilities.

a. Class I: residential.

b. Class II: industrial.

(2) In all cases, the owner shall make application for a permit to connect to the town's treatment works on a form furnished by the town. The permit application shall be supplemented by wastewater information required to administer this article. A permit and inspection fee of $50.00 for a Class I, or $100.00 for a Class II connection permit shall be paid to the town at the time the application is filed.

(c) *Fee.* Connections to a storm sewer shall be subject to a permit and inspection fee of $125.00. Such connections shall be subject to the provisions of this article and the approval of the town manager.

(Code 2003, § 190-108; Ord. of 7-9-2001)

Sec. 34-414. - Connection costs.

The costs and expenses incidental to the building sewer installation and connection to the town's treatment system shall be borne by the owner. The owner shall indemnify the town from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

(Code 2003, § 190-109; Ord. of 7-9-2001)

Sec. 34-415. - Separate connections required.

A separate and independent building sewer shall be provided for every building, except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, courtyard, or driveway, the building sewer serving the front building may be extended to the rear building and the whole considered as one building sewer. The town assumes no obligation or responsibility for damage caused by or resulting from any single building sewer which serves two buildings.

(Code 2003, § 190-110; Ord. of 7-9-2001)

Sec. 34-416. - Existing building sewers.

Existing building sewers may be used for connection of new buildings only when they are found, on examination and testing by the town manager, to meet the requirements of this article.

(Code 2003, § 190-111; Ord. of 7-9-2001)

Sec. 34-417. - Building sewer design.

The size, slope, alignment, construction materials, trench excavation and backfill methods, pipe placement, jointing and testing methods used in the construction and installation of a building sewer shall conform to the building and plumbing code or other applicable requirements of the town. In the absence of code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the ASTM and WPCF shall apply.

(Code 2003, § 190-112; Ord. of 7-9-2001)

Sec. 34-418. - Building sewer elevation.

Whenever practicable, the building sewer shall be brought to a building at an elevation below the basement floor. In buildings in which any building drain is too low to permit gravity flow to the town's treatment works, wastewater carried by such building drain shall be lifted by an approved means and discharged to a building sewer draining to the town sewer.

(Code 2003, § 190-113; Ord. of 7-9-2001)

Sec. 34-419. - Surface runoff and groundwater drains.

(a) No person shall connect roof, foundation, areaway, parking lot, roadway, or other surface runoff or groundwater drains to any sewer which is connected to a treatment works unless such connection is authorized in writing by the town manager. The connection of such drains shall conform to codes specified in section 34-420 or as specified by the town manager as a condition of approval of such connection.

(b) Except as provided in subsection (a) of this section, roof, foundation, areaway, parking lot, roadway, or other surface runoff or groundwater drains shall discharge to natural outlets or storm sewers.

(Code 2003, § 190-114; Ord. of 7-9-2001)

Sec. 34-420. - Conformance to applicable codes.

The connection of a building sewer into a treatment works shall conform to the requirements of the building and plumbing code or other applicable requirements of the town, or the procedures set forth in appropriate specifications of the commonwealth sewerage regulations, state uniform building code, and American Society of Testing Materials. The connections shall be made gastight and watertight and verified by proper testing. Any deviation from the prescribed procedures and materials must be approved in writing by the town manager before installation.

(Code 2003, § 190-115; Ord. of 7-9-2001)

Sec. 34-421. - Connection inspection.

The applicant for a building sewer or other drainage connection permit shall notify the town manager when such sewer or drainage connection is ready for inspection prior to its connection to the town's treatment works. Such connection inspections and testing as deemed necessary by the town manager shall be made by the town manager.

(Code 2003, § 190-116; Ord. of 7-9-2001)

Sec. 34-422. - Excavation guards and property restoration.

Excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the town.

(Code 2003, § 190-117; Ord. of 7-9-2001)

Sec. 34-423. - Protection of capacity for existing users.

The town manager shall not issue a permit for any class of connection to the town's treatment works or treatment facilities unless there is sufficient capacity, not legally committed to other users, in the treatment works and treatment facilities to convey and adequately treat the quantity of wastewater which the requested connection will add to the treatment works or treatment facility. The town manager may permit such a connection if there are legally binding commitments to provide the needed capacity.

(Code 2003, § 190-118; Ord. of 7-9-2001)

Secs. 34-424—34-444. - Reserved.

DIVISION 5. - CONDITIONS TO USE TOWN TREATMENT WORKS

Sec. 34-445. - Special uses of treatment works.

All discharges of stormwater, surface water, groundwater, roof runoff, subsurface drainage, or other waters not intended to be treated in the treatment facility shall be made to storm sewers or natural outlets designed for such discharges, except as authorized under section 34-419. Any connection, drain, or arrangement which will permit any such waters to enter any other sewer shall be deemed to be a violation of this section and this article.

(Code 2003, § 190-119; Ord. of 7-9-2001)

Sec. 34-446. - Industrial user, general prohibition upon.

An industrial user shall not introduce any pollutants into the town's treatment works which will pass through or interfere with the operation or performance of the treatment facilities.

(Code 2003, § 190-120; Ord. of 7-9-2001)

Sec. 34-447. - Restricted discharges.

(a) No person shall discharge or cause to be discharged to any of the town's treatment works any substances, materials, waters, or wastes in such quantities or concentrations which do or are likely to:

(1) Create a fire or explosion hazard in the POTS, including, but not limited to, gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid, or gas, waste stream with a closed cup flashpoint of less than 140 degrees Fahrenheit or 60 degrees Celsius using test methods specified in 40 CFR 261.21;

(2) Cause corrosive damage or hazard to structures, equipment, or personnel of the wastewater facilities, but in no case discharges having a pH lower than 5.0 or greater than 11.0;

(3) Cause obstruction to the flow in sewers, or other interference with the operation of treatment facilities due to accumulation of solid or viscous materials;

(4) Constitute a rate of discharge or substantial deviation from normal rates of discharge (slug discharge), sufficient to cause interference in the operation and performance of the treatment facilities;

(5) Contain heat in amounts which are likely to accelerate the biodegradation of wastes, causing the formation of excessive amounts of hydrogen sulfide in the treatment works or inhibit biological activity in the treatment facilities, but in no case shall the discharge of heat cause the temperature in the town wastewater sewer to exceed 65 degrees Celsius (150 degrees Fahrenheit) or the temperature of the influent to the treatment facilities to exceed 40 degrees Celsius (104 degrees Fahrenheit) unless the facilities can accommodate such heat and the town has obtained prior approval from the approval authority;

(6) Contain more than 100 milligrams per liter of nonbiodegradable oils of mineral or petroleum origin;

(7) Contain floatable oils, fat, or grease;

(8) Contain toxic gases, vapors or fumes, malodorous gas, or substance in quantities that may cause a public nuisance or cause acute human health or safety problems;

(9) Contain radioactive wastes in harmful quantities as defined by applicable state and federal regulations;

(10) Contain any garbage that has not been properly shredded;

(11) Contain any odor or color producing substances exceeding concentration limits which may be established by the town manager for purposes of meeting the town's VPDES permit;

(12) Contain petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin in amounts that will cause interference or pass-through; or

(13) Contain any trucked or hauled pollutants except at designated discharge points.

(b) If, in establishing discharge restrictions, discharge limits, or pretreatment standards pursuant to this article, the town manager establishes concentration limits to be met by a user, the town manager, in lieu of concentration limits, may establish mass limits of comparable stringency for an individual user at the request of such user. Upon approval by the state, such limits should become pretreatment standards.

(Code 2003, § 190-121; Ord. of 7-9-2001)

Sec. 34-448. - Categorical pretreatment standards.

(a) No person shall discharge or cause to be discharged to any treatment works, wastewaters containing substances subject to an applicable categorical pretreatment standard promulgated by the EPA in excess of the quantity prescribed in such applicable pretreatment standards except as otherwise provided in this section. Compliance with such applicable pretreatment standards shall be within three years of the date the standard is promulgated; provided, however, compliance with a categorical pretreatment standard for new sources shall be required upon commencement of discharge to the treatment works.

(b) The town manager shall notify any industrial user affected by the provisions of this section and establish an enforceable compliance schedule for each.

(c) No person shall discharge trucked hazardous wastes to the town's treatment works. Any person who violates this section shall be guilty of a Class B misdemeanor.

(Code 2003, § 190-122; Ord. of 7-9-2001)

Sec. 34-449. - Special agreements.

Nothing in this article shall be construed as preventing any agreement or arrangement between the town and any user of the treatment works and treatment facility whereby wastewater of unusual strength or character (only in terms of BOD and/or suspended solids) is accepted into the system and specially treated subject to additional payments or user charges as may be applicable.

(Code 2003, § 190-123; Ord. of 7-9-2001)

Sec. 34-450. - Water and energy conservation.

The conservation of water and energy shall be encouraged by the town manager. In establishing discharge restrictions upon users, the town manager shall take into account already implemented or planned conservation steps revealed by the user. Upon request of the town manager, each user will provide the town manager with pertinent information showing that the quantities of substances or pollutants have not been and will not be increased as a result of the conservation steps. Upon such a showing to the satisfaction of the town manager, the town manager shall make adjustments to discharge restrictions, which have been based on concentrations to reflect the conservation steps.

(Code 2003, § 190-124; Ord. of 7-9-2001)

Sec. 34-451. - Excessive discharge.

No user shall ever increase the use of process water or, in any way, attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in the federal categorical pretreatment standards, or in any other pollutant-specific limitation developed by the town or the state.

(Code 2003, § 190-125; Ord. of 7-9-2001)

Sec. 34-452. - Accidental discharges (slug load).

(a) Each user shall provide protection from accidental discharge of prohibited materials or other substances regulated by this article. Facilities to prevent accidental discharge of prohibited materials shall be provided and maintained at the owner or user's own cost and expense. Detailed plans showing facilities and operating procedures to provide this protection shall be submitted to the town for review, and shall be approved by the town before construction of the facility. No user who commences contribution to the POTS after the effective date of the ordinance from which this article is derived shall be permitted to introduce pollutants into the system until accidental discharge procedures have been approved by the town. Review and approval of such plans and operating procedures shall not relieve the user from the responsibility to modify the user's facility as necessary to meet the requirements of this article. In the case of an accidental discharge, it is the responsibility of the user to immediately telephone and notify the POTS of the incident. The notification shall include location of discharge, type of waste, concentration and volume, and corrective actions.

(b) Within five days following an accidental discharge, the user shall submit to the town manager a detailed written report describing the cause of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the

treatment works and treatment facility, fish kills, or any other damage to person or property; nor shall such notification relieve the user of any fines, civil penalties, or other liability which may be imposed by this article or other applicable law.

(c) A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees whom to call in the event of a dangerous discharge. Employers shall ensure that all employees who may cause or suffer such a dangerous discharge to occur are advised of the emergency notification procedure.

(Code 2003, § 190-126; Ord. of 7-9-2001)

Secs. 34-453—34-472. - Reserved.

DIVISION 6. - INDUSTRIAL DISCHARGERS

Sec. 34-473. - Information requirements.

(a) All industrial discharges shall file with the town wastewater information deemed necessary by the town manager for determination of compliance with this article, the town's VPDES permit conditions, and state and federal law. Such information shall be provided by completion of a questionnaire designed and supplied by the town and by supplements thereto as may be necessary in the opinion of the town manager. Information requested in the questionnaire and designated by the discharger as confidential is subject to the conditions of confidentiality as set out in subsection (c) of this section.

(b) Where a person owns, operates or occupies properties designated as an industrial discharger at more than one location, separate information submittals shall be made for each location as may be required by the town manager.

(c) Information and data on an industrial user obtained from reports, questionnaires, permit applications, permits, monitoring programs, and inspections shall be available to the public or other governmental agency without restriction unless the user specifically requests and is able to demonstrate to the satisfaction of the town that the release of such information would divulge information, processes, or methods of production entitled to protection as trade secrets of the user. When requested by the person furnishing a report, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public but shall be made available upon written request to governmental agencies for uses related to this article, the Virginia Pollutant Discharge Elimination System (VPDES) permit, state disposal system permit, and/or the pretreatment programs; provided, however, that such portions of a report shall be available for use by the state or any state agency in judicial review or enforcement proceedings involving the person furnishing the report. Wastewater constituents and

characteristics will not be recognized as confidential information. Information accepted by the town as confidential shall not be transmitted to any governmental agency or to the general public by the town until and unless a ten-day notification is given to the user.

(Code 2003, § 190-127; Ord. of 7-9-2001)

Sec. 34-474. - User permits.

(a) All significant industrial users proposing to connect to or to contribute to the treatment works shall obtain a user permit before connecting to or contributing to the treatment works. All existing significant industrial users connected to or contributing to the treatment works shall obtain a user permit within 180 days after the effective date of the ordinance from which this article is derived.

(b) Significant industrial users required to obtain a permit shall complete and file with the town an application in the form prescribed by the town and accompanied by a fee of $150.00. Existing significant industrial users shall apply for a permit within 30 days after the effective date of the ordinance from which this article is derived, and proposed new significant industrial users shall apply at least 90 days prior to connecting to or contributing to the treatment works.

(1) In support of the application, the user shall submit, in units and terms appropriate for evaluation, the following information:

a. Name, address, and location (if different from address).

b. SIC number according to the Standards Industrial Classification Manual, Bureau of the Budget, 1987, as amended.

c. Wastewater constituents and characteristics, including, but not limited to, those mentioned in section 34-447, as determined by a reliable analytical laboratory (sampling and analysis shall be performed in accordance with procedures established by the EPA pursuant to section 304(g) of the Act and contained in 40 CFR pt. 136, as amended).

d. Time and duration of contribution.

e. Average daily and peak wastewater flow rates, including daily, monthly, and seasonal variations, if any.

f. Site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, sewer connections, and appurtenances by the size, location, and elevation.

g. Description of activities, facilities, and plant processes on the premises, including all materials which are or could be discharged.

h. The nature and concentration of any pollutants in the discharge. A statement identifying the applicable pretreatment standards and requirements, and a statement regarding whether or not the pretreatment standards are being met on a consistent basis; and if

not, whether additional operation and maintenance and/or additional pretreatment is required for the user to meet applicable pretreatment standards.

i. If additional pretreatment and/or additional operation and maintenance will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. The following conditions shall apply to this schedule:

1. The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (e.g., hiring an engineer, completing preliminary plans, completing final plans, executing contract for major components, commencing construction, completing construction, etc.).
2. No increment referred to in subsection (b)(1)i.1 of this section shall exceed nine months.
3. Not later than 14 days following each date in the schedule and the final date for compliance, the user shall submit a progress report to the town manager, including, as a minimum, whether or not it complied with the increment of progress to be met on such date and, if not, the date on which it expects to comply with this increment of progress, the reason for delay, and the steps being taken by the user to return the construction to the schedule established. In no event shall more than nine months elapse between such progress reports to the town manager.

j. Each product produced by type, amount, process or processes and rate of production.

k. Type and amount of raw materials processed (average and maximum per day).

l. Number and type of employees, and hours of operation of plant, and proposed or actual hours of operation of pretreatment system.

m. Any other information as may be deemed by the town to be necessary to evaluate the user's permit application.

(2) The town will evaluate the data furnished by the user and may require additional information. After evaluation and acceptance of the data furnished, the town may issue a user permit subject to terms and conditions provided herein.

(c) Within nine months of the promulgation of a national categorical pretreatment standard, the user permit of users subject to such standards shall be revised to require compliance with such standards if they are more restrictive than the local limits developed by the POTS within the timeframe prescribed by such standard. Where a user, subject to a national categorical pretreatment standard, has not previously submitted an application for a user permit as required

by subsection (b) of this section, the user shall apply for a user permit within 180 days after the promulgation of the applicable national categorical pretreatment standard. In addition, the user with an existing user permit shall submit to the town manager within 180 days after the promulgation of an applicable federal categorical pretreatment standard the information required by subsection (b)(1)h and i of this section.

(d) Permit conditions. User permits shall be expressly subject to all provisions of this article and all other applicable regulations, user charges and fees established by the town.

(1) Permits must contain the following:

a. Limits on the average and maximum wastewater constituents and characteristics;

b. Limits on average and maximum rate and time of discharge or requirements for flow regulations and equalization;

c. Requirements for submission of technical reports or discharge reports (see section 34-475);

d. Requirements for maintaining and retaining plant records relating to wastewater discharge as specified by the town, and affording the town access thereto;

e. Requirements for notification of the town for any new introduction of wastewater constituents or any substantial change in volume or character of the wastewater constituents being introduced into the treatment works; and

f. Requirements for immediate notification of slug discharges.

(2) Permits may contain the following:

a. The unit charge or schedule of user charges and fees for the wastewater to be discharged to a community sewer;

b. Requirements for installation and maintenance of inspection and sampling facilities;

c. Specifications for monitoring programs which may include sampling locations, frequency of sampling, number, types and standards for tests, and reporting schedule;

d. Compliance schedules;

e. Other conditions as deemed appropriate by the town to ensure compliance with this article; and

f. Statement of applicable remedies.

(e) User permits shall be issued for a specified time period, not to exceed five years. A permit may be issued for a period less than a year or may be stated to expire on a specific date. The user shall apply for permit reissuance a minimum of 180 days prior to the expiration of the user's existing permit. The terms and conditions of the permit may be subject to modification by the town during the term of the permit as limitations or requirements as identified in this section are

modified or other must cause exists. The user shall be informed of any proposed changes in the permit of said user at least 30 days prior to the effective date of change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.

(f) User permits are issued to a specific user for a specific operation. A user permit shall not be reassigned or transferred or sold by the user to a new owner, new user, different premises, or a new or changed operation without the approval of the town. Any succeeding owner or user shall also comply with the terms and conditions of the existing permit in the interim prior to the issuance of the respective new permit.

(Code 2003, § 190-128; Ord. of 7-9-2001)

Sec. 34-475. - Reporting requirements for permittee.

(a) Within 90 days following the date for final compliance with applicable pretreatment standards or, in the case of a new source, following commencement of the introduction of wastewater into the wastewater treatment facilities, any user subject to pretreatment standards and requirements shall submit to the town manager a report indicating the nature and concentration of all pollutants in the discharge from the regulated process which are limited by pretreatment standards and requirements and the average and maximum daily flow for these process units in the user's facility which are limited by such pretreatment standards or requirements. The report shall state whether the applicable pretreatment standards or requirements are being met on a consistent basis and, if not, what additional operation and maintenance and/or pretreatment is necessary to bring the user into compliance with the applicable pretreatment standards or requirements. In addition, the report shall contain the results of any sampling and analysis of the discharge as specified in subsection (c) of this section. This statement shall be signed by an authorized representative of the user and certified to by a qualified professional.

(b) Any user subject to a pretreatment standard, after the compliance date of such pretreatment standard, or, in the case of such pretreatment standard, or, in the case of a new source, after commencement of the discharge into the treatment works, shall submit to the town manager during the months of June and December, unless required more frequently in the pretreatment standard or by the town manager, a report indicating the nature and concentration of pollutants in the effluent which are limited by such pretreatment standards. In addition, this report shall include a record of all daily flows which during the reporting period exceeded the average daily flow reported. At the discretion of the town manager and in consideration of such factors as local high or low flow rates, holidays, budget cycles, etc., the town manager may agree to alter the months during which such reports are to be submitted.

(c) The town manager may impose mass limitations on users which are using dilution to meet applicable pretreatment standards or requirements, or in other cases where the imposition of mass limitations are appropriate. In such cases, the report required by subsection (b) of this

section shall indicate the mass of pollutants regulated by pretreatment standards in the effluent of the user. These reports shall contain the results of sampling and analysis of the discharge, including the flow and the nature and concentration, or production and mass where requested by the town manager, of pollutants contained therein which are limited by the applicable pretreatment standards. The frequency of monitoring shall be prescribed in the permit. All analysis shall be performed in accordance with procedures established by the EPA pursuant to section 304(g) of the Act and contained in 40 CFR pt. 136 and amendments thereto or with any other test procedures approved by the EPA. Sampling shall be performed in accordance with the techniques approved by the EPA. All samples analyzed by this method should be reported. (Comment: Where 40 CFR pt. 136 does not include a sampling or analytical technique for the pollutant in question, sampling and analysis shall be performed in accordance with sampling and analytical procedures approved by the EPA.)

(Code 2003, § 190-129; Ord. of 7-9-2001)

Sec. 34-476. - Provision for monitoring.

(a) When required by the town manager, the owner of any property serviced by a building sewer carrying Class II wastewater discharges shall provide suitable access and such necessary meters and other devices in the building sewer to facilitate observation, sampling, and measurement of the wastewater. Such access shall be in a readily and safely accessible location and shall be provided in accordance with plans approved by the town manager. The access shall be provided and maintained at the owner's expense so as to be safe and accessible at reasonable times.

(b) The town manager shall consider such factors as the volume and strength of discharge, rate of discharge, quantities of toxic materials in the discharge, treatment facility removal capabilities, and cost effectiveness in determining whether or not access and equipment for monitoring Class II wastewater discharges shall be required.

(c) Where the town manager determines access and equipment for monitoring or measuring Class II wastewater discharges is not practicable, reliable, or cost effective, the town manager may specify alternative methods of determining the characteristics of the wastewaters discharge which will, in the town manager's judgment, provide a reasonably reliable measurement of such characteristics.

(d) Measurements, tests, and analyses of the characteristics of wastewater required by this article shall conform to 40 CFR pt. 136 and be performed by a qualified laboratory. When such analyses are required of a discharger, the discharger may, in lieu of using the town's laboratory, make arrangements with any qualified laboratory, including that of the discharger, to perform such analyses.

(e)

Fees for any given measurement, test, or analysis of wastewater required by this article and performed by the town shall be the same for all classes of dischargers, regardless of the quantity or quality of the discharge and shall reflect only direct cost. Costs of analyses performed by an independent laboratory at the option of discharger shall be borne directly by the discharger.

(Code 2003, § 190-130; Ord. of 7-9-2001)

Sec. 34-477. - Costs of damage.

If the drainage or discharge from any establishment causes a deposit, obstruction, or damage to any of the town's treatment system or treatment facility, the town manager shall cause the deposit or obstruction to be promptly removed or cause the damage to be promptly repaired. The cost for such work, including materials, labor, and supervision shall be borne by the person causing such deposit, obstruction, or damage.

(Code 2003, § 190-131; Ord. of 7-9-2001)

Secs. 34-478—34-507. - Reserved.

DIVISION 7. - PRETREATMENT

Sec. 34-508. - Wastewaters with special characteristics.

(a) While the town manager should initially rely upon the federal categorical pretreatment standards to protect wastewater facilities or receiving waters, if any wastewater which contains substances or possesses characteristics shown to have deleterious effect upon the treatment works or treatment facilities, processes, equipment, or receiving waters, or constitutes a public nuisance or hazard, is discharged or is proposed for discharge to the wastewater sewers, the town manager may require any or all of the following:

(1) Pretreatment by the user or discharger to a condition acceptable for discharge to the treatment works;

(2) Control over the quantities and rates of discharge;

(3) The development of compliance schedules to meet any applicable pretreatment requirements;

(4) The submission of reports necessary to ensure compliance with applicable pretreatment requirements;

(5) Carry out all inspection, surveillance, and monitoring necessary to determine compliance with applicable pretreatment requirements;

(6)

Obtain remedies for noncompliance by any user. Such remedies may include injunctive relief, the penalties specified in division 9 of this article, or appropriate criminal penalties; or

(7) Reject the wastewater if evidence discloses that discharge will create unreasonable hazards or have unreasonable deleterious effects on the treatment works or treatment facilities.

(b) When considering the alternatives listed in subsection (a) of this section, the town manager shall ensure that conditions of the town's permit are met. The town manager shall also take into consideration cost effectiveness, the economic impact of the alternatives, and the willful noncompliance of the discharger. If the town manager allows the pretreatment or equalization of wastewater flows, the installation of the necessary facilities shall be subject to review. The town manager shall review and recommend any appropriate changes to the program within 30 days of submittal.

(c) Where pretreatment or flow-equalizing facilities are provided or required for any wastewater, they shall be maintained continuously in satisfactory and effective operation at the expense of the owner.

(Code 2003, § 190-132; Ord. of 7-9-2001)

Sec. 34-509. - Compliance with pretreatment requirements.

Persons required to pretreat wastewater in accordance with section 34-508 shall provide a statement reviewed by an authorized representative of the user and certified by such representative indicating whether applicable pretreatment requirements are being met on a consistent basis and, if not, describe the additional operation and maintenance or additional pretreatment required for the user to meet the pretreatment requirements. If additional pretreatment or operation and maintenance will be required to meet the pretreatment requirements, the user shall submit a plan (including schedules) to the town manager as described in section 34-474(b)(1)i. The plan (including schedules) shall be consistent with applicable conditions of the town's permit or other local, state, or federal laws.

(Code 2003, § 190-133; Ord. of 7-9-2001)

Sec. 34-510. - Monitoring requirements.

Discharges of wastewater to the town's treatment works from the facilities of any user shall be monitored in accordance with the provisions of the user's permit.

(Code 2003, § 190-134; Ord. of 7-9-2001)

Sec. 34-511. - Effect of federal law.

In the event that the federal government promulgates a regulation for a given new or existing user in a specific industrial subcategory that establishes pretreatment standards or establishes that such user is exempt from pretreatment standards, such federal regulations shall immediately supersede section 34-508(a) if they are more stringent.

(Code 2003, § 190-135; Ord. of 7-9-2001)

Sec. 34-512. - Certification.

All reports and permit applications must be signed by the industrial user's authorized representative and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis and, if not, whether additional operation and maintenance and/or additional pretreatment is required to meet the pretreatment standards and requirements.

(Code 2003, § 190-136; Ord. of 7-9-2001)

Secs. 34-513—34-532. - Reserved.

DIVISION 8. - WASTEWATER SERVICE CHARGES AND INDUSTRIAL COST RECOVERY

Sec. 34-533. - Public treatments works; charges and fees.

Charges and fees for the use of the public treatment works and treatment facility shall be based upon the actual use of such system, or contractual obligations for a level of use in excess of current actual use. Property value may be used to collect the amount due as permitted by law.

(Code 2003, § 190-137; Ord. of 7-9-2001)

Sec. 34-534. - Assessment of industrial cost recovery.

Users of the town's treatment works and treatment facilities shall also be assessed industrial cost recovery charges as required by law.

(Code 2003, § 190-138; Ord. of 7-9-2001)

Sec. 34-535. - Determination of system use.

(a) The use of the town's treatment works and treatment facilities shall be based upon actual measurement and analysis of each user's wastewater discharge, in accordance with provisions of section 34-476 to the extent such measurement and analysis is considered by the town manager

to be feasible and cost effective.

(b) Where measurement and analysis is considered not feasible, determination of each user's use of the treatment works and treatment facilities shall be based upon the quantity of water used whether purchased from a public water utility or obtained from a private source, or an alternative means as provided by subsection (c) of this section.

(c) The town manager, when determining actual use of the town's treatment works and treatment facilities based on water use, shall consider consumptive, evaporative, or other use of water which results in a significant difference between a discharger's water use and wastewater discharge. Where appropriate, such consumptive water use may be metered to aid in determining actual use of the treatment works and treatment facilities. The meters used to measure such water uses shall be of a type and installed in a manner approved by the town manager.

(Code 2003, § 190-139; Ord. of 7-9-2001)

Secs. 34-536—34-563. - Reserved.

DIVISION 9. - ENFORCEMENT

Sec. 34-564. - Administrative enforcement remedies.

(a) *Notification of violation.* When the pretreatment coordinator finds that a user has violated, or continues to violate, any provision of this article, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the pretreatment coordinator may serve upon that user a written notice of violation. Within 14 days of the receipt of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted by the user to the pretreatment coordinator. Submission of this plan in no way relieves the user of liability for any violations occurring before or after receipt of the notice of violation. Nothing in this section shall limit the authority of the pretreatment coordinator to take any action, including emergency actions or any other enforcement action, without first issuing a notice of violation.

(b) *Consent orders.* The pretreatment coordinator may enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with any user responsible for noncompliance. Such documents will include specific action to be taken by the user to correct the noncompliance within a time period specified by the document. Such documents shall have the same force and effect as the administrative orders issued pursuant to subsections (d) and (e) of this section and shall be judicially enforceable.

(c)

Show cause hearing. The pretreatment coordinator may order a user which has violated, or continues to violate, any provision of this article, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, to appear before the pretreatment coordinator and show cause why the proposed enforcement action should not be taken. Notice shall be served on the user specifying the time and place for the meeting and shall be served personally or by registered or certified mail (return receipt requested) at least 14 days prior to the hearing. Such notice may be served on any authorized representative of the user. A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the user.

(d) *Compliance order.* When the pretreatment coordinator finds that a user has violated, or continues to violate, any provision of this article, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the pretreatment coordinator may issue an order to the user responsible for the discharge directing that the user come into compliance within a specified time. If the user does not come into compliance within the time provided, sewer service may be discontinued unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated. Compliance orders also may contain other requirements to address the noncompliance, including additional self-monitoring and management practices designed to minimize the amount of pollutants discharged to the sewer. A compliance order may not extend the deadline for compliance established for a pretreatment standard or requirement, nor does a compliance order relieve the user of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking any other action against the user.

(e) *Cease and desist orders.*

(1) When the pretreatment coordinator finds that a user has violated, or continues to violate, any provision of this article, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, or that the user's past violations are likely to recur, the pretreatment coordinator may issue an order to the user directing it to cease and desist all such violations and directing the user to:

a. Immediately comply with all requirements; and

b. Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge.

(2) Issuance of a cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the user.

(f) *Emergency suspensions.* The pretreatment coordinator may immediately suspend a user's discharge permit, after informal notice to the user, whenever such suspension is necessary to stop an actual or threatened discharge which reasonably appears to present or cause an

imminent or substantial endangerment to the health or welfare of persons. The pretreatment coordinator may also immediately suspend a user's discharge, after notice and opportunity to respond, that threatens to interfere with the operation of the POTS, or which present, or may present, an endangerment to the environment.

(1) Any user notified of a suspension of its discharge shall immediately stop or eliminate its contribution. In the event of a user's failure to immediately comply voluntarily with the suspension order, the pretreatment coordinator may take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTS, its receiving stream or endangerment to any individuals. The pretreatment coordinator may allow the user to recommence its discharge when the user has demonstrated to the satisfaction of the pretreatment coordinator that the period of endangerment has passed, unless the termination proceedings in subsection (g) of this section are initiated against the user.

(2) A user that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful contribution and the measures taken to prevent any future occurrence, to the pretreatment coordinator prior to the date of any show cause or termination hearing under subsections (c) and (g) of this section. Nothing in this section shall be interpreted as requiring a hearing prior to any emergency suspension under this section. The pretreatment coordinator shall provide the user an opportunity to be heard on any proposed emergency suspension, if practicable under the circumstances.

(g) *Termination of discharge.*

(1) Any user who violates the following conditions is subject to discharge termination:

a. Violation of wastewater discharge permit conditions;

b. Failure to accurately report the wastewater constituents and characteristics of its discharge;

c. Failure to report significant changes in operations or wastewater volume, constituents and characteristics of its discharge;

d. Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring, or sampling; or

e. Violation of the pretreatment standards in section 34-448.

(2) Such user will be notified of the proposed termination of its discharge and be offered an opportunity to show cause under subsection (c) of this section why the proposed action should not be taken. Exercise of this option by the pretreatment coordinator shall not be a bar to, or a prerequisite for, taking any other action against the user.

(Code 2003, § 190-140; Ord. of 7-9-2001)

Sec. 34-565. - Judicial enforcement remedies.

(a) *Injunctive relief.* When the pretreatment coordinator finds that a user has violated, or continues to violate, any provision of this article, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, the pretreatment coordinator may petition the circuit court of the County of Amherst, Virginia or other court of competent jurisdiction through the town attorney for the issuance of a temporary or permanent injection, as appropriate, which restrains or compels the specific performance of the wastewater discharge permit, order, or other requirement imposed by this article on activities of the user. The pretreatment coordinator may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the user to conduct environmental remediation. A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against a user.

(b) *Civil penalties.*

(1) A user who has violated, or continues to violate, any provision of this article, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement shall be liable to the town for a maximum civil penalty of $2,500.00 per violation, per day. In the case of a monthly or other long-term average discharge limit, penalties shall accrue for each day during the period of the violation.

(2) The pretreatment coordinator may recover reasonable attorneys' fees, court costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred by the town.

(3) In determining the amount of civil liability, the court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration of the violation, any economic benefit gained through the user's violation, corrective actions by the user, the compliance history of the user, and any other factor as justice requires.

(4) Filing a suit for civil penalties shall not be a bar against, or a prerequisite for, taking any other action against a user.

(Code 2003, § 190-141; Ord. of 7-9-2001)

Sec. 34-566. - Criminal prosecution.

(a) A user who willfully or negligently violates any provision of this article, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement shall, upon conviction, be guilty of a misdemeanor, punishable by a fine of not more than $2,500.00 per violation, per day, or imprisonment for not more than 12 months, or both.

(b) A user who willfully or negligently introduces any substances into the POTS which causes personal injury or property damage shall, upon conviction, be guilty of a misdemeanor punishable by a fine of not more than $2,500.00 per violation, per day, or imprisonment for not more than 12 months, or both. This penalty shall be in addition to any other cause of action for personal injury or property damage available under state law.

(c) A user who knowingly makes any false statements, representations, or certifications, in any application, records, report, plan, or other documentation filed, or required to be maintained, pursuant to this article, wastewater discharge permit, or order issued hereunder, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this article shall, upon conviction, be punished by a find of not more than $2,500.00 per violation, per day, or imprisonment for not more than 12 months, or both.

(Code 2003, § 190-142; Ord. of 7-9-2001)

Sec. 34-567. - Remedies nonexclusive.

The remedies provided for in this article are not exclusive. The pretreatment coordinator may take any, all or any combination of these actions against any user than is not in compliance. Enforcement of pretreatment violations will generally be in accordance with the town's enforcement response plan, where such a plan has been approved. However, the pretreatment coordinator may take other action against any user when the circumstances warrant. Further, the pretreatment coordinator is empowered to take more than one enforcement action against any user not in compliance with this article.

(Code 2003, § 190-143; Ord. of 7-9-2001)

Sec. 34-568. - Supplemental enforcement action.

(a) *Performance bonds.* If any user has failed to comply with any provision of this article, a previous wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, the pretreatment coordinator may require such user to file a satisfactory secured bond, payable to the town, in a sum not to exceed a value determined by the pretreatment coordinator to be necessary to achieve a consistent compliance.

(b) *Liability insurance.* If any user has failed to comply with any provision of this article, a previous wastewater discharge permit, or order issued here under or any other pretreatment standard or requirement, the pretreatment coordinator may require that the user, prior to issuing or reissuing a discharge permit, first submit proof that it has obtained financial assurances sufficient to restore or repair damage to the POTS caused by its discharge.

(c) *Water supply severance.* Whenever a user has violated or continues to violate any provision of this article, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, water service to the user may be severed. Service will only

recommence, at the user's expense, after it has satisfactorily demonstrated its ability to comply.

(Code 2003, § 190-144; Ord. of 7-9-2001)

Chapter 36 - ZONING

Footnotes:

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Federal law references—Preservation of local zoning authority concerning wireless telecommunications facilities, 47 USC 332(c)(7); limited federal preemption of state and local zoning laws affecting amateur radio facilities, Memorandum Opinion and Order, PRB-1, 101 FCC 2d 952 (1985) and 47 CFR 97.15(b); Religious Land Use and Institutionalized Persons Act, 42 USC 2000cc et seq.

***State Law reference—** Notice of planning or zoning matters, Code of Virginia, § 15.2-2205; local zoning powers, Code of Virginia, §§ 15.2-2280 and 15.2-2281; miscellaneous provisions relating to planning, subdivision of land and zoning, Code of Virginia, § 15.2-2208 et seq.*

ARTICLE I. - IN GENERAL

Sec. 36-1. - 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:

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.

Address sign means a sign displaying only the assigned address of a property or building that is attached to a building or sign structure or part thereof. An address sign shall not be included in the maximum permissible sign area of the district in which it is located.

Administrator means the official charged with the enforcement of this chapter. The administrator may be any appointed or elected official who is by formal resolution designated to the position by the council. The administrator may serve with or without compensation as determined by the governing body.

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

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

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 for which it would not be economically practical to make operative, are placed, located or found. The movement or rearrangement of vehicles within an existing lot or facility does not render this definition inapplicable.

Awning means a permanent roof-like structure that projects from the wall of a building, covered with any material designed and intended for protection from the weather or as a decorative embellishment, including those types which can be retraced, folded, or collapsed against the face of the supporting building.

Banner means a sign consisting of a piece of fabric or other durable material, other than a flag or pennant, used to advertise a business, service, product, goods, special promotion, activity or event.

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.

Bed and breakfast means a dwelling, occupied as such, in which sleeping accommodations in less than six rooms with not more than four persons per room are provided or offered for transient guests for compensation, under the management of the occupants of that dwelling for dwelling purposes. A tourist home or bed and breakfast shall not be deemed a home occupation.

Billboard means any exterior sign or advertising structure or portion thereof, including any sign painted directly on any exterior wall, roof, or part of a building or other object, displaying any information other than the name and occupation of the user of the premises or the nature of the business conducted thereon or the products sold, manufactured, processed or available thereon.

Boardinghouse means a dwelling where, for compensation, lodging and meals are provided for up to 14 persons, and where there are adequate bathroom facilities.

Buffer means an area of land, including natural vegetation, evergreen landscaping, fencing or a combination of fencing, earthen berms and landscaping.

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, to the deckline 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.

Building-mounted sign means a permanently attached sign erected or painted on the outside wall, window, or door of a building.

Caliper means trunk diameter measured six inches from the ground. If the caliper is greater than four inches, the measurement shall be taken 12 inches from the ground.

Capon means a neutered male chicken.

Capped means the placement of a landscape island so that each end of a parking bay or parking row has a landscape island at each end.

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

Changeable copy sign means a sign, or part of a sign, with copy that can be changed by manual, mechanical, or electronic means. Copy shall not change more than once every eight seconds on any sign.

Chicken means a domestic fowl.

Chicken enclosure means a fenced or wired area, in addition to a coop, that provides chickens with a predator-resistant, outside space.

Cinderblock, unadorned, means a concrete masonry block lacking decorative embellishments on the face side.



Cinderblock, Unadorned

Club or *lodge* means a group of people associated for a common purpose, which meets regularly and is nonprofit, or the local chapter or hall of a fraternal organization.

Commission means the planning commission of the town.

Community event means a religious, fraternal, social, cultural, historic, recreational, educational or other event that is generally open to the public and serves significant segments of the community.

Construction sign means a temporary sign that notifies the public of a specific building or development under construction or reconstruction or to be constructed or reconstructed within the next three months. The sign may also identify the architect, contractor, subcontractor and/or material supplier participating in construction on the property on which the sign is located.

Coop means a building or enclosed structure that houses chickens and provides shelter from the elements and from predators.

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

Decorative fencing means fencing such as wrought iron, split rail, wood board, aluminum or masonry or the equivalent as determined by the zoning administrator. Chainlink fence or unadorned cinderblock shall not be considered decorative fencing.

Directional sign means an on-premises sign whose message is exclusively limited to guiding the circulation of pedestrian or vehicular traffic, such as "enter," "exit," or "one-way."

District. The term "district" has the same meaning as such term is referred to in Code of Virginia, § 15.2-2280.

Dwelling means any structure which is designed for use for residential purposes, except hotels, boardinghouses, lodginghouses, tourist cabins, automobile trailers, motels, roominghouses, mobile homes, and manufactured homes.

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

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

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

Evergreen tree means a tree that grows to a mature height of at least 20 feet and has foliage that persists and stays green throughout the year.

Family means one or more persons occupying a dwelling unit as a single nonprofit housekeeping unit, who are living together as a bona fide, stable and committed living unit, being a traditional family unit or the functional equivalent thereof, exhibiting the generic character of a traditional family.

Flag means any fabric or any other material attached to or designed to be flown from a flagpole or similar device.

Flagpole means a freestanding structure or a structure attached to a building or the roof of a building for the sole purpose of displaying flags.

Flashing sign means a sign which involves motion or rotation of any part of the structure, moving reflective disks, running animation, or displays an intermittent light. Signs which display an on-premises message changed by electronic means or remote control, programmed or sequenced to change no more than once every six seconds, shall not be considered a flashing sign.

Freestanding sign means a non-movable sign supported by structures or supports in or upon the ground and not attached to a building.

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 closer to the street upon which the lot fronts than the building setback line, as defined and required in 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 1½ 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-driven vehicles.

Graphic means any logo, emblem, insignia, or text, formed by writing, drawing, painting or engraving.

Ground cover means any evergreen or broadleaf plant that does not generally attain a mature height of more than one foot, characterized by a growth habit in which the plant spreads across the ground to connect with other similar plants forming a continuous vegetative cover on the ground. Sod and seeding shall be considered an appropriate ground cover.

Height of sign means the distance to the topmost extent of the sign structure when measured from and perpendicular to the elevation of the edge of pavement of the closest adjacent roadway on which the sign is located.

Hen means a female chicken.

Historical area means as indicated on the zoning map to which the provisions of this chapter apply for protection of an historical heritage.

Home garden means a garden in a residential district for the production of vegetables, fruits and flowers generally for use and/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 and employing no one other than members of the family residing on the premises, such as the rental of rooms to tourists, the preparation of food products for sale and similar activities, and professional offices such as medical, dental, legal, engineering and architectural conducted within a dwelling by the occupant.

Home occupation sign means a sign not exceeding two square feet in area and three feet in height which directs attention to a product, commodity or service available on the premises, but which commodity or service is clearly 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 facilities for the mentally ill or those addicted to drugs or alcohol.

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

Identification sign means a sign which is permanently attached to or painted on a building and contains only the building name (example: the "Court Street Professional Building"). Identification signs shall not be included in the maximum permissible sign area of the district in which they are located.

Illuminated sign means a sign with an artificial light source incorporated internally or externally for the purpose of illuminating the sign.

Inflatable item means any item that is capable of being expanded by air, water or other means that exceeds 24 inches in diameter used to advertise a business, service, product, good, special promotion, activity or event.

Inoperable, junk or scrap motor vehicle means a motor vehicle whose condition is such that it is economically impractical to make it operative, or which creates a nuisance or a safety or health hazard.

Junkyard means an establishment or place of business which is maintained, operated or used for storing, keeping, buying or selling junk, or for the maintenance or operation of an automobile graveyard. The term "junkyard" includes garbage dumps and sanitary fills.

Kennel means a place prepared to house, board, breed, handle or otherwise keep or care for dogs for sale or in return for compensation.

Landscape island means an area containing required landscaping and not less than 162 square feet for a parking row and 324 square feet for a parking bay.

Logo means any emblem used as a symbol of an organization or residential or nonresidential community. A logo may include a graphic, text, or both.

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 widths and lot areas as are required by this chapter, and 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 of record means a lot which has been recorded in the clerk's office of the circuit court.

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

Manufactured home means a structure subject to federal regulation which is transportable in one or more sections; is eight body feet or more in width and 40 body feet or more in length in the traveling mode, or is 320 or more square feet when erected on site; is built on a permanent chassis; and is designed to be used as a single-family dwelling, with or without a permanent foundation, when connected to the required utilities. The term "manufactured home" includes the plumbing, heating, air conditioning and electrical systems contained in the structure.

Manufacture, manufacturing means the processing and/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 unit originally designed as a living unit and also designed for transportation, after fabrication, on streets and highways on its own wheels or on a flatbed or other trailer and 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 operation, location of jacks or permanent foundations, connection to utilities and the like. The term "mobile home" does not include travel trailers nor does it necessarily include modular housing.

Mobile home lot means a parcel of land within the boundaries of a mobile home park provided for the placement of a single-wide or double-wide mobile home and the exclusive use of its occupants.

Mobile home park means any area of five acres or more designed to accommodate 25 or more mobile homes intended for immediate residential use where residence is in mobile homes exclusively. The term "mobile home park" may include a rental office, but may not include mobile home sales.

Mobile home, double-wide, means a mobile home built in two sections on a permanent or removable chassis, and when erected on site, has its tongue, wheels and axles removed; is affixed to a permanent perimeter foundation or skirt; is attached to public water and sewer as required by this Code; and must meet all other requirements of a single-family dwelling.

Modified sign means a sign that is allowed to deviate from the standards set forth in this chapter pursuant to a conditional use permit issued by the council.

Monument sign means a permanent structure built on grade in which the sign and the structure are an integral part of one another, not a pole- or pylon-mounted sign.

Mulch means a protective covering, usually of organic matter, placed around plants to prevent evaporation, root freezing and weed growth.

Mural means a painting fresco or mosaic applied to a wall for the sole purposes of decoration or artistic expression. A mural is not considered a sign unless it includes words or graphics that advertise the products or service of any entity.

Neon tubing means a vacuum-tight transparent tube, not exceeding one inch in diameter, containing, but not limited to, neon, argon, helium, xenon, or krypton that produces light when connected to an electrical current.

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 on April 23, 1969, or as a result of subsequent amendments to this chapter.

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 on April 23, 1969, or as a result of subsequent amendments to this chapter.

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 on April 23, 1969, or as a result of subsequent amendments to this chapter.

Off-site directional sign means a sign that directs traffic to a site other than the site on which the sign is located.

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

Opinion sign means a sign which does not advertise products, goods, businesses, or services and which expresses an opinion or other point of view.

Ornamental tree means a deciduous tree that grows to a mature height of less than 30 feet with flowering or other distinguishing characteristics.

Parapet wall means a wall that extends above the top of a flat roof or flat portion of a roof.

Parking bay means two parking rows abutting one another.

Parking row means one single line of parking spaces.

Pennant means any lightweight plastic, fabric or other similar material, whether or not containing copy suspended from a rope, wire, or string, usually in series and designed to move in the wind.

Permanent sign means any sign attached to the ground or any structure, intended to exist for the life of the structure or use and which cannot be removed without involving any structural or support changes.

Pole-mounted sign means a sign which is mounted on one freestanding pole or similar support.

Political sign means a temporary sign promoting the candidacy of a person running for a governmental office or promoting a position on an issue to be voted on at a government election.

Portable sign means a sign which is movable without involving any structural or support changes and which is not permanently attached to the ground or a structure or which is not an integral part of a building to which it is accessory. The term "portable sign" includes, but is not limited to, an A-frame sign, a sign attached to or placed on a vehicle, which is used primarily for the purpose of display, and similar devices used to attract attention. The term "portable sign" does not include bumper stickers or identification signs directly applied to or painted on vehicles identifying the owner of the vehicle, a business name, logo or emblem.

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

Projecting sign means a sign which is attached to and projects at an angle and extends more than 15 inches from the face of the wall of a building.

Public water and sewer system 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 council and properly licensed by the state corporation commission, and subject to special regulations as set forth in this chapter.

Pylon sign means a sign which is mounted on two freestanding poles or similar supports.

Real estate sign means a temporary sign used to offer property for sale, lease, rent and/or development or to advertise an open house.

Redevelop means to materially alter the existing use or condition of a property. Routine repairs and maintenance shall not be considered redevelopment.

Refacing means the replacement of a sign face, regardless of change in copy, of equal size to the original, without altering the sign box, sign frame or sign structure.

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, tea rooms, confectionery shops or refreshment stands.

Restaurant, drive-in, means an establishment from which, for compensation, food or beverages are dispensed for consumption within automobiles or informal facilities on the premises.

Retail stores and shops means buildings for the display and sale of merchandise at retail or for the rendering of personal services (but specifically exclusive of coal, wood, and lumberyards), such as the following, which will serve as illustration:

(1) Drugstores;

(2) Newsstands;

(3) Food stores;

(4) Candy shops;

(5) Milk dispensaries;

(6) Dry goods and notions stores;

(7) Antique stores and gift shops;

(8) Hardware stores;

(9) Household appliance stores;

(10) Furniture stores;

(11) Florists;

(12) Opticians;

(13) Music and radio stores;

(14) Tailor shops;

(15) Barbershops; and

(16) Beauty shops.

Riprap means a permanent, large, loose angular stone generally used for erosion and sediment control in concentrated high-velocity flow areas.

Road frontage means the number of linear feet of a property which front on a public street, private street or internal access road.

Roof sign means a sign installed or constructed upon or above a roof.

Sandwich board means a temporary sign used to inform the public of the list of entrees, dishes, foods, entertainment or products available in a business.

Screening means a method of visually shielding or obscuring items such as a structure, receptacle, parking area, equipment or stormwater management pond with densely planted landscaping, or a combination of landscaping, berms, solid fences and/or walls.

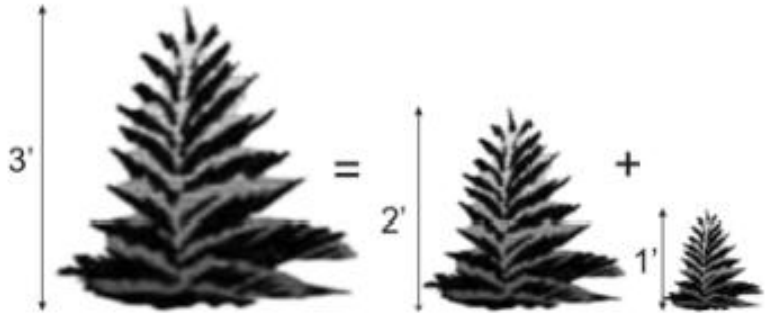
Setback means the minimum distance by which any building or structure shall be separated from the front lot line.

Shade tree means a deciduous tree that grows to be more than 30 feet at maturity and that is planted chiefly to provide shade from sunlight.

Short-term rental means the primary, accessory or secondary use of a residential dwelling unit or a portion thereof by the owner or a host to provide room or space that is intended to be occupied for a period of fewer than 30 consecutive days.

Shrub means a woody plant, deciduous or evergreen, that generally exhibits several erect, spreading stems with a bushy appearance and that grows to a height of no more than 15 feet.

Shrub equivalent means the substitution of lesser-height shrubs in greater numbers for one taller shrub. Shrub equivalents shall be permitted only where specifically provided within this chapter, and the total combined height of the lesser-height shrubs shall be equal to the height of the one taller shrub for which they are substituted.

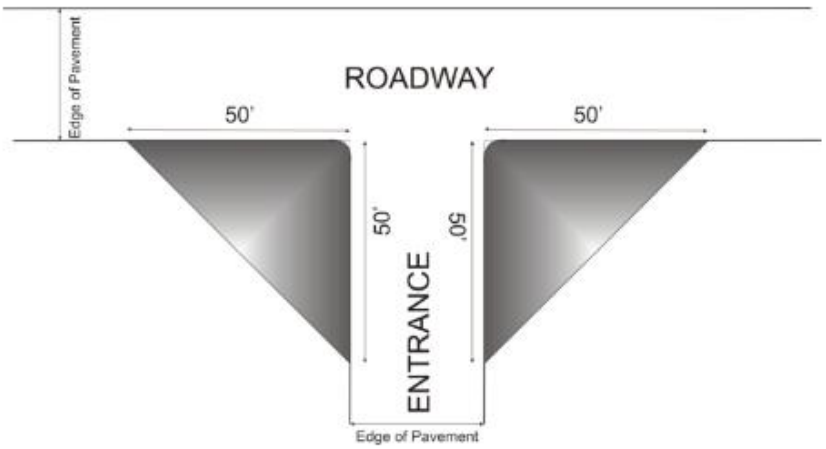


One three-foot shrub = One two-foot shrub + One one-foot shrub



One three-foot shrub = Three one-foot shrubs

Sight distance triangle means a triangular-shaped area located on both sides of the intersection of a driveway with a public roadway, designed and maintained to allow for a clear line of sight, and being a straight line with unobstructed view measured 50 feet along the edge of pavement lines from their points of junction and being three feet above the pavement edge.



Sight Distance Triangle

Sign means any writing (including letter, work or numeral), pictorial representation (including illustration or decoration), emblem (including device, symbol, logo, or trademark) or any other figure or graphic of similar character for the purpose of communicating information to the public which is:

(1) Attached to a structure, painted on or in any other manner represented on a building, other structures or natural object;

(2) Used to announce, direct attention to, or advertise;

(3) Visible from the outside of a building; a sign shall include writing, pictorial representation, emblem or any other figure of similar character within a building when located less than 12 inches away from the inside face of an exterior windowpane, and located less than 12 inches away from the inside of an exterior window pane; and

(4) Accessory to the permitted uses in the zoning district.

Sign base means the area below any writing, pictorial representation, emblem or any other figure of similar character on a sign face. The term "sign base" includes solid bases, poles, supports, uprights, skirts and/or enclosures.

Sign box means a structure that encloses the sign face and any internal illumination.

Sign face means the area or display surface used for the message, not including the sign frame or sign structure.

Sign frame means the enclosure and/or embellishment that surrounds the sign face.

Sign structure means an assembly of material used to support a sign face and/or sign frame.

Slope means any area of land where the surface deviates from the horizontal.

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, then the space between the floor and the ceiling next above it.

Streamer means any long narrow strip of cloth, paper, plastic or other material.

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

Street line means the dividing line between a street or road right-of-way and the contiguous 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. The term "structure" includes, among other things, dwellings, buildings, signs, etc.

Surface area means the entire aggregate area within a single continuous perimeter including the extreme limits of writing, pictorial representation, emblem, figure, graphic, or any figure of similar character. The sign base, box, frame, and/or structure shall not be considered the surface area of a sign unless there is writing or internal illumination on such sign components.

Temporary sign means a sign designed or intended to be displayed for a limited period of time as indicated in this chapter.

Topping means an inappropriate practice of making heading cuts through a stem more than two years old that drastically reduces tree height, destroys tree architecture and results in discoloration, decay of the cut stem, or death of the tree.

Tourist court, auto court, motel, autel, cabins, or *motor lodge* means one or more buildings containing individual sleeping rooms designed for or used temporarily by automobile tourists or transients, with 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 which is open to transients.

Travel trailer means a vehicle designed to provide temporary living quarters of such size or weight as not to require special highway movement permits when towed by a motor vehicle and having a gross trailer area less than 320 square feet. (See Code of Virginia, § 46.2-1900.)

Unified and coordinated building-mounted signs means signs that are similar in construction technique, but not including font or color.

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

Variance means a reasonable deviation from those provisions regulating the size or area of a lot or parcel of land, or the size, area, bulk or location of a building or structure when the strict application of this chapter would result in unnecessary or unreasonable hardship to the property owner, and such need for a variance would not be shared generally by other properties, and provided such variance is not contrary to the intended spirit and purpose of this chapter, and would result in substantial justice being done. The term "variance" does not include a change in use which change shall be accomplished by a rezoning or by a conditional zoning.

Village home means single-family residences distinguished by smaller area regulations. This type of residence is only allowed in the R-2 designated district, requires the specific landscaping or architectural treatment set forth in this section and a special use permit. The standards contained herein are designed to reduce noise transmission between residences, reduce visual intrusion and decrease the impact of smaller area requirements on adjacent properties.

V-type sign means the placement of sign frames that would result in an angle between the sign frames. The term "v-type sign" does not apply to monument signs placed on corner lots.

Window sign means a sign attached to, applied directly to, or located within 12 inches from a door or window.

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

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 and extending across the full width of the lot.

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.

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

(Code 2003, § 195-1; Ord. of 8-12-2013; Ord. of 5-13-2019; Ord. of 6-14-2021; Ord. of 3-29-2022(1), § 1)

Sec. 36-2. - Purpose.

This chapter has been designed to:

(1) Provide for adequate light, air, convenience of access, and safety from fire, flood, crime and other dangers;

(2) Reduce or prevent congestion in the public streets;

(3) Facilitate the creation of a convenient, attractive and harmonious community;

(4) Facilitate the provision of adequate police and fire protection, disaster evacuation, civil defense, transportation, water, sewerage, flood protection, schools, parks, forests, playgrounds, recreational facilities, airports and other public requirements;

(5) Protect against destruction of or encroachment upon historic areas;

(6) Protect against one or more of the following:

a. Overcrowding of land;

b. Undue density of population in relation to the community facilities existing or available;

c. Obstruction of light and air;

d. Danger and congestion in travel and transportation; or

e. Loss of life, health or property from fire, flood, panic or other dangers;

(7) Encourage economic development activities that provide desirable employment and enlarge the tax base;

(8) Provide for the preservation of agricultural and forestal lands and other lands of significance for the protection of the natural environment;

(9) Protect approach slopes and other safety areas of licensed airports, including United States government and military air facilities; and

(10) Promote the creation and preservation of affordable housing suitable for meeting the current and future needs of the locality as well as a reasonable proportion of the current and future needs of the planning district within which the locality is situated.

(Code 2003, § 195-2; Ord. of 8-12-2013)

State Law reference— Purposes of zoning ordinances, Code of Virginia, § 15.2-2283.

Sec. 36-3. - Division of town into districts; enumeration.

For the purpose of this chapter, the town is hereby divided into the following districts:

(1) Residential, Limited, R-1.

(2) Residential, Village Homes, R-2.

(3) Residential, General, R-3.

(4) Mobile Home Park, MHP-1.

(5) Business, Less Intense Use, B-1.

(6) Business, General, B-2.

(7) Industrial, Limited, M-1.

(8) Public Use District, P-1.

(Code 2003, § 195-3; Ord. of 8-12-2013)

State Law reference— Uniformity of regulations in each district, Code of Virginia, § 15.2-2283.

Sec. 36-4. - Interpretation of district boundaries.

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

(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 or lines at right angles to such centerlines shall be construed to be such boundaries, as the case may be.

(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 the jurisdiction, and in the event of change in the shoreline, 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 the foregoing provisions do not apply, the boundary line shall be determined by the use of the scale shown on the zoning map. In case of subsequent dispute, the matter shall be referred to the board of zoning appeals which shall determine the boundary.

(Code 2003, § 195-4; Ord. of 8-12-2013)

Sec. 36-5. - Widening of highways and streets.

Whenever there shall be plans in existence, approved by either the state department of transportation or by the council, for the widening of any street or highway, the 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 2003, § 195-5; Ord. of 8-12-2013)

Sec. 36-6. - Slaughterhouses.

No slaughterhouse shall be established, maintained or operated within the jurisdiction of the town.

(Code 2003, § 195-6; Ord. of 8-12-2013)

Sec. 36-7. - Violations and penalties.

(a) Any person, whether as principal, agent, employee or otherwise, violating, causing or permitting the violation of any of the provisions of this chapter shall be guilty of a misdemeanor and, upon conviction thereof, may be fined not less than $10.00 nor more than $1,000.00. If the violation is uncorrected at the time of the conviction, the court shall order the violator to abate or remedy the violation in compliance with this chapter, within a time period established by the court. Failure to remove or abate a zoning violation within the specified time period shall constitute a separate misdemeanor offense punishable by a fine of not less than $10.00 nor more than $1,000.00, and any such failure during any succeeding ten-day period shall constitute a separate misdemeanor offense for each ten-day period punishable by a fine of not less than $100.00 nor more than $1,500.00.

(b) However, any conviction resulting from a violation of provisions regulating the number of unrelated persons in single-family residential dwellings shall be punishable by a fine of up to $2,000.00. Failure to abate the violation within the specified time period shall be punishable by a fine of up to $5,000.00, and any such failure during any succeeding ten-day period shall constitute a separate misdemeanor offense for each ten-day period punishable by a fine of up to $7,500.00. However, no such fine shall accrue against an owner or managing agent of a single-family residential dwelling unit during the pendency of any legal action commenced by such owner or managing agent of such dwelling unit against a tenant to eliminate an overcrowding condition in accordance with Code of Virginia, title 55, ch. 13 or 13.2, as applicable. A conviction resulting from a violation of provisions regulating the number of unrelated persons in single-family residential dwellings shall not be punishable by a jail term.

(Code 2003, § 195-7; Ord. of 8-12-2013)

State Law reference— Penalties for violation of zoning ordinance, Code of Virginia, § 15.2-2286.

Sec. 36-8. - Administrative fees.

In order to cover costs incurred by the council, the planning commission, the board of zoning appeals, and the zoning administrator incidental to the review, hearing and reporting of the processing of applications for a zoning permit for a permitted use or a conditional use, a zoning amendment, an administrative review, a variance and a site plan, the following fees shall be required to accompany appropriate applications:

(1) *Permitted use.* A fee of $75.00 is required for a zoning permit for a permitted use.

(2) *Conditional uses, zoning amendments, special exceptions, administrative reviews and variances or rezoning applications.* Applications for conditional use permits and zoning amendments for consideration by the council and applications for administrative reviews,

variances and other appropriate applications for consideration by the board of appeals shall be accompanied by a sum of $500.00 (includes advertising fee for hearings).

(3) *Site plans.* An application for a zoning permit for a permitted use or conditional use, a zoning amendment, or a land disturbance permit which requires a site plan shall be accompanied by a base fee in the amount of $100.00, plus $20.00 per acre or fraction thereof for all acres over one acre. Should additional review by a registered engineer be required, a fee equal to the amount of the engineering services rendered shall be assessed.

(4) *Erosion and sediment control fees.* Erosion and sediment control fees for commercial/industrial/multiple-family residential: $150.00 per acre; all others $75.00 per unit.

(5) *Examination and approval of plats for recordation.* There shall be a charge of $25.00 for the examination and approval or disapproval of every plat, other than subdivision plats, reviewed by the zoning administrator. Fees for subdivision plats are charged under section 28-107.

(Code 2003, § 195-8; Ord. of 8-12-2013)

Secs. 36-9—36-33. - Reserved.

ARTICLE II. - ADMINISTRATION

Footnotes:
*--- (**2**) ---*
***State Law reference—** Administration of zoning ordinance, Code of Virginia, §§ 15.2-2286, 15.2-2287, 15.2-2288 and 15.2-2303.*

DIVISION 1. - GENERALLY

Sec. 36-34. - Administrator.

(a) *General authority.* This chapter shall be enforced by the zoning administrator who shall be appointed by the council. The zoning administrator shall serve at the pleasure of the council. Compensation for the administrator shall be fixed by resolution of the council.

(b) *Authority on behalf of council; duties.* The zoning administrator shall have all necessary authority on behalf of the council to administer and enforce this chapter and carry out the duties prescribed in this article and elsewhere in this chapter, including, in specific cases, the authority to make findings of fact in connection with the administration, application and enforcement of this chapter and, with concurrence of the town attorney, conclusions of law regarding determinations of vested rights accruing under the provisions of article XI of this chapter. Duties of the zoning administrator shall include the following:

(1) *Interpretation of chapter.* Subject to appeal to the board of zoning appeals as provided in this chapter, the zoning administrator shall be the final authority in the interpretation of the provisions of this chapter.

(2) *Review and issuance of zoning permits and certificates of zoning compliance.* The zoning administrator shall review all applications for zoning permit and certificates of zoning compliance required by this article and shall approve or disapprove each based on compliance or noncompliance with the provisions of this chapter.

(3) *Review and approval of site plans.* The zoning administrator shall review all site plans submitted under the provisions of this chapter and shall approve or disapprove each site plan based on compliance or noncompliance with the provisions of this chapter.

(4) *Enforcement and correction of violations.* The zoning administrator shall use best efforts to prevent violations of this chapter and to detect and secure the correction of violations in accordance with the provisions of this article.

(5) *Maintenance of records and map.* The zoning administrator shall maintain records of all official actions taken with respect to administration and enforcement of this chapter and shall retain copies of all zoning permit applications, certificates of zoning compliance, site plans and related information as a permanent record. The zoning administrator shall also maintain the official zoning map.

(6) *Other duties.* The zoning administrator shall have such additional duties as specifically described elsewhere in this chapter.

(Code 2003, § 195-9; Ord. of 8-12-2013)

Secs. 36-35—36-56. - Reserved.

DIVISION 2. - LICENSES, PERMITS AND CERTIFICATES

Sec. 36-57. - Compliance with chapter required for issuance of permits.

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.

(Code 2003, § 195-10; Ord. of 8-12-2013)

Sec. 36-58. - Zoning permits.

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

Final site plan means the plan required for issuance of a building and/or land disturbance permit.

Preliminary site plan means the plan to accompany rezoning or conditional use permit requests; however, final rezoning or conditional use permit approval shall be contingent upon approval of a final site plan.

(b) *Intent.* Zoning permits/site plan reviews are intended to ensure compliance with this chapter and proper design in types of development which can have deleterious effects on their surroundings. These effects are subject to modification or reduction through the physical design of such development. Review of the design, therefore, is aimed at the greatest possible benefit to the community as a result of building and site design.

(c) *Permit required; application.* Buildings, signs, and structures shall be constructed, reconstructed, erected, enlarged, structurally altered, moved or converted to accommodate a different use only after a zoning permit has been obtained from the zoning administrator. Applications for zoning permits shall be submitted to the zoning administrator by the owner of the property involved or by an agent of the owner or tenant of the property, with the written consent of the owner. Applications shall be submitted on forms developed by the zoning administrator for such purposes. A zoning permit issued by the zoning administrator shall indicate only that the requested use is permitted by right by this chapter. The issuance of a zoning permit shall not negate full compliance with site plan review requirements.

(d) *Developments subject to site plan review.* The following types of development shall require a site plan review prior to issuance of any zoning permit, including petitions for a rezoning request or for a conditional use permit request:

(1) All commercial and industrial facilities, including off-street parking.

(2) All institutional facilities, such as schools, hospitals and clubs.

(3) All residential developments, involving more than two dwelling units in one building or on one lot.

(4) Conditional use permits (as specified in this chapter).

(e) *Plan requirements.* The zoning administrator shall require an appropriate number of clearly legible copies for preliminary site plans and final site plans. The preliminary site plan shall be prepared by a professional engineer, certified land surveyor, licensed architect, certified landscape architect or other similarly qualified person and shall include the following:

(1) Name and address of the petitioner and the owner.

(2)

Name and location of the development.

(3) Property lines by metes and bounds.

(4) Existing and proposed zoning.

(5) Type of proposed zoning.

(6) The owner, present use and existing zoning of all abutting property.

(7) Existing and proposed streets, easements, rights-of-way and other reservations.

(8) Ingress and egress points.

(9) Proposed parking areas, materials for same and number of spaces.

(10) Existing and proposed buildings.

(11) Date, scale of not less than one inch equals 100 feet, and north point.

(12) Limits of established 100-year floodplain.

(13) Major natural features.

(14) Required setbacks and areas for landscaping and buffering.

(15) Location of existing water, storm and sanitary sewer lines.

(16) Existing and proposed topography.

(17) Location of proposed water mains, fire hydrants, pipe sizes, grades and direction of flow.

(18) Generalized erosion control measures.

(19) Location of proposed utility lines, indicating where they already exist and whether they will be underground.

(20) Location of proposed storm and sanitary sewer systems, both surface and subsurface, showing pipe sizes, grade flow and design loads.

(21) Vicinity map at a scale no smaller than one inch equals 600 feet, showing all streets and property within 1,000 feet of the subject property.

(22) Existing and proposed curblines and sidewalks.

(23) Location of proposed signs.

(24) Proposed location and materials for disposal of refuse and other solid waste.

(25) Recreation and/or open spaces.

(26) Name and address of persons preparing the site plan.

(27) Proposed buildings and structures, to include:

a. Distance between buildings;

b. Number of stories;

c. Area in square feet of each floor;

d. Number of dwelling units or guest rooms;

e. Structures above height regulations.

(28) Proposed location of outdoor lighting.

(29) Landscaping plan as more particularly described in section 36-686.

(30) Any additional information deemed necessary by the zoning administrator to ensure compliance with the provisions of this chapter.

(f) *Preliminary site plan fee.* The preliminary site plan shall be accompanied by a check payable to the town in the amount set forth in section 36-8.

(g) *Final site plan requirements.* The final site plan shall include, in addition to the items specified for a preliminary site plan, the following:

(1) Name and address of owners of record of all adjacent properties.

(2) Current zoning boundaries, including surrounding areas to a distance of 300 feet.

(3) Final erosion and sediment control plans and stormwater management plans.

(4) Location of watercourses, marshes, rock outcroppings, wooded areas and single trees with a diameter of ten inches measured three feet from the base of the trunk.

(5) Location of buildings existing on the tract to be developed and on adjacent tracts within a distance of 100 feet, indicating whether existing buildings on the tract are to be retained, modified or removed.

(6) Proposed streets and other ingress and egress facilities (indicating curblines, sidewalk lines, public right-of-way lines and profiles and cross sections of streets).

(7) Layout of off-street parking.

(8) Proposed location, direction, power and time of use of outdoor lighting (not required of industrial development).

(9) Location, size and design of proposed signs.

(10) Elevations of buildings to be built or altered on site.

(h) *Administrative responsibility.*

(1) *Duties.* The zoning administrator shall be responsible for checking zoning permit applications and site plans for general completeness and compliance with this chapter. The zoning administrator shall see that all examination and review of the zoning permit applications and site plans are completed by other appropriate approving authorities with prior written approval by the zoning administrator; particular information may be omitted from required plans when, due to the limited nature of scope of the development, the zoning administrator determines such information is not necessary for the evaluation of the site plan or for maintaining a record of the matter.

(2)

Application process. The zoning administrator shall approve or disapprove the zoning permit applications and site plans in accordance with this chapter and other appropriate approving authority recommendations. The zoning administrator shall then return two copies of the zoning application and/or site plan, together with modifications, noting thereon any changes that will be required, to the applicant not later than 45 days from the date of submission, except under abnormal circumstances.

(3) *Adjustment in approved site plan.* After a site plan has been approved by the zoning administrator, minor adjustments of the site plan which comply with the spirit of this article and other provisions of this chapter with the intent of other appropriate approving authorities in their approval of site plans and with the general purpose of the comprehensive plan for development of the area may be approved by the zoning administrator with concurrence of the other appropriate approving authorities. Minor adjustment from an approved site plan without the zoning administrator's approval, or any major deviations, shall void the site plan and require the applicant to resubmit a new site plan for consideration.

(4) *Building and occupancy permits.* No building permit shall be issued for a building in an area in which site plan review is required unless the construction proposed by such building permit is in conformance with the approved site plan. No occupancy permit shall be issued in such an area for a use which is not in conformance with the approved site plan or zoning permit. Failure to comply with an approved site plan shall constitute a violation of this chapter.

(5) *Appeal.* An appeal of any decision made by the zoning administrator concerning a zoning permit application or site plan review procedure may be made to the board of zoning appeals.

(Code 2003, § 195-11; Ord. of 8-12-2013)

Sec. 36-59. - 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 a 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 2003, § 195-12; Ord. of 8-12-2013)

Sec. 36-60. - Special use permit.

(a) *Intent of special use provisions.* The special use permit procedure is intended as a means for the council, after view and recommendation by the planning commission, to authorize certain uses which, although generally appropriate in the district in which they are permitted, have potentially greater impacts on neighboring properties or the community in general than uses which are permitted by right. The special use permit procedure provides the opportunity for the council to review each proposed special use and impose such conditions as reasonably necessary to ensure the use will be compatible with the surrounding area and will be consistent with the purposes of this chapter.

(b) *Special use permit required.*

(1) *When required.* A use indicated as permitted subject to a special use permit in this chapter shall be considered a special use, and shall be authorized only upon approval of a special use permit by the council in accordance with the provisions of this article.

(2) *Relation to other permits.* Zoning permits, certificates of zoning compliance, site plans and other reviews and approvals required by this chapter are required for special uses in the same manner as for other uses. No zoning permit or certificate of zoning compliance for a special use or for a building devoted to a special use shall be issued unless a special use permit has been approved.

(3) *Existing uses.* A use lawfully existing at the effective date of the ordinance from which this chapter is derived or subsequent amendment thereto which is specified as a special use in the district in which it is located and for which no special use permit has been approved shall not be considered a nonconforming use because of its classification as a special use. However, no zoning permit or certificate of zoning compliance or other approval involving expansion of such use or reconstruction, enlargement or moving a building devoted to such use shall be issued unless a special use permit is approved.

(c) *Application for special use permit.*

(1) *Submission of applications.* Applications for special use permits shall be submitted to the zoning administrator and may be filed by the owner of the property or, with the written consent of the owner, the contract purchaser of the property or an agent of the owner.

(2) *Applicant's report.* Every application for a special use permit shall be accompanied by a report from the applicant describing the proposed special use and explaining the manner in which it complies with the requirements and standards of this article.

(3) *Content of plan.* Every application for a special use permit shall be accompanied by plans, with such number of copies as determined by written policy of the zoning administrator, drawn to scale and showing the following:

a. Area, shape and dimensions of the property involved and existing and proposed street

lines, easements, watercourses, drainageways and floodplains;

b. Existing and proposed uses of land, buildings and structures, and the number and types of dwelling units on the property, where applicable;

c. Dimensions and heights of proposed buildings, structures or additions, and existing buildings and structures to remain, and the dimensions of yards and setbacks with respect to property lines and existing and proposed street lines;

d. Elevation drawings of proposed buildings, structures or additions, and existing buildings and structures;

e. Existing and proposed driveways providing access to the site and the arrangement, dimensions and improvement of off-street parking and vehicular circulation areas;

f. Buffers, screening, fencing, major landscaping, pedestrian walkways and similar features, existing wooded areas, significant trees and other vegetated areas to be retained, location and improvement of trash receptacle areas and location, type, height and intensity of outdoor lighting, if provided;

g. Existing permanent signs to remain and proposed permanent signs, including location, lettering, dimensions, lighting, and means of attachment or support.

(4) *Waiver of plan elements or additional plans.* The zoning administrator may waive plan elements that are unnecessary to determine compliance with this chapter or to maintain a record of the case. The zoning administrator may require such additional information as necessary to determine compliance with this chapter or to assist the planning commission and council in evaluating potential impacts of a proposed special use.

(d) *Procedure for issuance of special use permits.*

(1) *Review by zoning administrator.* The zoning administrator shall review each application for a special use permit and forward the application to the planning commission. At such time as requested by the commission, the zoning administrator shall submit to it a report indicating the manner in which the proposed special use complies or does not comply with the provisions of this chapter and any recommendations the zoning administrator may have regarding approval, disapproval or suggested conditions or limitations to be attached.

(2) *Action by planning commission.* The planning commission shall review each special use permit application for compliance with the provisions of this chapter and shall provide a recommendation to the council in accordance with the following:

a. The commission shall give notice and hold at least one public hearing as required by Code of Virginia, § 15.2-2204. A joint public hearing may be held with the council. The commission may continue any public hearing or, after closing a public hearing, the commission may continue the matter for consideration and action at a subsequent meeting, but shall not reopen the public hearing without giving additional notice.

b. After holding a public hearing, the commission may recommend approval or disapproval of the special use permit or that conditions be imposed to ensure compliance with requirements of this chapter. In making its recommendation, the commission shall consider at least the criteria specified in this article.

c. Action by the commission shall be in the form of a motion, giving the reasons for its action and the vote of each member, and shall be recorded in the commission's records. Each motion and recommendation to the council shall include a statement of the relationship of the proposed use to the comprehensive plan.

d. In any case where the commission is unable to adopt a motion to recommend approval, approval with conditions or disapproval, it shall forward a written report to the council stating such fact and summarizing its discussions on the matter.

e. Failure of the commission to provide a recommendation or report to council within 100 days after the first meeting of the commission after the special use permit application was referred to the commission shall be considered a recommendation of approval, unless the application has been withdrawn by the applicant.

(3) *Action by council.* The council shall take action on each special use permit application in accordance with the following.

a. The council shall give public notice as required by Code of Virginia, § 15.2-2204, and shall hold at least one public hearing. A joint public hearing may be held with the planning commission.

b. After receiving the recommendation of the planning commission and after holding a public hearing, the council may approve and disapprove the special use permit application and may impose conditions that it deems reasonable and necessary to ensure the special use will comply with the requirements of this chapter. Action of the council shall be by resolution, which shall include the reasons for its action.

c. Conditions imposed in connection with any residential special use permit where affordable housing, as defined in Code of Virginia, § 15.2-2201, is proposed by the applicant shall be consistent with the objective of providing affordable housing. When imposing conditions on residential projects specifying materials and methods of construction or specific design features, the council shall consider the impact of the conditions upon the affordability of housing.

d. The council shall take action on every special use permit application within one application, unless the application is withdrawn by the applicant prior to expiration of such period. For purposes of this provision, the date of submission of an application shall be the date upon which the zoning administrator certifies that the application is complete.

e.

The council may require a guarantee or bond to ensure that conditions imposed will be satisfied.

f. The council may specify a date for expiration of a special use permit as a condition of approval.

(e) *General requirements for approval of special use permits.* A special use permit shall be approved by the council only if it finds that the proposed special use and related plans:

(1) Will not be contrary to the purposes of this chapter;

(2) Will not be in conflict with the objectives of the comprehensive plan for the town;

(3) Conform with all applicable provisions of this article and all other applicable requirements of the district in which such use is located; and

(4) Include satisfactory provisions for or arrangement of the following, where applicable:

a. Sewer, water and other public utilities.

b. Ingress and egress, including access for fire and other emergency vehicles;

c. Off-street parking; loading and vehicular circulation, including adequate consideration of the safety of motorists and pedestrians;

d. Yards, open spaces, relationship among buildings and other elements of the site;

e. Retention of natural vegetation and topographic features; and

f. Landscaping, buffers, screening, fences and other features to protect adjacent properties from potential adverse effects of the special use.

(f) *Modifications or amendments to approved special use permits.*

(1) *Minor modifications.* Minor modifications to approved plans or building details of an approved special use permit may be authorized by the zoning administrator when such modifications do not alter the boundaries of the property; conflict with specific requirements of this chapter or conditions of the approved special use permit; significantly decrease the width or depth of any yard, setback or buffer area; or significantly alter points of access to the property or the internal arrangement of site plan elements.

(2) *Amendment.* Any change to an approved special use permit other than a minor modification as described in subsection (f)(1) of this section shall require an amendment subject to the same procedures and requirements as a new application.

(g) *Expiration of special use permits.* An approved special use permit shall become null and void if no application for a building permit to construct the authorized improvements has been submitted within one year of the date of approval by the council. A special use permit for which no building permit is required shall become null and void if the use is not established within one year of the date of approval by the council. The council may specify a longer period in its approval of a special use permit.

(h)

Discontinuance of special use permits. A special use permit shall run with the land, unless the council imposes a more restrictive condition regarding succession of rights in conjunction with approval, provided that any use established pursuant to an approved special use permit shall not be reestablished if replaced by a different use or if discontinued for a continuous period of two years or longer.

(i) *Compliance with approved plans; revocation.*

(1) *Violation of chapter.* Failure to comply with approved plans or conditions of a special use permit shall constitute a violation of this chapter.

(2) *Revocation.* Upon determination by the zoning administrator of any violation of a special use permit, such permit may be subject to revocation if the violation is not corrected within 90 days of written notice to the owner of the property by the zoning administrator. If the violation is not corrected within the specified time and the zoning administrator is not satisfied that appropriate means are being taken to correct the violation, the council shall have the authority to revoke the special use permit after notice and hearing as provided by Code of Virginia, § 15.2-2204.

(j) *Reconsideration.* Whenever a special use permit application is denied, substantially the same application shall not be considered again by the council within one year from the date of denial.

(k) *Appeals.* Appeals from any decision of the council regarding the special use permit may be taken to the circuit court by any aggrieved party in accordance with the provisions of Code of Virginia, § 15.2-2285.

(Code 2003, § 195-13; Ord. of 8-12-2013)

Sec. 36-61. - Uses not specifically permitted; special exception.

If in any district established under this chapter a use compatible with the district is not specifically permitted and an application is made by a property owner to the administrator for such use, the administrator may refer the application to the planning commission which shall make its recommendations to the council within 60 days. If the recommendation of the planning commission is approved by the council, this chapter shall be interpreted to list the use as a permitted use in that district. The addition of any compatible use to a zoning district shall be subject to section 36-60 if so deemed by the council.

(Code 2003, § 195-14; Ord. of 8-12-2013)

Secs. 36-62—36-80. - Reserved.

DIVISION 3. - BOARD OF ZONING APPEALS

Footnotes:

*--- (**3**) ---*

Editor's note— *A motion of April 10, 1995, adopted a county/town joint board of zoning appeals.*

State Law reference— *Creation, membership and organization of zoning board of appeals, Code of Virginia, § 15.2-2308.*

Sec. 36-81. - Created.

Pursuant to the authority granted by Code of Virginia, § 15.2-2308, the town board of zoning appeals is hereby created to serve the county and the town.

(Code 2003, § 195-15; Ord. of 8-12-2013)

Sec. 36-82. - Membership.

The board shall consist of five members appointed by the circuit court of the county, with the appointments and terms of office as follows:

(1) Two members from the town shall be initially appointed for two- and four-year terms respectively. Two members from the county shall be initially appointed for two- and four-year terms respectively. One at-large member shall be appointed for a five-year term.

(2) At the request of either governing body, the circuit court may appoint not more than three alternates to the board. The qualifications, terms, and compensation of alternate members shall be the same as those of regular members.

(3) Subsequent appointments shall be for terms of five years each. Members may be reappointed to succeed themselves.

(4) Appointments to fill vacancies shall be only for the unexpired portion of the term.

(5) Members shall hold no other public office in the locality except that one may be a member of the joint planning commission.

(6) The board shall elect a chairperson and a vice-chairperson from its own membership who shall serve annual terms and may succeed themselves. The board shall also elect a secretary who may be either one of its own members or a qualified individual who is not a member of the board. A secretary who is not a member of the board shall not be entitled to vote on matters before the board. The election of officers shall be held at the first meeting of the board, and thereafter at the board's meeting immediately following January 1 of each year.

(7) The secretary for the board shall notify the circuit court at least 30 days in advance of the expiration of any term of office, and shall also notify the court promptly if any vacancy occurs.

(8) Any board regular member or alternate may be removed for malfeasance, misfeasance, or nonfeasance in office, or for other just cause, by the court which appointed them, following a hearing held after at least 15 days' notice.

(9)

In the event of a vacancy or term expiration, the respective governing body shall provide formal recommendation of a replacement member or reappointment to the circuit court for consideration.

(10) When a regular member knows that they will be absent from a meeting, they shall notify the chairperson of the board 24 hours, or as soon as possible if circumstances prohibit such notice, prior to the meeting of such fact. The chairperson shall select an alternate, if provided, to serve in the absent member's place, and the records of the board shall so note.

(11) Members of the board may receive such compensation as may be authorized by the respective governing bodies.

(Code 2003, § 195-16; Ord. of 8-12-2013)

Sec. 36-83. - Rules of procedure.

The board shall observe the following procedures:

(1) The board may make, alter, and rescind rules of procedure provided that they are in accordance with the provisions of this chapter and consistent with other local ordinances and the general laws of the commonwealth for the conduct of its affairs.

(2) The board shall keep a full public record of its proceedings and shall submit a report of its activities to the governing bodies at least once each calendar year.

(3) All meetings of the board shall be open to the public.

(4) Any member of the board shall be disqualified to act upon a matter before the board with respect to any property in which the member has an interest.

(5) The meetings of the board shall be held at the call of the chairperson or secretary, and at such other times as a quorum of the board may determine.

(6) The chairperson or, in the absence of the chairperson, the vice-chairperson or acting chairperson may administer oaths and compel the attendance of the witnesses.

(7) A quorum shall not be less than a majority of the members of the board.

(8) A favorable vote of the majority of members of the board shall be necessary to reverse any order, decision, or determination of any administrative official or to decide in favor of the applicant on any matter upon which the board is required to pass.

(9) Appeal procedure.

a. *Who may file appeal.* An appeal to the board of zoning appeals pursuant to this chapter may be taken by any person aggrieved or by any officer, department, board or bureau of the town affected by any decision of the zoning administrator or by any order, requirement, decision or determination made by any other administrative officer in the administration or enforcement of this article. Notwithstanding any provisions herein, any written notice of a zoning violation or a written order of the zoning administrator shall

include a statement informing the recipient that said recipient may have a right to appeal the notice of a zoning violation or a written order of the zoning administrator within 30 days 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. A written notice of a zoning violation or a written order of the zoning administrator that includes such statement sent by registered or certified mail to, or posted at, the last known address of the property owner as shown on the current real estate tax assessment books or current real estate tax assessment records shall be deemed sufficient notice to the property owner and shall satisfy the notice requirements of this section.

b. *Filing an appeal.* An appeal shall be taken within 30 days after the decision appealed from by filing with the zoning administrator and with the board a notice of appeal specifying the grounds thereof. The zoning administrator shall forthwith transmit to the board all papers and other materials constituting the record upon which the action appealed from was taken. A copy of the notice of appeal shall also be transmitted to any other individual, officer, department or agency involved in the appeal.

c. *Stay of proceedings.* An appeal shall stay all proceedings in furtherance of the action appealed from unless the zoning administrator certifies to the board that, by reason of facts stated in the certificate, a stay would in the opinion of the zoning administrator cause imminent peril to life or property, in which case proceedings shall not be stayed other than by a restraining order granted by the board or by a court of record, on application and with notice to the zoning administrator, and for good cause shown.

(10) Application for variance interpretation of zoning map of special exception.

a. *Who may file application.* An application for a variance or interpretation of the official zoning map may be made by any property owner, tenant, government official, department, board or bureau, on forms provided for such purpose by the board and available from the zoning administrator.

b. *Application procedure.* Applications shall be submitted to the zoning administrator in accordance with rules adopted by the board. The application and accompanying maps, plans or forms shall be provided for such purpose by the board and available from the zoning administrator.

c. *Reconsideration of application.* Substantially the same application for a variance, interpretation of the official zoning map or special exception which has been decided by the board shall not be considered again by the board within one year of the date of its decision, except that the board may, pursuant to its rules, reconsider an application if it finds that new or additional information is available which would have a direct bearing on the case and which could not reasonably have been presented at the initial hearing.

(Code 2003, § 195-17; Ord. of 8-12-2013)

State Law reference— Appeal to zoning board of appeals, Code of Virginia, § 15.2-2311; procedure on appeal, Code of Virginia, § 15.2-2312.

Sec. 36-84. - Duties and powers.

(a) The board shall have the following duties and powers:

(1) To hear and decide appeals from any order, requirement, decision, or determination made by an administrative officer in the administration and enforcement of this chapter.

(2) To authorize upon appeal in specific cases such variance 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:

a. When a property owner can show that the property of said owner 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 conditions of such piece of property or of the use or development of property immediately adjacent thereto, the strict application of the terms of this chapter would effectively prohibit or unreasonably restrict the use of the property or where the board is satisfied, upon the evidence heard by it, that the granting of such variance will alleviate a clearly demonstrable hardship approaching confiscation, as distinguished from a special privilege or convenience sought by the applicant, provided that all variances shall be in harmony with the intended spirit and purpose of this chapter.

b. No such variance shall be authorized by the board unless it finds that all of the following conditions apply:

1. The strict application of this chapter would produce undue hardship;
2. Such hardship is not shared generally by other properties in the same district and the same vicinity;
3. Authorization of such 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.
4. The condition or situation of the property concerned is not of so general or recurring nature as to make reasonably practicable the formulation of a general regulation to be adopted by the council as an amendment to this chapter.

c. No such variance shall be authorized except after notice and hearing as required by Code of Virginia, §§ 15.2-2204 and 15.2-2205. However, when giving any required notice to the owners, their agents, or the occupants of abutting 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 mail or certified mail.

d. In authorizing a variance, the board may impose such conditions regarding the location, character, and other features of the proposed structure 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 in compliance.

(3) To hear and decide appeals from the decisions of the zoning administrator as provided in this section.

(4) To hear and decide applications for interpretation of the zoning map where there is any uncertainty as to the location of a district boundary, utilizing the rules for determining the boundaries as prescribed in section 36-4. After notice to the owners of the property affected by any such question and after public hearing with notice as required by Code of Virginia, § 15.2-2204, the board may interpret the map in such a way as to carry out the intent and purpose of this chapter for the particular section or zoning 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 this chapter.

(b) No provision of this chapter shall be construed as granting the board the power to rezone property, to grant conditional uses, or to base board decisions on the merits of the purpose and intent of local ordinances duly adopted by the governing bodies.

(Code 2003, § 195-18; Ord. of 8-12-2013)

State Law reference— Powers and duties of zoning board of appeals, Code of Virginia, § 15.2-2309.

Sec. 36-85. - Expenses.

Within the limits of funds appropriated by the governing bodies, the board may employ or contract for secretaries, clerks, legal counsel, consultants, and other technical and clerical services. Members of the board may receive such compensation as may be authorized by the governing bodies.

(Code 2003, § 195-19; Ord. of 8-12-2013)

Sec. 36-86. - Decision of board.

(a) Any person jointly or severally aggrieved by any decision of the board or any taxpayer of officer, department, board or bureau of the council may present to the circuit court of the county a petition specifying the grounds on which aggrieved within 30 days after the filing of the decision

in the office of the board.

(b) Upon the presentation of such petition, the court shall allow a writ of certiorari to review the decision of the board and shall prescribe therein the time within which a return thereto must be made and served upon the relator's attorney, which shall not be less than ten 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 appeals and on due cause shown, grant a restraining order.

(c) The board shall not be required to return the original paper acted upon by it, but it shall be sufficient to return certified or sworn copies thereof of such portions thereof as may be called for by such 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, said court may take evidence or appoint commissioner of the court to take such evidence as the court may direct and report the same to the court with the finding of fact and conclusions of law, which shall constitute a part of the proceeding 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) Costs shall not be allowed against the board unless it shall appear to the court that it acted in bad faith or with malice in making the decision appealed from. In the event that 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 costs incurred in making a return of the record pursuant to the writ of certiorari.

(Code 2003, § 195-20; Ord. of 8-12-2013)

Secs. 36-87—36-115. - Reserved.

DIVISION 4. - AMENDMENTS

Footnotes:
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***State Law reference—** Amendments to zoning ordinances, Code of Virginia, §§ 15.2-2204, 15.2-2286, 15.2-2297, 15.2-2299, 15.2-2302 and 15.2-2303.*

Sec. 36-116. - Procedure.

(a) *Authority to amend.* Whenever the public necessity, convenience, general welfare, or good zoning practice require, and subject to the requirements set forth in Code of Virginia, §§ 15.2-2285 and 15.2-2286, the council may by ordinance amend, supplement, change or repeal the regulations,

district boundaries, or classifications of property established by this chapter. All such ordinances shall be enacted in the same manner as all other ordinances.

(b) *Initiation of amendments.* Amendments to the provisions of this chapter may be initiated by any of the following methods:

(1) *Resolution of the council.* The council may, by its own resolution, initiate an ordinance to amend any of the provisions of this chapter, including the official zoning map. Every such resolution shall state the public purpose for the amendment.

(2) *Motion of the planning commission.* The planning commission may, by adoption of a motion, initiate an amendment to any of the provisions of this chapter, including the official zoning map. Every such motion shall state the public purpose for the amendment. The motion shall be forwarded to the council, which shall cause an ordinance to be prepared for its consideration.

(3) *Petition of a property owner.* A petition to change the zoning classification of property by amendment to the official zoning map may be filed by the owner of such property or, with the written consent of the owner, the contract purchaser of the property or an agent of the owner.

(c) *Rezoning application.*

(1) A petition on behalf of a property owner to change the zoning classification of property shall be in the form of an application for rezoning addressed to the council and filed with the zoning administrator. The application shall be accompanied by the required fee and a certified plat of the property proposed to be rezoned. The application shall include indication of the current and proposed zoning classification of the property and a statement of the applicant's reasons for requesting rezoning.

(2) The zoning administrator shall review the application for compliance with the requirements of this section. When the zoning administrator is satisfied that submission requirements are met, the application shall be forwarded to the council, with a copy to the planning commission. The council shall cause an ordinance to be prepared for its consideration of the rezoning application.

(d) *Action by the planning commission.*

(1) *Review and recommendation for amendment by council.* No amendment to this chapter shall be acted upon by the council unless it has been referred to the planning commission for its review and recommendation in accordance with this section.

a. *Public notice and hearing.* Before taking action on any amendment, the planning commission shall give public notice and hold at least one public hearing as required by Code of Virginia, § 15.2-2204. A joint public hearing may be held with the council. The

commission may continue any public hearing or, after closing a public hearing, the commission may continue the matter for further consideration at a subsequent meeting, but shall not reopen the public hearing without giving additional notice.

b. *Report of zoning administrator.* The zoning administrator shall submit a written report and recommendation to the commission prior to its action.

c. *Recommendation of commission.* The commission may recommend that the council adopt or reject the amendment or may recommend changes in the amendment. In making its recommendation, the commission shall consider at least the matters listed in this chapter.

d. *Form of action by commission.* Action by the commission shall be in the form of a motion, giving the reasons for the action and the vote of each member. All actions shall be recorded in the commission's records. Each recommendation to the council shall include a statement of the relationship of the proposed rezoning to the comprehensive plan.

(2) *Written report to council for approval or disapproval of amendment.* In any case where the commission is unable to adopt a motion to recommend approval or disapproval, it shall forward a written report to the council stating such fact and summarizing its deliberations on the matter.

(e) *Action by council.* The council shall take final action on all proposed amendments in accordance with the following provisions:

(1) *Public notice and hearing.* Before taking action on any ordinance to amend this chapter, the council shall give public notice as required by Code of Virginia, § 15.2-2204, and shall hold at least one public hearing on the proposed amendment. A joint public hearing may be held with the planning commission. In the case of a proposed amendment to the zoning map, the public notice shall state the general usage and density range of the proposed amendment and the general usage and density range, if any, set forth in the applicable part of the comprehensive plan for the property involved.

(2) *Final action.* After receiving a report from the planning commission and after giving notice and holding a public hearing, the council may adopt or reject the proposed amendment, or may take appropriate changes to the amendment, provided that no land be rezoned than was described in the public notice without referral to the planning commission and an additional public hearing after public notice as required by Code of Virginia, § 15.2-2204.

(3) *Continuance or withdrawal.* Final action on any proposed amendment may be continued by the council for good cause, provided that all resolutions, motions or petitions for amendments shall be acted upon by the council within one year of the date of the resolution,

motion or petition. This provision shall not apply if the petitioner requests or consents in writing to action beyond such period or if a petition is withdrawn by providing written notice to the council.

(f) *Reconsideration by rezoning application.* Whenever a rezoning application is denied, substantially the same application shall not be considered again by the council within one year from the date of the denial, except:

(1) When a new application, although involving all or a portion of the same property, is for a different zoning classification than the original application; or

(2) When a new application is submitted after a finding by the council that conditions or circumstances that provided the basis for denial of the original application have changed to an extent sufficient to justify reconsideration.

(Code 2003, § 195-21; Ord. of 8-12-2013)

Sec. 36-117. - Conditional zoning.

(a) *Purpose of conditional zoning.*

(1) Pursuant to applicable provisions of Code of Virginia, § 15.2-2297 et seq., the purpose of conditional zoning is to recognize that frequently, where competing and incompatible uses conflict, traditional zoning methods and procedures are inadequate, and that in such cases more flexible and adaptable zoning methods are needed to permit differing land uses, and at the same time to recognize the effects of change.

(2) It is, therefore, the intent of this division to provide a more flexible and adaptable zoning method to cope with such situations, whereby a change in the zoning classification of property may be allowed subject to certain conditions proffered by the petitioner for the protection of the community that are not generally applicable to land similarly zoned. It is the intent of the council that the provisions of this division shall not be used for the purpose of discrimination in housing.

(b) *Procedure for conditional zoning.*

(1) *Conditions may be proffered.* In conjunction with an application for rezoning of property and as a part of a proposed amendment to the zoning map as described in section 36-34(b)(5), the owner of such property may voluntarily proffer in writing reasonable conditions in addition to the regulations specified for the zoning district by this chapter, provided such conditions meet the criteria in this division.

(2) *Submission of conditions.* The owner may submit such conditions at the time of submission of the application for rezoning or at any other time before the planning commission, and the council shall not be obligated to accept any or all proffered conditions.

(3)

Modifications to conditions. In the event additions, deletions or other modifications to conditions are desired by the owner of the property that is the subject of the rezoning request, they shall be made in writing to the planning commission before the commission makes its recommendation to the council. The council may consider additional conditions, deletions or modifications to conditions after the planning commission makes its recommendation, provided that such are voluntarily proffered in writing prior to the public hearing at which the council is to consider the application for rezoning. In any case where modifications to conditions are proposed after the planning commission makes its recommendation, the council may refer the rezoning application back to the commission for further review and action.

(c) *Permitted conditions.*

(1) *Criteria for proffered conditions.* All conditions proffered shall meet the following criteria:

a. The rezoning itself must give rise for the need for the conditions.

b. The conditions shall have a reasonable relation to the rezoning.

c. The conditions shall not include a cash contribution to the town.

d. The conditions shall not include mandatory dedication of real or personal property for open space, parks, schools, fire departments or other public facilities, not otherwise provided for in Code of Virginia, § 15.2-2241.

e. The conditions shall not include payment for or construction of off-site improvements, except those provided for in Code of Virginia, § 15.2-2241.

f. The conditions shall be related to the physical development or physical operation of the property.

g. The conditions shall be in conformity with the town's comprehensive plan.

h. The conditions shall not be less restrictive than the provisions of this chapter and shall not require or permit a standard that is less than required by any law.

i. The conditions shall be drafted in such manner as to be clearly understandable and enforceable.

(2) *Subsequent amendment to the zoning map.* Once proffered and accepted as part of an amendment to the zoning map, the conditions shall continue in effect until a subsequent amendment changes the zoning on the property covered by the conditions, provided that the conditions shall continue in effect if the subsequent amendment is part of a comprehensive implementation of a new or substantially revised zoning ordinance.

(3) *Future amendments in case of certain proffers.* In the event proffered conditions include a requirement for the dedication of real property of substantial value or construction of substantial public improvements, the need for which is not generated solely by the rezoning itself, then no amendments to the zoning map for the property subject to conditions, nor the conditions themselves, nor any amendments to the text of the zoning ordinance with respect

to the zoning district applicable thereto initiated by the council, which eliminate, or materially restrict, reduce, or modify the uses, the floor area ratio, or the density of use permitted in the zoning district applicable to such property, shall be effective with respect to such property unless there has been mistake, fraud, or a change in circumstances substantially affected the public health, safety, or welfare.

(d) *Enforcement and guarantees.*

(1) *Authority of zoning administrator.* The zoning administrator shall be vested with all necessary authority on behalf of the council to administer and enforce conditions attached to a rezoning or amendment to the zoning map, including:

a. The ordering in writing of the remedy of any noncompliance with conditions;

b. The bringing of legal action to ensure compliance with conditions, including injunction, abatement or other appropriate action or proceeding; and

c. Requiring a guarantee satisfactory to the council 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 council, or its agent, upon the submission of satisfactory evidence that condition of such improvements has been completed in whole or in part.

(2) *Denial of permits.* Failure to meet all conditions attached to an amendment to the zoning map shall constitute cause to deny issuance of any required site plan, zoning permit, certificate of zoning compliance, or other use, occupancy, or building permit, as may be appropriate.

(e) *Records.* The zoning map shall show by an appropriate symbol on the map of existence of conditions attached to the zoning. The zoning administrator shall keep in the office of the zoning administrator and make available for public inspection a conditional zoning index. The index shall provide ready access to each ordinance creating conditions, in addition to the regulations provided for in a particular zoning district.

(f) *Review of zoning administrator's decision.*

(1) Any rezoning applicant or any other person who is aggrieved by a decision of the zoning administrator made pursuant to the provisions of this article may petition the council for review of such decision by filing a petition with the zoning administrator and with the clerk of the council within 30 days of the decision. Such petition shall specify the grounds upon which the petitioner is aggrieved.

(2) In deciding any such case, the council shall have the same authority as vested in the zoning administrator, but shall not modify or delete any condition attached to a zoning map amendment, except by formal amendment pursuant to the provisions of this article.

(g)

Amendment and variations of conditions. Amendments and variations of conditions attached to a zoning map amendment shall be made only after public notice and hearing in the same manner as an original zoning map amendment and in accordance with the provisions of this article and applicable provisions of Code of Virginia, title 15.2.

(Code 2003, § 195-22; Ord. of 8-12-2013)

Secs. 36-118—36-147. - Reserved.

ARTICLE III. - RESIDENTIAL DISTRICT, LIMITED, R-1

Sec. 36-148. - Statement of 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.

(Code 2003, § 195-23; Ord. of 8-12-2013)

Sec. 36-149. - Permitted uses.

In the R-1 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 (occupied by a single family).

(2) Home occupations, as defined in section 36-1.

(3) Travel trailers, as defined in this section 36-1.

(4) Parks and playgrounds.

(5) Off-street parking as required by article XII of 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 may be closer than five feet to any property line.

(7) Public utilities; poles, lines, distribution, transformers, pipes, meters and/or other facilities necessary for the provision and maintenance of public utilities, including water and sewerage facilities.

(8) Doctor's offices with a conditional use permit.

(9) Limited day care.

(10) Bed and breakfast.

(11) Churches with a conditional use permit.

(12) Short-term rentals.

(Code 2003, § 195-24; Ord. of 3-29-2022(2), § 1; Ord. of 8-12-2013)

Sec. 36-150. - Inoperable, junk or scrap motor vehicles.

(a) No inoperable, junk or scrap motor vehicle may be kept stored or parked on lots in an R-1 district; provided that nothing in this section shall be construed to apply to a collector of antique or vintage vehicles, who may keep such vehicles on the lot of said collector within the R-1 district, provided the vehicles are stored in the rear of the property out of view in a fully enclosed building or surrounded by an approved blind or screen so as to be out of view by surrounding property owners. An antique vehicle that is inoperative, unless junk or scrap, shall have a town license affixed, and the current personal property tax thereon shall have been paid.

(b) Any owner of a vehicle that bears an expired state inspection sticker, local license tag or state license tag, has not been moved for a period of 180 days, and matches the definition of "inoperable, junk or scrap motor vehicle" in section 36-1 shall move such vehicle from the premises of said owner within ten days of notification. If, after reasonable notice, the owner fails to comply, the town may have the vehicle removed, and the cost of removal and disposal shall be charged to the owner of the property. When the owner of the property shall have been assessed such costs, the assessment shall constitute a lien against the property from which the vehicle was removed. The lien shall continue until actual payment of costs shall have been made to the town.

(Code 2003, § 195-25; Ord. of 8-12-2013)

Sec. 36-151. - Lot area.

The minimum lot area for permitted uses in the R-1 district shall be 15,000 square feet.

(Code 2003, § 195-26; Ord. of 8-12-2013)

Sec. 36-152. - Setbacks.

In the R-1 district, structures shall be located 35 feet or more from the street right-of-way line; except that signs advertising sale or rent of property may be erected up to the property line. This shall be known as the setback line.

(Code 2003, § 195-27; Ord. of 8-12-2013)

Sec. 36-153. - Frontage and lot width regulations.

(a) In the R-1 district, the minimum road footage shall be 100 feet.

(b) In the R-1 district, the minimum lot width at the building line shall be 100 feet.

(Code 2003, § 195-28; Ord. of 8-12-2013; Ord. of 9-11-2023)

Sec. 36-154. - Yard regulations.

Yard regulations in the R-1 district shall be as follows:

(1) *Side yards.* The minimum side yard for each main structure shall be ten feet and the total width of the two required side yards shall be 25 feet or more.

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

(Code 2003, § 195-29; Ord. of 8-12-2013)

Sec. 36-155. - Height regulations.

(a) Buildings in the R-1 district may be erected up to 35 feet in height, except that:

(1) The height limit for dwellings may be increased ten feet and up to three stories, provided 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 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 with a conditional use permit;

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

(b) 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 2003, § 195-30; Ord. of 8-12-2013)

Sec. 36-156. - Special provisions for corner lots.

In the R-1 district:

(1) The side yard on the side facing the side street shall be 35 feet or more from the street right-of-way line for both main and accessory buildings.

(2)

Landscaping of corner lots shall be limited to plantings, fences or other landscaping features of no more than three feet in height within the space between the setback line and the property line on the street side of the lot.

(Code 2003, § 195-31; Ord. of 8-12-2013)

Secs. 36-157—36-180. - Reserved.

ARTICLE IV. - RESIDENTIAL DISTRICT, VILLAGE HOMES, R-2

Sec. 36-181. - Statement of intent.

The R-2 Village Homes Residential District covers that portion of the community intended for single-family residences as distinguished by smaller lot area regulations. 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.

(Ord. of 8-12-2013; Ord. of 12-12-2022, §§ 1, 2(195-32.1))

Sec. 36-182. - Permitted uses.

In the R-2 Village Homes 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) Short-term rentals.

(3) Home occupations, as defined in section 36-1, conducted by the occupant.

(Ord. of 8-12-2013; Ord. of 12-12-2022, §§ 1, 2(195-32.2))

Sec. 36-183. - Lot size; yard regulations.

Yard regulations in the R-2 district shall be as follows:

(1) *Lot area.* The minimum lot area shall be 4,500 square feet.

(2) *Lot width.* The minimum lot width shall be 45 feet measured at the point of required setback line.

(3) *Lot depth.* The minimum lot depth shall be 75 feet.

(4) *Front depth.* The minimum depth of the front yard shall be 25 feet.

(5) *Side yard.* The minimum setback of the side yard shall be at least five feet.

(6) *Rear yard.* All dwellings shall have a minimum rear yard of 15 feet. Unattached buildings of accessory use shall not be located closer to any rear lot line than five feet.

(Ord. of 8-12-2013; Ord. of 12-12-2022, §§ 1, 2(195-32.3))

Sec. 36-184. - Uses by special use permit (development standards).

(a) *Homes permitted upon approval; site plans.* Village homes are permitted in R-2 Village Homes Residential Districts subject to the approval of a tentative site plan, including the location of all proposed structures, exterior views, and preliminary landscaping proposals showing the location, quantity, and type of plant materials.

(b) *Lot area.* The minimum lot area shall be 4,500 square feet.

(c) *Lot width.* The minimum lot width shall be 45 feet measured at the point of required setback line.

(d) *Lot depth.* The minimum lot depth shall be 75 feet.

(e) *Front depth.* The minimum depth of the front yard shall be 25 feet.

(f) *Side yard.* Side yards abutting a public street shall have a setback of not less than 20 feet; however, side yards not abutting on a public street may be reduced or eliminated, provided that:

(1) At least 50 percent of the side yard reduced by this procedure is made up on the opposite side of the site;

(2) Where a reduced side yard is used, the abutting site must be held under the same ownership at the time of issuance of the building permit;

(3) Unless a zero-side yard is used, the side yard shall not be less than five feet;

(4) The wall of any structure constructed along a common property line shall be solid masonry material or other materials approved by the Statewide Building Code that would provide the appropriate fire rating;

(5) Finished grade of any proposed residence at the common property line shall not exceed finished grade on the abutting property by more than four feet in height.

(g) *Rear yard.* All dwellings shall have a minimum rear yard of 15 feet. Unattached buildings of accessory use shall not be located closer to any rear lot line than five feet.

(Ord. of 8-12-2013; Ord. of 12-12-2022, §§ 1, 2(195-32.4))

Sec. 36-185. - Height regulations.

No dwelling shall exceed three stories or 35 feet in height, whichever is less. Accessory buildings shall not exceed 15 feet in height.

(Ord. of 8-12-2013; Ord. of 12-12-2022, §§ 1, 2(195-32.5))

Sec. 36-186. - Square footage requirements.

(a) Dwellings shall have a minimum of 1,200 square feet exclusive of porches and garages. Additionally, multistory dwellings must contain at least 800 square feet on the main level, and below-ground levels cannot be used to meet the required minimum area of 1,200 square feet.

(b) In addition to the requirements of subsection (a) of this section, all dwellings shall have 100 square feet of enclosed storage space. The storage space may be an integral part of the dwelling, or it may be in the form of an accessory building meeting the requirements of this chapter and all other applicable laws.

(Ord. of 8-12-2013; Ord. of 12-12-2022, §§ 1, 2(195-32.6))

Sec. 36-187. - Landscaping requirements.

(a) *Trees, shrubs, landscaping treatments.* The yards of village homes shall be landscaped and shall include, at a minimum, the installation of one shade tree and three evergreen shrubs or decorative trees and at least one of the following three landscaping or architectural treatments:

(1) A front yard raised above the grade of the sidewalk by at least three inches and four flowering or evergreen shrubs.

(2) Two decorative trees, a hedge consisting of at least 20 plants, and ten flowering or evergreen shrubs or, alternatively, 20 flowering or evergreen shrubs.

(3) A berm or earth mound averaging 18 inches above the average grade of the rest of the yard and covering 20 percent of the lot not covered by the dwelling or other structures. The berm or earth mound shall be covered with grass or ground cover and must be planted with at least four decorative trees or evergreen shrubs.

(b) *Standards.* The requirements of this section shall be met prior to issuance of an occupancy permit for any dwellings permitted under this chapter.

(Ord. of 8-12-2013; Ord. of 12-12-2022, §§ 1, 2(195-32.7))

Secs. 36-188—36-212. - Reserved.

ARTICLE V. - RESIDENTIAL DISTRICT, GENERAL, R-3

Sec. 36-213. - Statement of intent.

The R-3 General Residential District is composed of certain medium-to-high concentrations of residential uses, ordinarily located between residential and commercial areas, 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, insofar as compatible with the

intensity of land use, a suitable environment for family life composed of an adult population with some children, and to permit certain commercial uses of a character unlikely to develop general concentration of traffic, crowds of customers and general outdoor advertising. To these ends, retail activity is sharply limited and this district is protected against encroachment of general commercial or industrial uses. Appropriate residential types of structures for both permanent and transient occupancy and including institutions are permitted, plus structures for commercial uses conforming to the pattern of the district. This residential district is not completely residential as it includes public and semipublic, institutional and other related uses. However, it is basically residential in character and, as such, should not be spotted with commercial and industrial uses.

(Code 2003, § 195-38; Ord. of 5-13-2019; Ord. of 8-12-2013)

Sec. 36-214. - 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 and apartment houses, including screening or landscaping, playground area, on-site resident manager, entrance approvals pursuant to state department of transportation requirements, a limited number of units per acre, and other conditions, as required by a conditional use permit.

(3) Roominghouses and boardinghouses.

(4) Bed and breakfasts.

(5) Schools, including day care centers.

(6) Churches, including day care centers, with conditional use.

(7) Rest homes, adult care residence, with conditional use.

(8) Hospitals, nursing homes and dwelling units for retirement developments with conditional use.

(9) Clubs and lodges, with a conditional use permit.

(10) Parks and playgrounds.

(11) Professional offices.

(12) Home occupations, as defined in section 36-1, conducted by the occupant.

(13) Travel trailers, as defined in section 36-1.

(14) Off-street parking as required by article XII of this chapter.

(15) Accessory buildings permitted as defined in section 36-1; 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 may be closer than five feet to

any property line.

(16) Public utilities; poles, line, distribution transformers, pipes, meters and other facilities necessary for the provision and maintenance of public utilities, including water and sewage facilities.

(17) Family care homes, foster homes or group homes serving physically disabled, mentally ill, intellectually disabled or other developmentally disabled persons, not related by blood or marriage.

(18) Short-term rentals.

(Code 2003, § 195-39; Ord. of 3-29-2022(2), § 2; Ord. of 8-12-2013)

Sec. 36-215. - Inoperable, junk or scrap motor vehicles.

(a) No inoperable, junk or scrap motor vehicle may be kept stored or parked on lots in an R-3 district; provided that nothing in this section shall be construed to apply to a collector of antique or vintage vehicles, who may keep such vehicles on the lot of said collector within the R-3 district, provided the vehicles are stored in the rear of the property out of view in a fully enclosed building or surrounded by an approved blind or screen so as to be out of view by surrounding property owners. An antique vehicle that is inoperative, unless junk or scrap, shall have a town license affixed, and the current personal property tax thereon shall have been paid.

(b) Any owner of a vehicle that bears an expired state inspection sticker, local license tag or state license tag, has not been moved for a period of 180 days and matches the definition of "inoperable, junk or scrap motor vehicle" in section 36-1 shall move such vehicle from the premises of said owner within ten days of notification. If, after reasonable notice, the owner fails to comply, the town may have the vehicle removed, and the cost of removal and disposal shall be charged to the owner of the property. When the owner of the property shall have been assessed such costs, the assessment shall constitute a lien against the property from which the vehicle was removed. The lien shall continue until actual payment of costs shall have been made to the town.

(Code 2003, § 195-40; Ord. of 8-12-2013)

Sec. 36-216. - Lot area.

(a) For lots in the 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 15,000 square feet.

(b) For lots in the R-3 General Residential District 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 15,000 square feet.

(c)

For lots in the R-3 General Residential District 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, for two units, 15,000 square feet or more; for three units, 20,000 square feet or more; and for each additional unit above three, an additional 2,000 square feet per unit. However, the overall density shall not exceed ten dwelling units per acre.

(d) For permitted uses in the R-3 General Residential District 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 2003, § 195-41; Ord. of 8-12-2013)

Sec. 36-217. - Setback.

Structures in the R-3 General Residential District shall be located 35 feet or more from any street right-of-way line; except that signs advertising sale or rent of property may be erected up to the property line. This shall be known as the setback line.

(Code 2003, § 195-42; Ord. of 8-12-2013)

Sec. 36-218. - Frontage and lot width regulations.

(a) For permitted uses in the Residential District R-3, the minimum road frontage shall be 80 feet, and for each additional permitted use in Residential District R-3, there shall be ten feet of additional lot width at the road.

(b) For permitted uses in the R-3 General Residential District, the minimum lot width at the building line shall be 80 feet or more, and for each additional permitted use in the R-3 General Residential District, there shall be at least ten feet of additional lot width at the building line.

(Code 2003, § 195-43; Ord. of 8-12-2013; Ord. of 9-11-2023)

Sec. 36-219. - Yard regulations.

Yard regulations in the R-3 district shall be as follows:

(1) *Side yards.* The minimum side yard for each main structure shall be ten feet, and the total width of the two required side yards shall be 20 feet or more.

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

(Code 2003, § 195-44; Ord. of 8-12-2013)

Sec. 36-220. - Height regulations.

Buildings in the 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 ten feet and up to three stories, provided 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 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 antennas 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 five 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 2003, § 195-45; Ord. of 8-12-2013)

Sec. 36-221. - Special provisions for corner lots.

In the R-3 General Residential District:

(1) The side yard on the side facing the side street shall be 35 feet or more from the street right-of-way line for both main and accessory buildings.

(2) Landscaping of corner lots shall be limited to plantings, fences or other landscaping features of no more than three feet in height within the space between the setback line and the property line on the street side of the lot.

(Code 2003, § 195-46; Ord. of 8-12-2013)

Secs. 36-222—36-250. - Reserved.

ARTICLE VI. - MOBILE HOME PARK DISTRICT, MHP-1

Sec. 36-251. - Statement of intent.

The MHP-1 Mobile Home Park District covers that portion of the community intended for the location of mobile home parks so that opportunities for additional housing choice and better recreation may be provided in an atmosphere of health and safety for occupants of mobile homes and their property. The regulations for this district are formulated to encourage the design and layout of a mobile home

development to the particular park site in a manner consistent with the preservation of the natural environment and the property values of adjoining areas. To this end, this district is limited to the development of mobile home parks, including the accessory uses therein.

(Code 2003, § 195-47; Ord. of 8-12-2013)

Sec. 36-252. - Use regulations.

In the MHP-1 Mobile Home Park District, structures to be erected or land to be used shall be for one or more of the following uses with a conditional use permit:

(1) Mobile homes, including double-wides.

(2) Park management office.

(3) Child care centers.

(4) Laundry facilities.

(5) Recreational facilities.

(6) Off-street parking, as required by article XII of this chapter.

(7) Public utilities, such as poles, lines, distribution transformers, pipes, meters, and/or other facilities necessary for the provisions and maintenance, including water and sewerage facilities.

(8) Business signs only to advertise the mobile home park.

(9) Directional signs.

(10) Accessory buildings or structures as defined in section 36-1, provided that such buildings and structures meet the following requirements:

a. All mobile home accessory structures must meet the plumbing, electrical connection wiring, construction and other applicable requirements of the town building code.

b. Mobile home accessory structures, except ramadas, shall not exceed the height of the mobile home.

c. No accessory structure shall be erected or constructed on any mobile home lot except as an accessory to a mobile home.

d. Porches may be placed adjacent to mobile homes, provided they are constructed in accordance with the provisions of the town building code.

e. No accessory building or structure may be closer than two feet to any property line or mobile home lot line.

(Code 2003, § 195-48; Ord. of 8-12-2013)

Sec. 36-253. - Mobile home requirements.

(a) All mobile homes shall meet the plumbing requirements and the electrical wiring and connection requirements of the building code and the construction, blocking and anchoring requirements of the state corporation commission and shall display the seal of a testing laboratory approved by the commonwealth.

(b) All mobile home units shall be completely enclosed with metal skirts, concrete blocks, ornamental wood, stone, or other similar material, in such a manner that no part of the undercarriage shall be visible to a casual observer, in accordance with methods and materials approved by the building inspector.

(c) No permanent or semipermanent structure shall be affixed to any mobile home as an addition to such mobile home. The prohibition in this subsection against any addition or accessory to a mobile home shall not apply to a canopy or awning designed for use with a mobile home, nor to any expansion unit or accessory structures specifically manufactured for mobile homes.

(d) All mobile homes must use and be secured with proper tiedown equipment.

(Code 2003, § 195-49; Ord. of 8-12-2013)

Sec. 36-254. - Mobile home park area requirements.

(a) The minimum area for each mobile home park shall be ten acres with a minimum of 25 mobile home stands and a maximum of five mobile home stands per acre; and the minimum lot width for the portion used for the entrance and exit to a public road shall be 50 feet.

(b) The minimum lot area of each individual mobile home lot shall be 3,600 square feet for single-wide units and 6,000 square feet for double-wide units.

(c) No mobile home and an accessory building shall occupy more than 30 percent of the area of the lot on which it is situated.

(d) The minimum length of a mobile home lot shall be 90 feet; the minimum width shall be 40 feet. On all lots larger than the minimum, the ratio of length to width shall not exceed 2.25 to 1.0.

(e) No more than one detached mobile home accessory structure shall be permitted on any mobile home lot.

(Code 2003, § 195-50; Ord. of 8-12-2013)

Sec. 36-255. - Mobile home park setback requirements.

(a) No mobile home unit, management office, or other structure except decorative fencing, lighting, wall, entrance or other decorative feature shall be located closer than 35 feet to a street right-of-way line of a public road with a right-of-way of 50 feet or greater, nor closer than 60 feet to the centerline of a public road with a right-of-way of less than 50 feet.

(b)

No main or accessory structure shall be located closer than 25 feet to the property line of the mobile home park.

(c) No mobile home shall be placed within 20 feet of another mobile home nor closer than ten feet to the mobile home lot line.

(Code 2003, § 195-51; Ord. of 8-12-2013)

Sec. 36-256. - General requirements for mobile home parks.

(a) No mobile home park may be a closed park where entry is denied anyone who has not purchased a home from the dealer, park owner or operator. No mobile home park may also serve as a general retail or wholesale and demonstration or storage area for mobile homes.

(b) All mobile homes will be parked on a pad of concrete or bituminous material.

(c) Every mobile home lot shall be clearly defined on the ground by permanent markers. There shall be posted and maintained in a conspicuous place on each lot a number corresponding to the number of each lot as shown on the site plan submitted so that each lot may be easily identified.

(d) An internal street system shall be provided to furnish convenient access to mobile home lots, and other facilities in the park shall be designed such that connection to existing drainage and utility systems is convenient, and shall meet the following requirements in addition to such other reasonable standards and requirements as may be recommended by the resident engineer:

(1) All internal streets shall be permanently paved with plant bituminous material or other hard, durable surface which shall be maintained free of cracks and holes and the edges of which shall be protected from raveling. Minimum pavement widths shall be 24 feet for streets providing access to 40 or more mobile home lots, and 18 feet for streets providing access to less than 40 mobile home lots. Widths shall be measured from curb face to curb face.

(2) No on-street parking shall be permitted.

(3) Dead-end streets shall be limited in length to 400 feet, shall be provided with culs-de-sac with turning areas of not less than 40 feet in radius, or with "T" or "Y" turning areas, and shall provide access to no more than 20 mobile home lots.

(4) Streets shall be approximately at right angles at and within 100 feet of street intersections. Offsets at intersections of less than 125 feet from centerline to centerline and intersections of more than two streets at one point shall be avoided.

(5) Streets shall be adapted to the topography, shall follow the contours of the land as nearly as possible, and shall have safe grade and alignments. No grade shall exceed 12 percent or no curve shall have an outside radius of less than 80 feet.

(6) Lighting shall be provided in such a way as to produce a minimum of 0.1 footcandles at street level throughout the system, with at least 0.3 footcandles at street intersections, park entrances, and other potentially hazardous locations in or around the park.

(7) Entrances shall be provided in sufficient numbers to ensure safe and convenient ingress and egress. Where the proposed park adjoins two or more public roads, entrances shall be provided on at least two public roads where possible, provided that the internal street system shall be so designed as to discourage through traffic. Entrances shall be no closer than 125 feet from an existing public road intersection.

(e) An adequate supply of water approved by the state health department shall be furnished from a public water supply system, or from a private water system conforming to all applicable laws, regulations, resolutions and ordinances with water connections located on each mobile home lot. All water lines shall be made frost-free.

(f) In each mobile home park, all wastewater from a faucet, toilet, tub, shower, sink, slopsink, drain, washing machine, garbage disposal unit or laundry shall empty into a sewer system approved by the health department.

(g) Each mobile home park shall provide door-to-door garbage pickup for disposal in approved containers at a central location within the mobile home park or provide an adequate number of trash containers as specified by the town manager, so located to allow the town to collect and dispose of the solid waste generated by park residents only or by private contract for disposal in accordance with applicable state and local laws.

(h) There shall be provided a minimum of 30,000 square feet of developed recreational area, exclusive of required setback and yard requirements, per each 25 mobile home lots or multiple or fraction thereof.

(i) All utilities shall be underground, except control instrumentation and substations which must be screened by planting or ornamental walls. No overhead wires are permitted within the park.

(j) Fencing or vegetative screening shall be provided to a height of six feet and such a density that no mobile home or mobile home accessory structure shall be visible to a casual observer on any side of a mobile home park abutting the back yard of a residential structure or the side yard of a residential structure, provided the screening does not extend beyond the setback line of the structure, provided that, where natural features such as topography or natural vegetation are prescribed and prevent the park from being casually visible from adjoining properties, requirements for screening may be waived. Fencing where required shall be maintained in a safe condition, shall be painted and shall be kept in good repair.

(Code 2003, § 195-52; Ord. of 8-12-2013)

Sec. 36-257. - Park management.

(a) The minimum number of mobile home lots and stands completed and ready for occupancy before the first occupancy is permitted shall be 12, and no lot or stand shall be rented for a period of less than 60 days. Prior to the first occupancy, a certified statement of compliance shall

be obtained from the zoning administrator.

(b) Permanent buildings housing management offices, child care centers, laundry facilities, or indoor recreational facilities or other service facilities may be permitted in mobile home parks, provided such facilities:

(1) Shall meet parking requirements for such facilities as specified in this chapter;

(2) Shall be subordinate to the residential use and character of the park;

(3) Shall be located, designed and intended to serve the service needs of persons residing in the park;

(4) Shall present no visible evidence of their nonresidential character to any area outside the park;

(5) Shall meet all applicable federal, state and local requirements pertaining to such uses; and

(6) Shall not occupy more than ten percent of the area of the park.

(Code 2003, § 195-53; Ord. of 8-12-2013)

Sec. 36-258. - Mobile home park site plan.

(a) Site plans shall be submitted at a scale of not less than one inch equals 100 feet.

(b) Two clearly legible blue line or black line copies of the site plan shall be submitted. Additional copies may be requested as deemed necessary.

(c) The names and addresses of the owner and developer and a scale and north arrow shall be included on all maps. The site plan shall also include:

(1) The names and addresses of the owners of record of all adjacent properties;

(2) Current zoning boundaries, including surrounding areas to a distance of 300 feet;

(3) Erosion control measures as regulated by chapter 18, article II;

(4) The location and size of proposed buildings and uses thereof;

(5) The proposed topography;

(6) The layout of off-street parking;

(7) The location of proposed utility lines, indicating where they already exist;

(8) Proposed storm and sanitary drainage systems, both surface and subsurface, showing pipe sizes, grades, flow and design loads;

(9) The proposed location, direction of power, and time and use of outdoor lighting;

(10) The location, size and design of proposed signs;

(11) Facilities for disposal of trash and other solid wastes; and

(12) The elevations of buildings to be built or altered on-site.

(d)

The name of the proposed park shall be included on the site plan and shall not closely approximate that of any existing mobile home park or subdivision in the town or in the county.

(e) The location and dimensions of all existing streets and street rights-of-way, easements, water, sewerage, drainage facilities and other community facilities and utilities adjacent to the proposed park shall be included on the site plan.

(f) All existing significant natural and historical features on or adjacent to the proposed park, including, but not limited to, views from the property and views from adjoining properties that might be affected by the proposed park, shall be included on the site plan.

(g) The proposed layout shall include:

(1) Interior streets with dimensions and such typical street cross sections and centerline profiles as may be required in evaluating the street layout;

(2) Interior monuments and lot lines, dimensions, and areas of mobile home lots, common open space and recreation areas, common parking areas and other common areas;

(3) Locations and dimensions of mobile home stands and parking spaces, management offices, laundry facilities, recreation buildings and other permanent structures;

(4) Location and nature of firefighting facilities, including hydrants, fire extinguishers and other firefighting equipment;

(5) Location of fuel storage facilities and structures of high flammability; and

(6) Location and dimensions of landscaping amenities, including streetlights, sidewalks, planted areas, significant natural features to be retained and fencing and screening.

(h) A narrative statement shall be included describing how the standards and requirements set forth herein are to be met; a statement from the health department certifying approval of the proposed site plan; and a statement from the resident engineer certifying that all ingress and egress to and from public streets and alleys meet the specifications of Code of Virginia, § 33.1-198, and the minimum standards of entrances to state highways.

(i) A vicinity map at a scale no smaller than 600 feet to one inch, showing all streets and property within 1,000 feet of the property for which the application is made shall be included on the site plan. All properties owned or controlled by the applicant in this area shall be identified.

(Code 2003, § 195-54; Ord. of 8-12-2013)

Secs. 36-259—36-279. - Reserved.

ARTICLE VII. - BUSINESS DISTRICT, LESS INTENSE USE, B-1

Sec. 36-280. - Statement of intent.

Generally, the B-1 Less Intense Use 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 includes such uses as retail stores, banks, theaters, business offices, newspaper offices, printing presses, restaurants and taverns, and garages and service stations.

(Code 2003, § 195-55; Ord. of 8-12-2013)

Sec. 36-281. - Permitted uses.

In B-1 Less Intense Use Business District, structures to be erected or land to be used shall be for one or more of the following uses or other uses consistent with the statement of intent:

(1) Bakeries.

(2) Wearing apparel stores.

(3) Barber and beauty shops.

(4) Jewelry stores.

(5) Banks and credit unions.

(6) Bookstores.

(7) Newspaper printing establishments.

(8) Florist and gift shops.

(9) Miscellaneous retail stores and shops.

(10) Music and dance instruction.

(11) Pet grooming or sales.

(12) Tailors, dressmaking.

(13) Photography.

(14) Professional offices.

(15) Office buildings.

(16) Churches.

(17) Libraries.

(18) Funeral homes.

(19) Mini warehouses, self-service storage facilities.

(20) Mixed commercial and residential use, with a conditional use permit, and provided that:

a.

All applicable local and state codes are strictly complied with in the siting and construction of the structure, including without limitation the provisions of Code of Virginia, § 36-97 et seq., or any successor provisions, which are incorporated herein by reference;

b. All residential use must be located on the second story of the building or above, immediately above the street level, not including the basement in any such calculation or use;

c. A separate street-level entrance must be provided for the residential use;

d. Each residential unit shall be between 700 and 1,500 square feet in finished habitable space as defined by the current building code (excluding bathrooms, closets, halls, storage, or utility spaces);

e. Occupancy density shall ensure at least 350 square feet of finished habitable space per occupant as defined by the current building code (excluding bathrooms, closets, halls, storage, or utility spaces);

f. Off-street parking under the legal control of the property owner for which the space is made available shall be provided in the amount of one parking space per bedroom or room usable as a bedroom for each housing unit, to be located within 500 feet of the property; and

g. Design plans must be prepared by a duly licensed architect or engineer.

(Code 2003, § 195-56; Ord. of 8-12-2013; Ord. of 10-13-2020)

Sec. 36-282. - Lot area.

In the B-1 Less Intense Use Business District, the minimum lot area shall be none, except for permitted uses utilizing individual sewage disposal systems; the required area for any such use shall be approved by the county sanitarian.

(Code 2003, § 195-57; Ord. of 8-12-2013)

Sec. 36-283. - Frontage and yard regulations.

For permitted uses in the B-1 district, the minimum side yard adjoining or adjacent to a residential or agricultural district shall be ten feet, and off-street parking shall be in accordance with the provisions contained in article XII of this chapter; the minimum rear setback shall be 35 feet, and the minimum front setback shall be 25 feet from the street right-of-way.

(Code 2003, § 195-58; Ord. of 8-12-2013)

Sec. 36-284. - Height regulations.

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

(1) A public or semipublic building such as a school, church, library or hospital may be erected to a height of 60 feet above 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 antennas 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) Landscaping of corner lots shall be limited to plantings, fences or other landscaping features of no more than three feet in height within the space between the setback line and the property line on the street side of the lot.

(Code 2003, § 195-59; Ord. of 8-12-2013)

Secs. 36-285—36-301. - Reserved.

ARTICLE VIII. - BUSINESS DISTRICT, GENERAL, B-2

Sec. 36-302. - Statement of intent.

Generally, the B-2 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 which is characterized either by constant heavy trucking for stocking and delivery of retail goods, or by nuisance factors such as light, noise of congregating people or vehicles. This includes such uses as retail food stores, furniture stores, hardware stores, building supplies, or auto and home appliances services.

(Code 2003, § 195-60; Ord. of 8-12-2013)

Sec. 36-303. - Permitted uses.

In the B-2 General Business District, structures to be erected or land to be used shall be for one or more of the following uses:

(1) All the uses permitted as a matter of right in the B-1 Less Intense Use Business District.

(2) Vehicle repair shops, and other shops which repair equipment and machinery, provided all storage and activities are conducted within a building, without any limitation as to the number of persons employed.

(3) Retail stores without the limitations as to size and outdoor stock. This subsection permits, but is not limited to, automobile dealerships, lumberyards, with storage under cover and manufactured housing lots.

(4) Radio or television broadcasting stations, studios, and offices, except transmission towers.

(5) Agencies and offices rendering specialized services in the professions, finance, insurance, real estate, chiropractors, optometrists, osteopaths, dental laboratories, architects and engineers; also service agencies not involving on-premises retail or wholesale trade nor maintenance of a stock of goods for display or sale.

(6) Hospitals, but not animal hospitals.

(7) Veterinary establishments, provided that all animals shall be kept inside soundproofed air conditioned buildings.

(8) Garden centers, greenhouses, and nurseries.

(9) Pet shops.

(10) Garages, service stations (with major repair under cover).

(11) Retail food stores.

(12) Dry cleaners, laundries and laundromats.

(13) Furniture stores.

(14) Auto and home appliance services.

(15) Department stores.

(16) Hardware stores.

(17) Repair shops, to include repair of bicycles, guns, locks, electrical equipment, similar stores.

(18) Business schools.

(19) Theaters and assembly halls.

(20) Hotels, motels, and bed and breakfast establishments.

(21) Restaurant and taverns.

(22) Hospitals, general.

(23) Car washes.

(24) Farmers market.

(25) Building supply (with storage under cover).

(26) Plumbing and electrical supply (with storage under cover).

(27) Wholesale and processing not objectable because of dust, noise, or odors (with conditional use permits).

(28) Recycling collection centers.

(29) Greenhouses and garden centers.

(30) Sports and fitness complexes.

(31) Machinery sales and service.

(32) Feed and seed storage.

(33) Off-street parking as required by this chapter.

(34) Mini warehouses, self-storage facilities.

(35) Drugstores.

(36) Professional offices.

(37) Mixed commercial and residential use, with a conditional use permit, and provided that:

a. All applicable local and state codes are strictly complied with in the siting and construction of the structure, including, without limitation, the provisions of Code of Virginia, § 36-97 et seq., or any successor provisions, which are incorporated herein by reference;

b. All residential use must be located on the second story of the building or above, immediately above the street level, not including the basement in any such calculation or use;

c. A separate street-level entrance must be provided for the residential use;

d. Each residential unit shall be between 700 and 1,500 square feet in finished habitable space as defined by the current building code (excluding bathrooms, closets, halls, storage, or utility spaces);

e. Occupancy density shall ensure at least 350 square feet of finished habitable space per occupant as defined by the current building code (excluding bathrooms, closets, halls, storage, or utility spaces);

f. Off-street parking under the legal control of the property owner for which the space is made available shall be provided in the amount of one parking space per bedroom or room usable as a bedroom for each housing unit, to be located within 500 feet of the property; and

g. Design plans must be prepared by a duly licensed architect or engineer.

(Code 2003, § 195-61; Ord. of 8-12-2013; Ord. of 10-13-2020)

Sec. 36-304. - Lot area.

In the B-2 General Business District, the minimum lot area shall be none, except for permitted uses utilizing individual sewage disposal systems; the required area for any such use shall be approved by the county sanitarian.

(Code 2003, § 195-62; Ord. of 8-12-2013)

Sec. 36-305. - Frontage and yard regulations.

For permitted uses in the B-2 district, the minimum side yard adjoining or adjacent to a residential or agricultural district shall be ten feet, and off-street parking shall be in accordance with the provisions contained in this chapter; the minimum front setback shall be 25 feet from the street right-of-way.

(Code 2003, § 195-63; Ord. of 8-12-2013)

Sec. 36-306. - Height regulations.

Buildings in the B-2 district may be erected up to 35 feet in height from grade, except that:

(1) A public or semipublic building such as a school, church, library or hospital may be erected to a height of 60 feet above 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 antennas 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) Landscaping of corner lots shall be limited to plantings, fences or other landscaping features of no more than three feet in height within the space between the setback line and property line on street side of the lot.

(Code 2003, § 195-64; Ord. of 8-12-2013)

Secs. 36-307—36-330. - Reserved.

ARTICLE IX. - INDUSTRIAL DISTRICT, LIMITED, M-1

Sec. 36-331. - Statement of 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 building, horsepower, heating, flammable liquids or explosives, controlling emission of fumes, odors and/or noise, landscaping, and the number of persons employed are imposed to protect and foster adjacent residential desirability while permitting industries to locate near a labor supply.

(Code 2003, § 195-65; Ord. of 8-12-2013)

Sec. 36-332. - Permitted uses enumerated; conditional use permit.

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, all of which shall require a conditional use permit:

(1) Assembly of electrical appliances, electronic instruments and devices; also the manufacture of small parts such as coils, condensers, transformers and crystal holders.

(2)

Automobile assembling, painting, upholstering, repairing, rebuilding, reconditioning, body and fender work, truck repairing or overhauling, tire retreading or recapping or battery manufacture with a conditional use permit.

(3) Welding or machine shop excluding punch presses exceeding 40-ton-rated capacity and drop hammers.

(4) Laboratories, pharmaceutical and/or medical.

(5) 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.

(6) Manufacture, compounding, assembling or treatment of articles of merchandise from the following previously prepared materials: 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.

(7) Manufacture of pottery and figurines or other similar ceramic products, using only previously pulverized clay and kilns fired only by electricity or gas.

(8) Manufacture of musical instruments, toys, novelties and rubber and metal stamps.

(9) Building material sales yards, plumbing supplies storage, millwork manufacturing and feed and seed process.

(10) Contractors' equipment storage yard or plant, or rental of equipment commonly used by contractors.

(11) Cabinet, furniture and upholstery shops.

(12) Boatbuilding.

(13) Monumental stone works.

(14) Veterinary or dog or cat hospital, kennels.

(15) Truck terminals and petroleum storage.

(16) Wholesale businesses, storage warehouses.

(17) 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.

(Code 2003, § 195-66; Ord. of 8-12-2013)

Sec. 36-333. - Prerequisites to issuance of zoning permit.

(a) Before a zoning permit shall be issued or construction commenced on any permitted use in the 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 may refer these plans to the planning commission for its recommendation. Modifications of the plans may be required.

(b) Landscaping may be required within any established or required front setback area in the M-1 district. The plans and execution must 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.

(c) Sufficient area shall be provided:

(1) To adequately screen permitted uses from adjacent business and residential districts;

(2) For off-street parking of vehicles incidental to the industry, its employees and clients; and

(3) For off-street loading and unloading facilities.

(d) The administrator shall act on any application for a zoning permit received within 31 days after receiving the application. If formal notice in writing is given to the applicant, the time for action may be extended for a 20-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 2003, § 195-67; Ord. of 8-12-2013)

Sec. 36-334. - Lot area.

For permitted uses in the M-1 district utilizing individual sewage disposal systems, the required area for any such use shall be approved by the health official. The administrator shall require a greater area if considered necessary by the county sanitarian.

(Code 2003, § 195-68; Ord. of 8-12-2013)

Sec. 36-335. - Setback.

Structures in the M-1 Limited Industrial District shall be located 35 feet or more from the street right-of-way. This shall be known as the setback line.

(Code 2003, § 195-69; Ord. of 8-12-2013)

Sec. 36-336. - Frontage and yard regulations.

For permitted uses in the 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 35 feet from the street right-of-way.

(Code 2003, § 195-70; Ord. of 8-12-2013)

Sec. 36-337. - Height regulations.

In the M-1 Limited Industrial District, buildings may be erected up to a height of 35 feet. For buildings over 35 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 workmen 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 2003, § 195-71; Ord. of 8-12-2013)

Sec. 36-338. - Coverage regulations.

Buildings or groups of buildings with their accessory buildings may cover up to 70 percent of the area of the lot in the M-1 Limited Industrial District.

(Code 2003, § 195-72; Ord. of 8-12-2013)

Secs. 36-339—36-364. - Reserved.

ARTICLE X. - PUBLIC USE DISTRICT, P-1

Sec. 36-365. - Statement of intent.

The P-1 Public Use District is intended to allow cultural, recreational, educational, and governmental uses. The council intends that this classification will apply primarily to governmentally owned property, but it may also apply to privately owned property being put to similar uses.

(Code 2003, § 195-73; Ord. of 8-12-2013)

Sec. 36-366. - Permitted uses.

In the P-1 Public Use District, uses permitted as a matter of right are as follows:

(1) Schools not housing students overnight.

(2) Police stations.

(3) Fire stations.

(4) Rescue squad stations.

(5) Parks, playgrounds, and recreational facilities.

(6) Libraries.

(7) Administrative offices or other public use facilities for governmental entities.

(8) Community centers and other assembly halls.

(9) Water treatment facilities.

(10) Sewage treatment facilities.

(11) Neighborhood public utilities.

(12) Water tanks.

(13) Cemeteries.

(14) Municipal maintenance facilities.

(Code 2003, § 195-74; Ord. of 8-12-2013)

Sec. 36-367. - Special use permit.

In the P-1 district, the following uses are permitted with special use permit:

(1) Festival parks, in which occasional celebrations, sales, lawn parties, fundraisers, and similar events are held.

(2) Telecommunications towers and telecommunications antennas, in accordance with article XIII of this chapter.

(3) Wide-area public utilities.

(Code 2003, § 195-75; Ord. of 8-12-2013)

Sec. 36-368. - Area regulations.

There are no requirements for minimum lot areas, front yards, street frontage, lot width, depth, side yards, rear yards, or lot coverage.

(Code 2003, § 195-76; Ord. of 8-12-2013)

Sec. 36-369. - Height.

Buildings shall not exceed three stories or 40 feet in height, whichever is less. There is no height limit for other types of structures, except as may be provided in article XVI of this chapter.

(Code 2003, § 195-77; Ord. of 8-12-2013)

Sec. 36-370. - Off-street parking.

Parking lots, loading and unloading zones, etc., shall be provided as part of the property development, and the appropriate number of parking spaces shall be coordinated with the zoning administrator.

(Code 2003, § 195-78; Ord. of 8-12-2013)

Sec. 36-371. - Signs.

Sign regulations shall be as provided in as provided in article XVI of this chapter.

(Code 2003, § 195-79; Ord. of 8-12-2013)

Secs. 36-372—36-400. - Reserved.

ARTICLE XI. - NONCONFORMING USES

Sec. 36-401. - Continuation.

(a) If, as of April 23, 1969, any legal activity is being pursued or any lot or structure legally utilized in a manner or for a purpose which does not conform to the provisions of this chapter, such manner of use or purpose may be continued as provided in this article.

(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 April 23, 1969, 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 for a period of two years or more prior to April 23, 1969, are excluded.

(f) Automobile graveyards and junkyards in existence as of April 23, 1969, 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.

(Code 2003, § 195-80; Ord. of 8-12-2013)

State Law reference— Ordinances regulating automobile graveyards and junkyards, Code of Virginia, § 15.2-903.

Sec. 36-402. - Permit required.

(a) All nonconforming uses shall apply for a nonconforming use permit on forms prescribed by the administrator within one year after April 23, 1969. Such permits shall be issued promptly upon the written request of the owner or operator of a nonconforming use.

(b) The construction or use of a nonconforming building or land area for which a permit was issued legally prior to April 23, 1969, may proceed, provided such building is completed within one year or such use of land established within 30 days after April 23, 1969.

(Code 2003, § 195-81; Ord. of 8-12-2013)

Sec. 36-403. - Repairs and maintenance.

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 50 percent of the current replacement value of the structure, provided that the cubic content of the structure as it existed on April 23, 1969, or at the time of amendment of this chapter shall not be increased. Nothing in this chapter shall be deemed to prevent the strengthening or restoring to a safe condition of any structure or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

(Code 2003, § 195-82; Ord. of 8-12-2013)

Sec. 36-404. - Nonconformities resulting from 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 2003, § 195-83; Ord. of 8-12-2013)

Sec. 36-405. - Expansion or enlargement.

A nonconforming activity may be extended throughout any part of a structure which was arranged or designed for such activity as of April 23, 1969.

(Code 2003, § 195-84; Ord. of 8-12-2013)

Sec. 36-406. - Nonconforming lots.

Any lot of record as of April 23, 1969, which 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 2003, § 195-85; Ord. of 8-12-2013)

Sec. 36-407. - 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.

(c) Where 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 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.

(Code 2003, § 195-86; Ord. of 8-12-2013)

Secs. 36-408—36-427. - Reserved.

ARTICLE XII. - OFF-STREET PARKING

Sec. 36-428. - Minimum requirements.

There shall be provided at the time of erection of any main building, or at the time any main building is enlarged, minimum off-street parking 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 two automobiles for a single-family dwelling and for each dwelling unit of a multiple-family dwelling.

(2) For church, high school, college and university auditoriums, and for theaters, general auditoriums, stadiums and other similar places of assembly, at least one parking space for every five fixed seats provided in such building.

(3) For hospitals, at least one parking space for each two beds' capacity, including infants' cribs and children's beds.

(4)

For medical and dental clinics, 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.

(5) For tourist courts, tourist homes and roominghouses, at least one parking space for each individual sleeping or living unit. For hotels and motels, 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.

(6) For mortuaries and liquor stores, at least 30 parking spaces.

(7) For retail stores selling direct to the public, one parking space for each 200 square feet of retail floor space in the building.

(8) Any other commercial building not listed above erected, converted or structurally altered after April 23, 1969, shall provide one parking space for each 200 square feet of building floor space used as sales area, display, or office space in the building.

(9) Parking space as required in the foregoing shall be on the same lot with the main building; except that in the case of buildings other than dwellings, space may be located as far away as 600 feet. Every parcel of land used as a public parking area after April 23, 1969, shall be surfaced with gravel, stone, asphalt or concrete. It shall have appropriate safeguards 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.

(10) Driveway entrances must be at least 24 feet in width or as required by state department of transportation standards, whichever is greater.

(11) Parking spaces shall be nine feet by 18 feet.

(Code 2003, § 195-87; Ord. of 8-12-2013)

Sec. 36-429. - Travel trailers.

Travel trailers may be stored unoccupied to the rear of single-family dwellings. They shall not encroach upon side or rear setback lines. Travel trailers shall not be occupied more than 14 days over a 12-month period.

(Code 2003, § 195-88; Ord. of 8-12-2013)

Secs. 36-430—36-456. - Reserved.

ARTICLE XIII. - WIRELESS TELECOMMUNICATIONS FACILITIES

Footnotes:

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Federal law reference—Local governments generally must approve request from eligible facility to modify existing wireless tower or base station, 47 USC 1455.

Sec. 36-457. - Purpose and legislative intent.

The Telecommunications Act of 1996 affirmed the town's authority concerning the placement, construction, and modification of wireless telecommunications facilities. The council finds that wireless telecommunications facilities may cause a unique impact to the health, safety, public welfare and environment of the town and its citizens. The town also recognizes that facilitating the development of wireless service technology can be an economic development asset to the town and of significant benefit to the town and its residents. In order to ensure that the placement, construction or modification of wireless telecommunications facilities is consistent with the town's land use policies, the town is adopting a single, comprehensive, wireless telecommunications facilities application and permit process. The intent of this article is to minimize the negative impact of wireless telecommunications facilities, establish a fair and efficient process for review and approval of applications, ensure an integrated, comprehensive review of environmental impacts of such facilities, and protect the health, safety and welfare of the town.

(Code 2003, § 195-89; Ord. of 8-12-2013)

Sec. 36-458. - Title.

This article may be known and cited as the "Wireless Telecommunications Facilities Siting Ordinance for the Town of Appomattox."

(Code 2003, § 195-90; Ord. of 8-12-2013)

Sec. 36-459. - Severability.

(a) If any word, phrase, sentence, part, section, subsection, or other portion of this article or any application thereof to any person or circumstance is declared void, unconstitutional, or invalid for any reason, then such word, phrase, sentence, part, section, subsection, or other portion, or the proscribed application thereof, shall be severable, and the remaining provisions of this article, and all applications thereof, not having been declared void, unconstitutional, or invalid, shall remain in full force and effect.

(b) Any special use permit issued under this article shall be comprehensive and not severable. If part of a permit is deemed or ruled to be invalid or unenforceable in any material respect, by a competent authority, or is overturned by a competent authority, the permit shall be void in total, upon determination by the council.

(Code 2003, § 195-91; Ord. of 8-12-2013)

Sec. 36-460. - Definitions.

When not inconsistent with the context, words in the present tense include the future tense, words used in the plural number include words in the singular number and words in the singular number include the plural number. The word "shall" is always mandatory, and not merely directory. 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:

Accessory facility or structure means an accessory facility or structure serving or being used in conjunction with wireless telecommunications facilities, and located on the same property or lot as the wireless telecommunications facilities, including, but not limited to, utility or transmission equipment storage sheds or cabinets.

Antenna means a system of electrical conductors that transmit or receive electromagnetic waves or radio frequency signals. Such waves shall include, but not be limited to, radio, television, cellular, paging, personal telecommunications services (PCS), and microwave telecommunications.

Applicant means any person submitting an application to the town for a special use permit for wireless telecommunications facilities.

Application means the form approved by the council, together with all necessary and appropriate documentation, that an applicant submits in order to receive a special use permit for wireless telecommunications facilities.

Collocation means the use of the same telecommunications tower or structure to carry two or more antennas for the provision of wireless services by two or more persons or entities.

Commercial impracticability or *commercially impracticable* means the inability to perform an act on terms that are reasonable in commerce. The inability to achieve a satisfactory financial return on investment or profit, standing alone, shall not be considered commercial impracticability and shall not render an act or the terms of an agreement commercially impracticable.

Commonwealth means the Commonwealth of Virginia.

Completed application means an application that contains all information and/or data necessary to enable the council to evaluate the merits of the application, and to make an informed decision with respect to the effect and impact of wireless telecommunications facilities on the town in the context of the permitted land use for the particular location requested.

Council means the council of the town.

Direct-to-home satellite services or *direct broadcast service* or *DBS* means only programming transmitted or broadcast by satellite directly to subscribers' premises without the use of ground receiving equipment, except at the subscribers' premises or in the uplink process to the satellite.

EPA means the state and/or federal Environmental Protection Agency or its duly assigned successor agency.

FAA means the Federal Aviation Administration, or its duly designated and authorized successor agency.

FCC means the Federal Communications Commission, or its duly designated and authorized successor agency.

Freestanding tower means a tower that is not supported by guy wires and ground anchors or other means of attached or external support.

Height, when referring to a tower or structure, means the distance measured from the preexisting grade level to the highest point on the tower or structure, even if said highest point is an antenna.

Modification or *modify* means the addition, removal or change of any of the physical and visually discernible components or aspects of a wireless facility, such as antennas, cabling, radios, equipment shelters, landscaping, fencing, utility feeds, changing the color or materials of any visually discernible components, vehicular access, parking and/or an upgrade or changeout of equipment for better or more modern equipment. Adding a new wireless carrier or service provider to a telecommunications tower or telecommunications site is a modification. The term "modification" does not include the replacement of any components of a wireless facility where the replacement is identical to the component being replaced or for any matters that involve the normal repair and maintenance of a wireless facility without adding, removing or changing anything.

NIER means nonionizing electromagnetic radiation.

Person means any individual, corporation, estate, trust, partnership, joint-stock company, association of two or more persons having a joint common interest, or any other entity.

Personal wireless facility. See *Wireless telecommunications facilities.*

Personal wireless services or *PWS* or *personal telecommunications service* or *PCS.* The term "personal wireless services," "PWS," "personal telecommunications service" or "PCS" has the same meaning as defined and used in the 1996 Telecommunications Act.

Special use permit means the official document or permit by which an applicant is allowed to construct and use wireless telecommunications facilities as granted or issued by the town.

Stealth or *stealth technology* means to minimize adverse aesthetic and visual impacts on the land, property, buildings, and other facilities adjacent to, surrounding, and generally in the same area as the requested location of such wireless telecommunications facilities, which shall mean using the least visually and physically intrusive facility that is not technologically or commercially impracticable under the facts and circumstances.

Telecommunication site. See *Wireless telecommunications facilities.*

Telecommunications means the transmission and reception of audio, video, data, and other information by wire, radio frequency, light, and other electronic or electromagnetic systems.

Telecommunications structure means a structure used in the provision of services described in the definition of "wireless telecommunications facilities."

Temporary means in relation to all aspects and components of this article, something intended to, or that does, exist for fewer than 90 days.

Town means the Town of Appomattox, Virginia.

Wireless telecommunications facilities or *telecommunications tower* or *telecommunications site* or *personal wireless facility* means a structure, facility or location designed, or intended to be used as, or used to support, antennas. The term "wireless telecommunications facilities," "telecommunications tower," "telecommunications site" or "personal wireless facility" includes, without limit, freestanding towers, guyed towers, monopoles, and similar structures that employ camouflage technology, including, but not limited to, structures such as a multistory building, church steeple, silo, water tower, sign or other similar structures intended to mitigate the visual impact of an antenna or the functional equivalent of such. It is a structure intended for transmitting and/or receiving radio, television, cellular, paging, 911, personal telecommunications services, commercial satellite services, or microwave telecommunications, but excluding those used exclusively for the town's fire, police and other dispatch telecommunications, or exclusively for private radio and television reception and private citizen's bands, amateur radio and other similar telecommunications.

(Code 2003, § 195-92; Ord. of 8-12-2013)

Sec. 36-461. - Overall policy and desired goals for special use permits.

In order to ensure that the placement, construction, and modification of wireless telecommunications facilities protects the town's health, safety, public welfare, environmental features and other aspects of the quality of life specifically listed elsewhere in this article, the council hereby adopts an overall policy with respect to a special use permit for wireless telecommunications facilities for the express purpose of achieving the following goals:

(1) Implementing an application process for persons seeking a special use permit for wireless telecommunications facilities;

(2) Establishing a policy for examining an application for and issuing a special use permit for wireless telecommunications facilities that is both fair and consistent;

(3) Establishing reasonable timeframes for granting or not granting a special use permit for wireless telecommunications facilities, or recertifying or not recertifying, or revoking the special use permit granted under this article;

(4)

Promoting and encouraging, wherever possible, the sharing and/or collocation of wireless telecommunications facilities among service providers;

(5) Promoting and encouraging, wherever possible, the placement, height and quantity of wireless telecommunications facilities in such a manner, including, but not limited to, the use of stealth technology to minimize adverse aesthetic and visual impacts on the land, property, buildings, and other facilities adjacent to, surrounding, and in generally the same area as the requested location of such wireless telecommunications facilities, which shall mean using the least visually and physically intrusive facility that is not technologically or commercially impracticable under the facts and circumstances.

(Code 2003, § 195-93; Ord. of 8-12-2013)

Sec. 36-462. - Special use permit application and other requirements.

(a) All applicants for a special use permit for wireless telecommunications facilities or any modification of such facility shall comply with the requirements set forth in this section. The council is the officially designated agency or body of the community to whom applications for a special use permit for wireless telecommunications facilities must be made, and that is authorized to review, analyze, evaluate and make decisions with respect to granting or not granting, recertifying or not recertifying, or revoking special use permits for wireless telecommunications facilities. The council may, at its discretion, delegate or designate other official agencies of the town to accept, review, analyze, evaluate and make recommendations to the council with respect to the granting or not granting, recertifying or not recertifying or revoking special use permits for wireless telecommunications facilities.

(b) An application for a special use permit for wireless telecommunications facilities shall be signed on behalf of the applicant by the person preparing the same and with knowledge of the contents and representations made therein and attesting to the truth and completeness of the information. The landowner, if different than the applicant, shall also sign the application. At the discretion of the council, any false or misleading statement in the application may subject the applicant to denial of the application without further consideration or opportunity for correction.

(c) Applications not meeting the requirements stated herein or which, in the opinion of the council, are otherwise incomplete, may be rejected by the council.

(d) The applicant shall include a statement, in writing:

(1) That the applicant's proposed wireless telecommunications facilities shall be maintained in a safe manner and in compliance with all conditions of the special use permit, without exception, unless specifically granted relief by the council in writing, as well as all applicable and permissible local codes, ordinances, and regulations, including any and all applicable town, commonwealth and federal laws, rules, and regulations;

(2) That the construction of the wireless telecommunications facilities is legally permissible, including, but not limited to, the fact that the applicant is authorized to do business in the commonwealth.

(e) No wireless telecommunications facilities shall be installed or constructed until the site plan is reviewed and approved by the council, and the special use permit has been issued.

(f) All applications for the construction or installation of new wireless telecommunications facilities shall be accompanied by a report containing the information hereinafter set forth. The report shall be signed by a licensed professional engineer registered in the commonwealth. Where this section calls for certification, such certification shall be by a qualified professional engineer acceptable to the town, licensed in the commonwealth. The application shall include, in addition to the other requirements for the special use permit, the following information:

(1) Documentation that demonstrates the need for the wireless telecommunications facility to provide service primarily within the town;

(2) The name, address and telephone number of the person preparing the report;

(3) The name, address, and telephone number of the property owner, operator, and applicant, to include the legal form of the applicant;

(4) Postal address and tax map parcel number of the property;

(5) Zoning district or designation in which the property is situated;

(6) Size of the property stated both in square feet and lot line dimensions, and a diagram showing the location of all lot lines;

(7) Location of nearest residential structure;

(8) Location of nearest habitable structure;

(9) Location, size and height of all structures on the property which is the subject of the application;

(10) Location, size and height of all proposed and existing antennas and all appurtenant structures;

(11) Type, locations and dimensions of all proposed and existing landscaping and fencing;

(12) The number, type and design of the telecommunications towers antennas proposed and the basis for the calculations of the telecommunications tower's capacity to accommodate multiple users;

(13) The make, model and manufacturer of the tower and antennas;

(14) A description of the proposed tower and antennas and all related fixtures, structures, appurtenances and apparatus, including height above preexisting grade, materials, color and lighting;

(15) The frequency, modulation and class of service of radio or other transmitting equipment;

(16) Transmission and maximum effective radiated power of the antennas;

(17) Direction of maximum lobes and associated radiation of the antennas;

(18) Certification that NIER levels at the proposed site are within the threshold levels adopted by the FCC;

(19) Certification that the proposed antennas will not cause interference with existing telecommunications devices, though the certifying engineer need not be approved by the town;

(20) A copy of the FCC license applicable for the use of wireless telecommunications facilities;

(21) Certification that a topographic and geomorphologic study and analysis has been conducted, and that taking into account the subsurface and substrata, and the proposed drainage plan, that the site is adequate to ensure the stability of the proposed wireless telecommunications facilities on the proposed site, though the certifying engineer need not be approved by the town;

(22) Propagation studies of the proposed site and all adjoining planned, proposed, in service or existing sites;

(23) The applicant shall disclose in writing any agreement in existence prior to submission of the application that would limit or preclude the ability of the applicant to share any new telecommunication tower that it constructs.

(g) In the case of a new telecommunication tower, the applicant shall be required to submit a written report demonstrating its efforts to secure shared use of existing telecommunications towers or use of existing buildings or other structures within the town. Copies of written requests and responses for shared use shall be provided to the council.

(h) The applicant shall furnish written certification that the telecommunication facility, foundation and attachments are designed and will be constructed to meet all local, town, commonwealth and federal structural requirements for loads, including wind and ice loads.

(i) The applicant shall furnish written certification that the wireless telecommunications facilities will be effectively grounded and bonded so as to protect persons and property and installed with appropriate surge protectors.

(j) The applicant shall furnish a visual impact assessment which shall include:

(1) A zone of visibility map, which shall be provided in order to determine locations where the tower may be seen.

(2) Pictorial representations of "before" and "after" views from key viewpoints both inside and outside of the town, including, but not limited to, state highways and other major roads; state and local parks; other public lands; historic districts; preserves and historic sites normally

open to the public; and from any other location where the site is visible to a large number of visitors, travelers or residents. Guidance will be provided, concerning the appropriate key sites at a preapplication meeting.

(3) An assessment of the visual impact of the tower base, guy wires and accessory buildings from abutting and adjacent properties and streets.

(k) Any and all representations made by the applicant to the council, on the record, during the application process, whether written or verbal, shall be deemed a part of the application and may be relied upon in good faith by the council.

(l) The applicant shall, in a manner approved by the council, demonstrate and provide in writing and/or by drawing how it shall effectively screen from view its proposed wireless telecommunications facilities base and all related facilities and structures.

(m) All utilities at a wireless telecommunications facilities site shall be installed underground and in compliance with all laws, ordinances, rules and regulations of the town, including specifically, but not limited to, the National Electrical Safety Code and the National Electrical Code where appropriate. The council may waive or vary the requirements of underground installation of utilities whenever, in the opinion of the council, such variance or waiver shall not be detrimental to the health, safety, general welfare and environment, including the visual and scenic characteristics of the area.

(n) All wireless telecommunications facilities shall contain a demonstration that the facility be sited so as to have the least adverse visual effect on the environment and its character, on existing vegetation, and or the residences in the area of the wireless telecommunications facilities sites.

(o) Both the wireless telecommunications facility and any and all accessory or associated facilities shall maximize the use of building materials, colors and textures designed to blend with the structure to which it may be affixed and/or to harmonize with the natural surroundings; this shall include the utilization of stealth or concealment technology as may required by the town.

(p) At a telecommunications site, an access road, turnaround space, and parking shall be provided to ensure adequate emergency and service access. Maximum use of existing roads, whether public or private, shall be made to the extent practicable. Road construction shall at all times minimize ground disturbance and vegetation cutting. Road grades shall closely follow natural contours to ensure minimal visual disturbance and reduce soil erosion.

(q) A person who holds a special use permit for wireless telecommunications facilities shall construct, operate, maintain, repair, provide for removal of, modify or restore the permitted wireless telecommunications facilities in strict compliance with all current applicable technical, safety and safety-related codes adopted by the town, commonwealth, or United States, including, but not limited to, the most recent editions of the National Electrical Safety Code and the National Electrical Code, as well as accepted and responsible skilled industry practices and recommended

practices of the National Association of Tower Erectors. The codes referred to are codes that include, but are not limited to, construction, building, electrical, fire, safety, health, and land use codes. In the event of a conflict between or among any of the preceding, the more stringent shall apply.

(r) A holder of a special use permit granted under this article shall obtain, at its own expense, all permits and licenses required by applicable law, ordinance, rule, regulation or code, and must maintain the same, in full force and effect, for as long as required by the town or other governmental entity or agency having jurisdiction over the applicant.

(s) An applicant shall submit to the town the number of completed applications determined to be needed at the preapplication meeting. Written notification of the application shall be provided to the legislative body of all adjacent municipalities and to the town planning department.

(t) The applicant shall examine the feasibility of designing a proposed telecommunications tower to accommodate future demand for at least five additional commercial applications, for example, future collocations. The scope of this examination shall be determined by the council. The telecommunications tower shall be structurally designed to accommodate at least five additional antenna arrays equal to those of the applicant, and located as close to the applicant's antenna as possible without causing interference. This requirement may be waived, provided that the applicant, in writing, demonstrates that the provisions of future shared usage of the telecommunications tower is not technologically feasible, is commercially impracticable or creates an unnecessary and unreasonable burden, based upon:

(1) The foreseeable number of FCC licenses available for the area;

(2) The kind of wireless telecommunications facilities site and structure proposed;

(3) The number of existing and potential licenses without wireless telecommunications facilities spaces/sites;

(4) Available space on existing and approved telecommunications towers.

(u) The applicant shall submit to the council a letter of intent committing the owner of the proposed new tower, and the successors of the owner in interest, to negotiate in good faith for shared use of the proposed tower by other telecommunications providers in the future. This letter shall be filed with the council. Failure to abide by the conditions outlined in the letter may be grounds for revocation of the special use permit. The letter shall commit the new tower owner and their successors in interest to:

(1) Respond within 60 days to a request for information from potential shared use applicant;

(2) Negotiate in good faith concerning future requests for shared use of the new tower by other telecommunications providers;

(3)

Allow shared use of the new tower if another telecommunications provider agrees in writing to pay reasonable charges. The charges may include, but are not limited to, a pro rata share of the cost of site selection, planning, project administration, land costs, site design, construction and maintenance financing, return on equity, less depreciation, and all of the costs of adapting the tower or equipment to accommodate a shared user without causing electromagnetic interference.

(v) Unless waived by the council, there shall be a preapplication meeting. The purpose of the preapplication meeting will be to address issues which will help to expedite the review and permitting process. A preapplication meeting may also include a site visit if required. Costs of the town's consultants to prepare for and attend the preapplication meeting will be borne by the applicant.

(w) The holder of a special use permit shall notify the town of any intended modification of a wireless telecommunication facility and shall apply to the town to modify, relocate or rebuild a wireless telecommunications facility.

(x) In order to better inform the public in the case of a new telecommunication tower, the applicant shall, prior to the public hearing on the application, hold a balloon test as follows: the applicant shall arrange to fly, or raise upon a temporary mast, a minimum of a three-foot diameter brightly colored balloon at the maximum height of the proposed new tower. The dates (including a second date, in case of poor visibility on the initial date), times and location of this balloon test shall be advertised, by the applicant, at least seven days and 14 days in advance of the first test date in a newspaper with a general circulation in the town and agreed to by the council. The applicant shall inform the council, in writing, of the dates and times of the test, at least 14 days in advance. The balloon shall be flown for at least eight consecutive hours sometime between 7:00 a.m. and 4:00 p.m. of the dates chosen. The primary date shall be on a weekend, but the second date, in case of poor visibility on the initial date, may be on a weekday.

(y) The applicant will provide a written copy of an analysis, completed by a qualified individual or organization, to determine if the telecommunications tower or existing structure intended to support wireless facilities requires lighting under Federal Aviation Regulation pt. 77. This requirement shall be for any new tower or for an existing structure or building where the application increases the height of the structure or building. If this analysis determines that the FAA must be contacted, then all filings with the FAA, all responses from the FAA and any related correspondence shall be provided in a timely manner.

(Code 2003, § 195-94; Ord. of 8-12-2013)

Sec. 36-463. - Location.

(a) Applicants for wireless telecommunications facilities shall locate, site and erect said wireless telecommunications facilities in accordance with the following priorities, subsection (a)(1) of this section being the highest priority and subsection (a)(5) of this section being the lowest priority:

(1) On existing telecommunications towers or other tall structures without increasing the height of the tower or structure;

(2) Collocation on a site with existing wireless telecommunications facilities or structures;

(3) On town owned properties;

(4) On property zoned B-1 or M-1;

(5) On other property in the town.

(b) If the proposed property site is not the highest priority listed in subsection (a) of this section, then a detailed explanation must be provided as to why a site of a higher priority was not selected. The person seeking such an exception must satisfactorily demonstrate the reasons why such a permit should be granted for the proposed site, and the hardship that would be incurred by the applicant if the permit were not granted for the proposed site.

(c) An applicant may not bypass sites of higher priority by stating the site presented is the only site leased or selected. An application shall address collocation as an option and if such option is not proposed, the applicant must explain why collocation is commercially or otherwise impracticable. Agreements between providers limiting or prohibiting collocation shall not be a valid basis for any claim of commercial impracticability or hardship.

(d) Notwithstanding subsection (c) of this section, the council may approve any site located within an area in the list of priorities in subsection (a) of this section, provided that the council finds that the proposed site is in the best interest of the health, safety and welfare of the town and its inhabitants.

(e) The applicant shall submit a written report demonstrating the applicant's review of the locations listed in subsection (a) of this section in order of priority, demonstrating the technological reason for the site selection. If the site selected is not the highest priority, then a detailed written explanation as to why sites of a higher priority were not selected shall be included with the application.

(f) The applicant shall, in writing, identify and disclose the number and locations of any additional sites that the applicant has been, is, or will be considering, reviewing or planning for wireless telecommunications facilities in the town, and all municipalities adjoining the town, for a two-year period following the date of the application.

(g) Notwithstanding that a potential site may be situated in an area of highest priority or highest available priority, the council may disapprove an application for any of the following reasons.

(1) Conflict with safety and safety-related codes and requirements;

(2) Conflict with traffic needs or traffic laws, or definitive plans for changes in traffic flow or traffic laws;

(3) Conflict with the historic nature of a neighborhood or historical district;

(4) The use or construction of wireless telecommunications facilities which is contrary to an already stated purpose of a specific zoning or land use designation;

(5) The placement and location of wireless telecommunications facilities which would create an unacceptable risk, or the probability of such, to residents, the public, employees and agents of the town, or employees of the service provider or other service providers;

(6) Conflicts with the provisions of this article.

(h) All facilities shall be located only on property zoned B-1 or M-1.

(Code 2003, § 195-95; Ord. of 8-12-2013)

Sec. 36-464. - Shared use of wireless telecommunications facilities and other structures.

(a) Shared use of existing wireless telecommunications facilities shall be preferred by the town, as opposed to the proposed construction of a new telecommunications tower. Where such shared use is unavailable, location of antennas on other preexisting structures shall be considered and preferred. The applicant shall submit a comprehensive report inventorying existing towers and other appropriate structures within four miles of any proposed new tower site, unless the applicant can show that some other distance is more reasonable, and outlining opportunities for shared use of existing facilities and the use of other preexisting structures as a preferred alternative to new construction.

(b) An applicant intending to share use of an existing telecommunications tower or other structure shall be required to document the intent of the existing owner to share use. In the event of an application to share the use of an existing telecommunications tower which does not increase the height of the telecommunications tower, the council shall waive such requirements of the application required by this article as may be for good cause shown.

(c) Such shared use shall consist only of the minimum antenna array technologically required to provide service within the town, to the extent practicable, unless good cause is shown.

(Code 2003, § 195-96; Ord. of 8-12-2013)

Sec. 36-465. - Height of telecommunications tower.

(a) The applicant shall submit documentation justifying to the council the total height of any telecommunications tower, facility and/or antenna and the basis therefor. Such justification shall be to provide service within the town, to the extent practicable, unless good cause is shown.

(b) Telecommunications towers shall be no higher than the minimum height necessary, unless waived by the council upon good cause shown.

(c) The maximum height of any telecommunications tower and attached antennas constructed after the effective date of the ordinance from which this article is derived shall not exceed that which shall permit operation without artificial lighting of any kind, in accordance with municipal, town,

state, and/or any federal statute, law, local law, ordinance, code, rule or regulation.

(Code 2003, § 195-97; Ord. of 8-12-2013)

Sec. 36-466. - Visibility.

(a) Wireless telecommunications facilities shall not be artificially lighted or marked, except as required by federal regulation or this article.

(b) Telecommunications towers shall be of a galvanized finish, or painted with a rust-preventive paint of an appropriate color to harmonize with the surroundings as approved by the council and shall be maintained in accordance with the requirements of this article.

(c) If lighting is required, the applicant shall provide a detailed plan for sufficient lighting of as unobtrusive and inoffensive an effect as is permissible under state and federal regulations, and an artist's rendering or other visual representation showing the effect of light emanating from the site on neighboring habitable structures within 1,500 feet of all property lines of the parcel on which the wireless telecommunications facilities are located.

(Code 2003, § 195-98; Ord. of 8-12-2013)

Sec. 36-467. - Security.

All wireless telecommunications facilities and antennas shall be located, fenced or otherwise secured in a manner that prevents unauthorized access, specifically, as follows:

(1) All antennas, towers and other supporting structures, including guy wires, shall be made inaccessible to individuals and constructed or shielded in such a manner that they cannot be climbed or run into; and

(2) Transmitters and telecommunications control points must be installed such that they are readily accessible only to persons authorized to operate or service them.

(Code 2003, § 195-99; Ord. of 8-12-2013)

Sec. 36-468. - Signage.

Wireless telecommunications facilities shall contain a sign no larger than four square feet to provide adequate notification to persons in the immediate area of the presence of an antenna that has transmission capabilities. The sign shall contain the name of the owner and operator of the antennas as well as emergency phone numbers. The sign shall be on the equipment shelter or shed of the applicant and be visible from the access point of the site and must identify the equipment shelter of the applicant. The sign shall not be lighted unless the council shall have allowed such lighting or unless such lighting is required by applicable provisions of this article. No other signage, including advertising, shall be permitted on any facilities, antennas, antenna-supporting structures or antenna towers, unless required by ordinance.

(Code 2003, § 195-100; Ord. of 8-12-2013)

Sec. 36-469. - Lot size and setbacks.

All proposed wireless telecommunications facilities shall be set back from abutting parcels, recorded rights-of-way and road and street lines by the greater of the following distances: a distance equal to the height of the wireless telecommunications facility or the existing setback requirements of the underlying zoning district, whichever are greater. Any accessory structure shall be located so as to comply with the applicable minimum setback requirements for the property on which it is situated.

(Code 2003, § 195-101; Ord. of 8-12-2013)

Sec. 36-470. - Retention of expert assistance; reimbursement by applicant.

(a) The council may hire any consultant and/or expert necessary to assist the council in reviewing and evaluating the application, including the construction and modification of the site, once permitted, and any requests for recertification.

(b) An applicant shall deposit with the town funds sufficient to reimburse the town for all reasonable costs of consultant and expert evaluation and consultation to the town in connection with the review of any application, including the construction and modification of the site, once permitted. The initial deposit shall be $8,500.00. The placement of the $8,500.00 with the town shall precede the preapplication meeting. The town will maintain a separate escrow account for all such funds. The town's consultants/experts shall invoice the town for its services in reviewing the application, including the construction and modification of the site, once permitted. If, at any time during the process, this escrow account has a balance less than $2,500.00, the applicant shall immediately, upon notification by the town, replenish said escrow account so that it has a balance of at least $5,000.00. Such additional escrow funds shall be deposited with the town before any further action or consideration is taken on the application. In the event that the amount held in escrow by the town is more than the amount of the actual invoicing at the conclusion of the project, the remaining balance, including any accrued interest, shall be promptly refunded to the applicant.

(c) The total amount of the funds set forth in subsection (b) of this section may vary with the scope and complexity of the project, the completeness of the application and other information as may be needed by the council or its consultant/expert to complete the necessary review and analysis and inspection of any construction or modification. Additional escrow funds, as reasonably required and requested by the town, shall be paid by the applicant.

(Code 2003, § 195-102; Ord. of 8-12-2013)

Sec. 36-471. - Exceptions from special use permit.

(a) No person shall be permitted to site, place, build, construct or modify, or prepare any site for the placement or use of wireless telecommunications facilities as of the effective date of the ordinance from which this article is derived without having first obtained a special use permit for wireless telecommunications facilities. Notwithstanding anything to the contrary in this section, no special use permit shall be required for those exceptions noted in the definition of wireless telecommunications facilities in section 36-460.

(b) All wireless telecommunications facilities existing on or before the effective date of the ordinance from which this article is derived shall be allowed to continue as they presently exist; provided, however, that any modification to existing wireless telecommunications facilities must comply with this article.

(Code 2003, § 195-103; Ord. of 8-12-2013)

Sec. 36-472. - Public hearing and notification requirements.

(a) Prior to the approval of any application for a special use permit for wireless telecommunications facilities, a public hearing shall be held by the council, notice of which shall be published in a newspaper of record in accordance with the requirements for such public hearings as prescribed in Code of Virginia, title 15.2. In order that the town may officially notify nearby landowners, the applicant, at the time of submission of the application, shall be required to provide names and address of all landowners whose property is located within 1,500 feet of any property line of the lot on which the new wireless telecommunications facilities are proposed to be located.

(b) The council shall schedule the public hearing referred to in subsection (a) of this section once it finds the application is complete. The council, at any stage prior to issuing a special use permit, may require such additional information as it deems necessary.

(c) The provisions in subsection (a) and (b) of this section notwithstanding, if the application is for a special use permit for collating on an existing telecommunications or high structure, where no increase in height of the tower or structure is required, no public hearing will be required prior to the approval of the application.

(Code 2003, § 195-104; Ord. of 8-12-2013)

Sec. 36-473. - Action on application for special use permit.

(a) The council will undertake a review of an application pursuant to this article in a timely fashion, and shall act within a reasonable period of time given the relative complexity of the application and the circumstances, with due regard for the public's interest and need to be involved, and the applicant's desire for a timely resolution.

(b)

The council may refer any application or part thereof to any advisory or other committee for a nonbinding recommendation.

(c) After the public hearing, if required, and after formally considering the application, the council may approve, approve with conditions, or deny a special use permit. Its decision shall be in writing and shall be supported by substantial evidence contained in a written record. The burden of proof for the granting of the permit shall always be upon the applicant.

(d) If the council approves the special use permit for wireless telecommunications facilities, then the applicant shall be notified of such approval in writing within ten calendar days of the council's action, and the special use permit shall be issued within 30 days after such approval. Except for necessary building permits, and subsequent certificates of compliance, once a special use permit has been granted hereunder, no additional permits or approvals from the town or council, such as site plan or zoning approvals, shall be required by the town or the council for the wireless telecommunications facilities covered by the special use permit.

(e) If the council denies the special use permit for wireless telecommunications facilities, then the applicant shall be notified of such denial in writing within ten calendar days of the council's action.

(Code 2003, § 195-105; Ord. of 8-12-2013)

Sec. 36-474. - Recertification of special use permit.

(a) At any time between 12 months and six months prior to the five-year anniversary date after the effective date of the special use permit and all subsequent fifth anniversaries of the effective date of the original special use permit for wireless telecommunications facilities, the holder of a special use permit for such wireless telecommunication facilities shall submit a signed written request to the council for recertification. In the written request for recertification, the holder of such special use permit shall note the following:

(1) The name of the holder of the special use permit for the wireless telecommunications facilities;

(2) If applicable, the number or title of the special use permit;

(3) The date of the original granting of the special use permit;

(4) Whether the wireless telecommunications facilities have been moved, relocated, rebuilt, or otherwise modified since the issuance of the special use permit and, if so, in what manner;

(5) If the wireless telecommunications facilities have been moved, relocated, rebuilt, or otherwise modified, then whether the council approved such action, and under what terms and conditions, and whether those terms and conditions were complied with;

(6) Any requests for waivers or relief of any kind whatsoever from the requirements of this article and any requirements for a special use permit;

(7) That the wireless telecommunications facilities are in compliance with the special use permit and compliance with all applicable codes, ordinances, rules and regulations and laws;

(8) Recertification that the telecommunication tower and attachments both are designed and constructed (as-built) and continue to meet all local, town, commonwealth, and federal structural requirements for loads, including wind and ice loads. Such recertification shall be by a qualified state-licensed professional engineer, the cost of which shall be borne by the applicant.

(b) If, after such review, the council determines that the permitted wireless telecommunications facilities are in compliance with the special use permit and all applicable statutes, laws, local ordinances, codes, rules and regulations, then the council shall issue a recertification special use permit for the wireless telecommunications facilities, which may include any new provisions or conditions that are mutually agreed upon, or required by applicable statutes, laws, local ordinances, codes, rules and regulations. If, after such review, the council determines that the permitted wireless telecommunications facilities are not in compliance with the special use permit and all applicable statutes, laws, ordinances, codes, rules and regulations, then the council may refuse to issue a recertification special use permit for the wireless telecommunications facilities, and, in such event, such wireless telecommunications facilities shall not be used after the date that the applicant receives written notice of such decision by the council. Any such decision shall be in writing and supported by substantial evidence contained in a written record.

(c) If the applicant has submitted all of the information requested by the council and required by this article, and if the council does not complete its review, as noted in subsection (b) of this section, prior to the five-year anniversary date of the special use permit, or subsequent fifth anniversaries, then the applicant for the permitted wireless telecommunications facilities shall receive an extension of the special use permit for up to six months, in order for the council to complete its review.

(d) If the holder of a special use permit for wireless telecommunications facilities does not submit a request for recertification of such special use permit within the timeframe noted in subsection (a) of this section, then such special use permit and any authorizations granted thereunder shall cease to exist on the date of the fifth anniversary of the original granting of the special use permit, or subsequent fifth anniversaries, unless the holder of the special use permit adequately demonstrates to the council that extenuating circumstances prevented a timely recertification request. If the council agrees that there were legitimately extenuating circumstances, then the holder of the special use permit may submit a late recertification request or application for a new special use permit.

(Code 2003, § 195-106; Ord. of 8-12-2013)

Sec. 36-475. - Extent and parameters of special use permit.

The extent and parameters of a special use permit for wireless telecommunications facilities shall be as follows:

(1) Such special use permit shall be nonexclusive;

(2) Such special use permit shall not be assigned, transferred or conveyed without the express prior written notification of the council;

(3) Such special use permit may, following a hearing upon due prior notice to the applicant, be revoked, canceled, or terminated for a violation of the conditions and provisions of the special use permit for wireless telecommunications facilities, or for a material violation of this article after prior written notice to the applicant and the holder of the special use permit.

(Code 2003, § 195-107; Ord. of 8-12-2013)

Sec. 36-476. - Application fee.

(a) At the time that a person submits an application for a special use permit for a new telecommunications tower, such person shall pay a nonrefundable application fee of $5,000.00 to the town. If the application is for a special use permit for collocating on an existing telecommunications tower or high structure, where no increase in height of the tower or structure is required, the nonrefundable fee shall be $2,000.00.

(b) No application fee is required in order to recertify a special use permit for wireless telecommunications facilities, unless there has been a modification of the wireless telecommunications facilities since the date of the issuance of the existing special use permit for which the conditions of the special use permit have not previously been modified. In the case of any modification, the fees provided in subsection (a) of this section shall apply.

(Code 2003, § 195-108; Ord. of 8-12-2013)

Sec. 36-477. - Performance security.

The applicant and the owner of record of any proposed wireless telecommunications facilities property site shall, at its cost and expense, be jointly required to execute and file with the town a bond, or other form of security acceptable to the town as to type of security and the form and manner of execution, in an amount of at least $75,000.00 and with such sureties as are deemed sufficient by the council to ensure the faithful performance of the terms and conditions of this article and conditions of any special use permit issued pursuant to this article. The full amount of the bond or security shall remain in full force and effect throughout the term of the special use permit and/or until the removal of the wireless telecommunications facilities, and any necessary site restoration is completed. The failure to pay any annual premium for the

renewal of any such security shall be a violation of the provisions of the special use permit and shall entitle the council to revoke the special use permit after prior written notice to the applicant and holder of the permit and after a hearing upon due prior notice to the applicant and holder of the special use permit.

(Code 2003, § 195-109; Ord. of 8-12-2013)

Sec. 36-478. - Reservation of authority to inspect facilities.

In order to verify that the holder of a special use permit for wireless telecommunications facilities and any and all lessees, renters, and/or licensees of wireless telecommunications facilities place and construct such facilities, including towers and antennas, in accordance with all applicable technical, safety, fire, building, and zoning codes, laws, ordinances, regulations and other applicable requirements, the town may inspect all facets of said permit holder's, renter's, lessee's or licensee's placement, construction, modification and maintenance of such facilities, including, but not limited to, towers, antennas and buildings or other structures constructed or located on the permitted site.

(Code 2003, § 195-110; Ord. of 8-12-2013)

Sec. 36-479. - Annual NIER certification.

The holder of the special use permit shall, annually, certify in writing to the town that NIER levels at the site are within the threshold levels adopted by the FCC. The certifying engineer must be licensed to practice engineering in the commonwealth.

(Code 2003, § 195-111; Ord. of 8-12-2013)

Sec. 36-480. - Liability insurance.

(a) A holder of a special use permit for wireless telecommunications facilities shall secure and at all times maintain public liability insurance for personal injuries, death and property damage, and umbrella insurance coverage, for the duration of the special use permit in amounts as set forth as follows:
    (1) Commercial general liability covering personal injuries, death and property damage: $1,000,000.00 per occurrence/$2,000,000.00 aggregate;
    (2) Automobile coverage: $1,000,000.00 per occurrence/$2,000,000.00 aggregate;
    (3) Workers' compensation and disability: statutory amounts.
(b) The commercial general liability insurance policy shall specifically include the town and its officers, councils, employees, committee members, attorneys, agents and consultants as additional named insured.
(c) The insurance policies shall be issued by an agent or representative of an insurance company

licensed to do business in the commonwealth and with a Best's rating of at least A.

(d) The insurance policies shall contain an endorsement obligating the insurance company to furnish the town with at least 30 days' prior written notice in advance of the cancellation of the insurance.

(e) Renewal or replacement policies or certificates shall be delivered to the town at least 15 days before the expiration of the insurance that such policies are to renew or replace.

(f) Before construction of a permitted wireless telecommunications facilities is initiated, but in no case later than 15 days after the grant of the special use permit, the holder of the special use permit shall deliver to the town a copy of each of the policies or certificates representing the insurance in the required amounts.

(Code 2003, § 195-112; Ord. of 8-12-2013)

Sec. 36-481. - Indemnification.

(a) Any application for wireless telecommunication facilities that is proposed for town property, pursuant to this article, shall contain a provision with respect to indemnification. Such provision shall require the applicant, to the extent permitted by the article, to at all times defend, indemnify, protect, save, hold harmless, and exempt the town, and its officers, councils, employees, committee members, attorneys, agents, and consultants from any and all penalties, damages, costs, or charges arising out of any and all claims, suits, demands, causes of action, or award of damages, whether compensatory or punitive, or expenses arising therefrom, either at ordinance or in equity, which might arise out of, or are caused by, the placement, construction, erection, modification, location, products performance, use, operation, maintenance, repair, installation, replacement, removal, or restoration of said facility, excepting, however, any portion of such claims, suits, demands, causes of action or award of damages as may be attributable to the negligent or intentional acts or omissions of the town, or its servants or agents. With respect to the penalties, damages or charges referenced herein, reasonable attorneys' fees, consultants' fees, and expert witness fees are included in those costs that are recoverable by the town.

(b) Notwithstanding the requirements noted in subsection (a) of this section, an indemnification provision will not be required in those instances where the town itself applies for and secures a special use permit for wireless telecommunications facilities.

(Code 2003, § 195-113; Ord. of 8-12-2013)

Sec. 36-482. - Violations and penalties.

(a) In the event of a violation of this article or any special use permit issued pursuant to this article, the council may impose and collect, and the holder of the special use permit for wireless telecommunications facilities shall pay to the town, fines or penalties as set forth in subsection (b) of this section.

(b) A violation of this article is hereby declared to be an offense, punishable by a fine not exceeding $350.00 or imprisonment for a period not to exceed six months, or both, for conviction of a first offense; for conviction of a second offense, both of which were committed within a period of five years, punishable by a fine not less than $350.00 nor more than $700.00 or imprisonment for a period not to exceed six months, or both; and, upon conviction for a third or subsequent offense, all of which were committed within a period of five years, punishable by a fine not less than $700.00 nor more than $1,000.00 or imprisonment for a period not to exceed six months, or both. However, for the purpose of conferring jurisdiction upon courts and judicial officers generally, violations of this article or of such ordinance or regulation shall be deemed misdemeanors and for such purpose only all provisions of ordinances relating to misdemeanors shall apply to such violations. Each week's continued violation shall constitute a separate additional violation.

(c) Notwithstanding anything in this article, the holder of the special use permit for wireless telecommunications facilities may not use the payment of fines, liquidated damages or other penalties, to evade or avoid compliance with this article or any section of this article. An attempt to do so shall subject the holder of the special use permit to termination and revocation of the special use permit. The town may also seek injunctive relief to prevent the continued violation of this article, without limiting other remedies available to the town.

(Code 2003, § 195-114; Ord. of 8-12-2013)

Sec. 36-483. - Default and/or revocation.

(a) If wireless telecommunications facilities are repaired, rebuilt, placed, moved, relocated, modified or maintained in a way that is inconsistent or not in compliance with the provisions of this article or of the special use permit, then the council shall notify the holder of the special use permit in writing of such violation. Such notice shall specify the nature of the violation or noncompliance and that the violations must be corrected within seven days of the date of the postmark of the notice, or of the date of personal service of the notice, whichever is earlier. Notwithstanding anything to the contrary in this subsection or any other section of this article, if the violation causes, creates or presents an imminent danger or threat to the health or safety of lives or property, the council may, at its sole discretion, order the violation remedied within 24 hours.

(b) If within the period set forth in subsection (a) of this section the wireless telecommunications facilities are not brought into compliance with the provisions of this article, or of the special use permit, or substantial steps are not taken in order to bring the affected wireless telecommunications facilities into compliance, then the council may revoke such special use permit for wireless telecommunications facilities and shall notify the holder of the special use permit within 48 hours of such action.

(Code 2003, § 195-115; Ord. of 8-12-2013)

Sec. 36-484. - Removal of facilities.

(a) Under the following circumstances, the council may determine that the health, safety, and welfare interests of the town warrant and require the removal of wireless telecommunications facilities:

(1) Wireless telecommunications facilities with a permit have been abandoned (i.e., not used as wireless telecommunications facilities) for a period exceeding 90 consecutive days or a total of 180 days in any 365-day period, except for periods caused by force majeure or acts of God, in which case, repair or removal shall commence within 90 days;

(2) Permitted wireless telecommunications facilities fall into such a state of disrepair that it creates a health or safety hazard;

(3) Wireless telecommunications facilities have been located, constructed, or modified without first obtaining, or in a manner not authorized by, the required special use permit, or any other necessary authorization.

(b) If the council makes such a determination as noted in subsection (a) of this section, then the council shall notify the holder of the special use permit for the wireless telecommunications facilities within 48 hours that said wireless telecommunications facilities are to be removed; the council may approve an interim temporary use agreement/permit, such as to enable the sale of the wireless telecommunications facilities.

(c) The holder of the special use permit, or its successors or assigns, shall dismantle and remove such wireless telecommunications facilities, and all associated structures and facilities, from the site and restore the site to as close to its original condition as is possible, such restoration being limited only by physical or commercial impracticability, within 90 days of receipt of written notice from the council. However, if the owner of the property upon which the wireless telecommunications facilities are located wishes to retain any access roadway to the wireless telecommunications facilities, the owner may do so with the approval of the council.

(d) If wireless telecommunications facilities are not removed or substantial progress has not been made to remove the wireless telecommunications facilities within 90 days after the permit holder has received notice, then the council may order officials or representatives of the town to remove the wireless telecommunications facilities at the sole expense of the owner or special use permit holder.

(e) If the town removes, or causes to be removed, wireless telecommunications facilities, and the owner of the wireless telecommunications facilities does not claim and remove it from the site to a lawful location within ten days, then the town may take steps to declare the wireless telecommunications facilities abandoned, and sell them and their components.

(f) Notwithstanding anything in this section to the contrary, the council may approve a temporary use permit/agreement for the wireless telecommunications facilities, for no more than 90 days, during which time a suitable plan for removal, conversion, or relocation of the affected wireless telecommunications facilities shall be developed by the holder of the special use permit, subject to the approval of the council, and an agreement to such plan shall be executed by the holder of the special use permit and the town. If such a plan is not developed, approved and executed within the 90-day time period, then the town may take possession of and dispose of the affected wireless telecommunications facilities in the manner provided in this section.

(Code 2003, § 195-116; Ord. of 8-12-2013)

Sec. 36-485. - Relief.

Any applicant desiring relief or exemption from any aspect or requirement of this article may request such from the council at a preapplication meeting, provided that the relief or exemption is contained in the original application for either a special use permit, or, in the case of an existing or previously granted special use permit, a request for modification of its tower and/or facilities. Such relief may be temporary or permanent, partial or complete, at the sole discretion of the council. However, the burden of proving the need for the requested relief or exemption is solely on the applicant to prove to the satisfaction of the council. The applicant shall bear all costs of the council or the town in considering the request, and the relief shall not be transferable to a new or different holder of the permit or owner of the tower or facilities without the specific written permission of the council. Such permission shall not be unreasonably withheld or delayed. No such relief or exemption shall be approved unless the applicant demonstrates by clear and convincing evidence that, if granted, the relief or exemption will have no significant affect on the health, safety and welfare of the town, its residents and other service providers.

(Code 2003, § 195-117; Ord. of 8-12-2013)

Sec. 36-486. - Periodic regulatory review by council.

(a) The council may at any time conduct a review and examination of this entire article.

(b) If after such a periodic review and examination of this article, the council determines that one or more provisions of this article should be amended, repealed, revised, clarified, or deleted, then the council may take whatever measures are necessary in accordance with applicable ordinance in order to accomplish the same. It is noted that where warranted, and in the best interests of the town, the council may repeal this entire article at any time.

(c) Notwithstanding the provisions of subsections (a) and (b) of this section, the council may at any time, and in any manner (to the extent permitted by federal, commonwealth, or local ordinance), amend, add, repeal, and/or delete one or more provisions of this article.

(Code 2003, § 195-118; Ord. of 8-12-2013)

Sec. 36-487. - Adherence to state and/or federal rules and regulations.

(a) To the extent that the holder of a special use permit for wireless telecommunications facilities has not received relief, or is otherwise exempt, from appropriate state and/or federal agency rules or regulations, then the holder of such a special use permit shall adhere to, and comply with, all applicable rules, regulations, standards, and provisions of any state or federal agency, including, but not limited to, the FAA and the FCC. Specifically included in this requirement are any rules and regulations regarding height, lighting, security, electrical and radiofrequency emission standards.

(b) To the extent that applicable rules, regulations, standards, and provisions of any state or federal agency, including, but not limited to, the FAA and the FCC, and specifically including any rules and regulations regarding height, lighting, and security are changed and/or are modified during the duration of a special use permit for wireless telecommunications facilities, then the holder of such a special use permit shall conform the permitted wireless telecommunications facilities to the applicable changed and/or modified rule, regulation, standard, or provision within a maximum of 24 months of the effective date of the applicable changed and/or modified rule, regulation, standard, or provision, or sooner as may be required by the issuing entity.

(Code 2003, § 195-119; Ord. of 8-12-2013)

Sec. 36-488. - Construal of provisions.

Where this article differs or conflicts with other laws, ordinances, rules and regulations, unless the right to do so is preempted or prohibited by the town, the commonwealth, or federal government, the more restrictive or protective of the town and the public shall apply.

(Code 2003, § 195-120; Ord. of 8-12-2013)

Secs. 36-489—36-514. - Reserved.

ARTICLE XIV. - FLOODPLAIN DISTRICT

DIVISION 1. - GENERALLY

Sec. 36-515. - Purpose.

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

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

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

(3) Requiring all those uses, activities, and developments that do occur in floodprone areas 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.

(Code 2003, § 195-121; Ord. of 8-12-2013)

Sec. 36-516. - Applicability.

These provisions shall apply to all lands within the jurisdiction of the town and identified as being in the 100-year floodplain by the Federal Insurance Administration.

(Code 2003, § 195-122; Ord. of 8-12-2013)

Sec. 36-517. - Compliance and liability.

(a) No land shall hereafter be developed and no structure shall be located, relocated, constructed, reconstructed, enlarged, or structurally altered except in full compliance with the terms and provisions of this article and 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 based on acceptable engineering methods of study. Larger floods may occur on rare occasions. Flood heights may be increased by manmade or natural causes, such as ice jams and bridge openings restricted by debris. This article does not imply that areas 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 town or any officer or employee thereof for any flood damages that result from reliance on this article or any administrative decision lawfully made thereunder.

(Code 2003, § 195-123; Ord. of 8-12-2013)

Sec. 36-518. - Abrogation and greater restrictions.

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

(Code 2003, § 195-124; Ord. of 8-12-2013)

Sec. 36-519. - Violations and penalties.

(a) Any person who fails to comply with any of the requirements or provisions of this article or directions of the zoning officer or any other authorized employee of the town shall be guilty of a misdemeanor of the first class and subject to the penalties thereof.

(b) In addition to the penalties in subsection (a) of this section, all other actions are hereby reserved, including an action in equity for the proper enforcement of this article. The imposition of a fine or penalty for any violation of, or noncompliance with, this article shall not excuse the violation or noncompliance to permit it to continue; and all such persons shall be required to correct or remedy such violations or noncompliance within a reasonable time. Any structure constructed, reconstructed, enlarged, altered, or relocated in noncompliance with this article may be declared by the council to be a public nuisance and abatable as such. Flood insurance may be withheld from structures constructed in violation of this article.

(Code 2003, § 195-125; Ord. of 8-12-2013)

Secs. 36-520—36-546. - Reserved.

DIVISION 2. - DEFINITIONS

Sec. 36-547. - Terms defined.

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:

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

Board of zoning appeals means the board appointed to review appeals made by individuals with regard to decisions of the zoning administrator in the interpretation of this article.

Development means any manmade change to improved or unimproved real estate, including, but not limited to, buildings or other structures, the placement of manufactured homes, streets, and other paving, utilities, filling, grading, excavation, mining, dredging, or drilling operations or storage of equipment or

materials.

Flood means a general and temporary inundation or normally dry land areas.

Floodplain means:

(1) A relatively flat or low land area adjoining a river, stream or watercourse which is subject to partial or complete inundation;

(2) An area subject to the unusual and rapid accumulation or runoff of surface water from any source.

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

Historic structure means any structure that is:

(1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

(2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

(3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or

(4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

a. By an approved state program as determined by the Secretary of the Interior; or

b. Directly by the Secretary of the Interior in states without approved programs.

Manufactured home means a structure, transportable in one or more sections, which is built on a permanent chassis, and designed to be used with or without permanent foundation when connected to the required utilities. The term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 days.

Manufactured home park/subdivision means a parcel (or contiguous parcels) of land divided into two or more lots for rent or sale.

Recreational vehicle means a vehicle which is:

(1) Built on a single chassis;

(2) 400 square feet or less when measured at the largest horizontal projection;

(3) Designed to be self-propelled or permanently towable by a light-duty truck; and

(4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for

recreational camping, travel or seasonal use.

(Code 2003, § 195-126; Ord. of 8-12-2013)

Secs. 36-548—36-572. - Reserved.

DIVISION 3. - ESTABLISHMENT OF ZONING DISTRICT

Sec. 36-573. - Description of district.

(a) *Basis of district.*

(1) The floodplain district shall include areas subject to inundation by waters of the 100-year flood. The basis for the approximated floodplain district shall be the town flood insurance rate map, dated January 2, 2008, as amended, and the county flood insurance study, dated January 2, 2008, prepared by the Federal Emergency Management Agency.

(2) The approximated floodplain district shall be that floodplain area for which no detailed 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 flood insurance rate map. For these areas, the 100-year flood elevations and floodway information from federal, state, and other acceptable sources shall be used, when available. When 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., then the applicant for the proposed use, development and/or activity shall determine this elevation in accordance with hydrologic and hydraulic engineers 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 town.

(b) *Overlay concept.*

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

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

(3)

In the event any provisions concerning a floodplain district are declared inapplicable as a result of any legislative or administrative actions or judicial decision, the basic underlying provisions shall remain inapplicable.

(Code 2003, § 195-127; Ord. of 8-12-2013)

Sec. 36-574. - District boundaries as shown on maps.

The boundaries of the floodplain district are established as shown on the flood insurance rate map/flood hazard boundary map which is declared to be a part of this article and which shall be kept on file at the town municipal building, town manager's office.

(Code 2003, § 195-128; Ord. of 8-12-2013)

Sec. 36-575. - District boundary changes.

The delineation of any of the floodplain district may be revised by the council 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 Insurance Administration.

(Code 2003, § 195-129; Ord. of 8-12-2013)

Sec. 36-576. - Interpretation of district boundaries.

Initial interpretations of the boundaries of the floodplain district shall be made by the zoning officer. Should a dispute arise concerning the boundaries of any of the district, 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 the case of said person to the board and to submit said person's own technical evidence if the person so desires.

(Code 2003, § 195-130; Ord. of 8-12-2013)

Secs. 36-577—36-600. - Reserved.

DIVISION 4. - DISTRICT PROVISIONS

Sec. 36-601. - Permits; alteration of watercourses; site plans; manufactured homes; recreational vehicles.

(a) *Permit requirement.* 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 Virginia Uniform Statewide Building Code and the town 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 capacity of the channels or floodways of any watercourse, draining ditch, or any other drainage facility or system.

(b) *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 from the U.S. Corps of Engineers, the state marine resources commission, and certification from the state water control board may be necessary (a joint permit application is available from any one of these organizations). Further notification of the proposal shall be given to all affected adjacent jurisdictions, the division of dam safety and floodplain management (department of conservation and recreation), and the Federal Insurance Administration.

(c) *Site plans and permit applications.* All applications for development in the floodplain district and the building permits issued for the floodplain shall incorporate the following information:

(1) For structures that have been elevated, the elevation of the lowest floor (including basement).

(2) For structures that have been floodproofed (nonresidential only), the elevation to which the structure has been floodproofed.

(3) The elevation of the 100-year flood.

(4) Topographic information showing existing and proposed ground elevations.

(d) *Manufactured homes.* All manufactured homes to be placed or substantially improved within the floodplain district shall be placed on a permanent foundation and elevated and anchored in accordance with the Virginia Uniform Statewide Building Code.

(e) *Recreational vehicles.* All recreational vehicles placed on sites must either:

(1) Be on the site for fewer than 180 consecutive days;

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

(3) Meet all the requirements for manufactured homes in subsection (d) of this section.

(Code 2003, § 195-131; Ord. of 8-12-2013)

Sec. 36-602. - Approximated floodplain district.

(a) In the approximated floodplain district, 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 Virginia Uniform Statewide Building Code and all other applicable codes and ordinances. The applicant shall also delineate a floodway area based on the

requirement that all existing and future development not increase the 100-year flood 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.

(b) Within the floodway area delineated by the applicant, no development shall be permitted, except where the effect of such development on flood heights is fully offset by accompanying improvements which have been approved by all appropriate local and/or state authorities, as required in subsection (a) of this section.

(Code 2003, § 195-132; Ord. of 8-12-2013)

Sec. 36-603. - Design criteria for utilities and facilities.

(a) *Sanitary sewer facilities.* All new or replacement sanitary sewer facilities and private package sewer 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 system and be located and constructed to minimize or eliminate flood damage.

(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 town 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 or excess runoff onto adjacent properties.

(d) *Utilities.* All utilities, such as gas lines, electrical and telephone systems being placed in floodprone areas should be located, elevated (where possible), and constructed to minimize the chance 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 2003, § 195-133; Ord. of 8-12-2013)

Secs. 36-604—36-624. - Reserved.

DIVISION 5. - VARIANCES

Sec. 36-625. - Variance factors.

(a) Factors to consider.

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

(2) The danger that materials may be swept on to 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 use.

(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 an 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 purpose 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 result in unacceptable or prohibited increases in flood heights; additional threats to public safety; extraordinary public expense; and will not create nuisances; cause fraud or victimization of the public; or 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 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 increases the risks to life and property and will result in increased premium rates for flood insurance.

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

(Code 2003, § 195-134; Ord. of 8-12-2013)

Secs. 36-626—36-653. - Reserved.

DIVISION 6. - EXISTING STRUCTURES

Sec. 36-654. - Treatment of existing structures.

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

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

(2) The modification, alteration, repair, reconstruction, or improvement of any kind to a structure and/or use, regardless of its location in a floodplain district, to an extent or amount of 50 percent or more of its market value shall be undertaken only if in full compliance with the provisions of the Virginia Uniform Statewide Building Code.

(3) Uses of adjuncts thereof which are, or become, nuisances shall not be permitted to continue.

(Code 2003, § 195-135; Ord. of 8-12-2013)

Secs. 36-655—36-681. - Reserved.

ARTICLE XV. - LANDSCAPING

Sec. 36-682. - Intent.

It is the intent of this article to promote the public necessity, convenience, general welfare, and good zoning practice by incorporating landscaping, screening, and buffering requirements into the site development plan process. The goals are to provide landscaping requirements that will ensure development consistent with the goals of the community development plan, reduce soil erosion, increase infiltration in permeable land areas to improve stormwater management, mitigate air, dust, noise, and chemical pollution, protect property values, and provide buffers between incompatible uses. It is further the intent of this article to preserve the existing natural vegetation as an integral part of the town and to ensure that the town continues to be an attractive place to live, work, and visit.

(Code 2003, § 195-136; Ord. of 8-12-2013)

Sec. 36-683. - Severability.

If any provision of this chapter regulating landscaping is declared invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions of this chapter regulating landscaping and all such provisions shall remain in full force and effect.

(Code 2003, § 195-137; Ord. of 8-12-2013)

Sec. 36-684. - Applicability.

(a) The provisions of this article are applicable to the development or redevelopment of any property after the effective date of the ordinance from which this article is derived and located in an R-1, R-2, R-3, B-1, B-2, MHP-1, P-1 and M-1 zoning district or to any use requiring a special use permit approval.

(b) When an existing use is expanded, enlarged, or redeveloped, only those portions of the property subject to the expansion, enlargement, or redevelopment are subject to the provisions of this article.

(c) It is not the intent of this article to regulate landscaping for single-family dwellings or two-family dwellings.

(Code 2003, § 195-138; Ord. of 8-12-2013)

Sec. 36-685. - General requirements.

(a) Landscaping within a sight distance triangle shall not include any evergreen trees and shall not include shrubs exceeding three feet in height above the ground at maturity. Tree limbs in a sight distance triangle shall be raised to ensure visibility for motor vehicle safety.

(b)

When a calculation of the number of required trees and/or shrubs results in a fractional amount, the fraction shall be rounded up to the next whole number.

(c) Existing vegetation within the development area is encouraged to be retained and may be used to meet all or part of the landscaping requirements. No tree or shrub less of than three-inch caliper shall be counted when utilizing existing vegetation.

(d) All landscaped areas shall be covered with an appropriate ground cover, mulch, or decorative landscape stone. The use of gravel and/or riprap is discouraged.

(e) All slopes shall be covered with an appropriate ground cover. The use of riprap as ground cover on slopes visible from the public right-of-way is discouraged.

(f) All trees and/or shrubs used to satisfy this article shall be of native origin. No tree, shrub or ground cover contained on the invasive alien plant species of the state list as maintained by the state department of conservation and recreation (DCR) may be used to satisfy the requirements of this article.

(Code 2003, § 195-139; Ord. of 8-12-2013)

Sec. 36-686. - Landscaping plan required.

(a) A landscaping plan shall be required of all new development or redevelopment of property within the town for commercial or industrial purposes. Multiple-family residential dwelling developments shall be considered commercial for the purposes of this article.

(b) A landscaping plan shall contain the following information:

(1) The location, size, height of planting, and botanical name of all required landscaping.

(2) The location, size, and botanical name of any existing vegetation proposed to be used to satisfy any portion of this article.

(3) The dimensions of all landscaped areas and islands.

(4) A planting schedule, including any fertilizer or soil amendment to be used.

(5) A general statement regarding the perpetual maintenance of the landscaping.

(Code 2003, § 195-140; Ord. of 8-12-2013)

Sec. 36-687. - Sign area landscaping.

For freestanding signs, landscaping shall be required around the sign base. Landscape plantings shall be a minimum of one small shrub per ten square feet of sign area. Plantings should be grouped creatively to enhance the aesthetic appearance of the freestanding sign structure.

(Code 2003, § 195-141; Ord. of 8-12-2013)

Sec. 36-688. - Foundation plantings.

All sides of multiple-family, commercial, or industrial buildings which are visible from the public right-of-way or visible from an adjacent residential use type shall be landscaped with foundation plantings as follows:

(1) One large shrub per ten feet of building frontage.

(2) Two small shrubs per ten feet of building frontage.

(3) Plantings are encouraged to be placed in creative groupings along the perimeter of the building.

(4) Variances shall be granted if the zoning administrator finds unfavorable topography or other physical impairments of the parcel render compliance impractical.

(Code 2003, § 195-142; Ord. of 8-12-2013)

Sec. 36-689. - Utility screening.

(a) Loading areas, refuse areas, storage yards, stormwater management facilities, HVAC equipment, water vaults, or other objectionable items shall be screened from view of any public right-of-way or any adjacent residential use type.

(b) Stormwater management facilities intended to be displayed as a water feature or naturalized planting areas are exempt from screening requirements.

(c) Screening may be accomplished by any combination of existing evergreen vegetation, walls, fences, earthen berms and/or new evergreen vegetation appropriate to screen the equipment or activity. The required height of screening at installation shall be sufficient to screen the equipment or activity.

(d) The use of chainlink fence as the sole method of screening is prohibited.

(Code 2003, § 195-143; Ord. of 8-12-2013)

Sec. 36-690. - Buffering.

(a) In all instances where a commercial use type, industrial use type, multiple-family dwelling use type, or parking area is located adjacent to any residential use type, a vegetative evergreen buffer shall be established on the property for which said buffer is required.

(b) Where required, the buffer area shall be a minimum of 20 feet in width extending along the entire length of the development area and shall generally be required along the property line unless topographic or other considerations would make it more effective located back from the property line.

(c)

The vegetative buffer shall consist of a staggered row of evergreen trees. Shrubs may be used as supplemental filler if necessary. The evergreen tree material shall be a minimum of four feet in height at the time of planting. The evergreen tree line shall be planted in rows 15 feet apart and staggered ten feet on center. An earthen berm may be used as well. The earthen berm shall vary in height and width and shall be curvilinear in form and provide a gentle tie-in with the existing grade. On average, the height of the earthen berm should be three feet in height.

(d) Existing vegetation may be used to satisfy this requirement. Supplemental evergreen material may be needed to meet the buffering requirements. The need for additional evergreen material shall be at the discretion of the zoning administrator.

(e) No proposed building, building addition, structure, parking area or other physical land improvement shall be located in the buffer area.

(Code 2003, § 195-144; Ord. of 8-12-2013)

Sec. 36-691. - Installation guidelines.

(a) The planting of trees and shrubbery shall be installed in accordance with the standard landscaping specifications of the state society of landscape designers and/or the state chapter of the American Society of Landscape Architects.

(b) Landscaping required by this article shall be planted during an opportune planting season and shall be in place and in good condition prior to occupancy, or the owner/developer may provide a guarantee in a form acceptable to the town that ensures installation. Said guarantee shall be equal to the cost of the installation remaining to be installed. A bona fide cost estimate on company letterhead issued by a recognized landscaping firm or nursery shall be provided along with the guarantee as verification of the guarantee amount.

(c) All landscaping included in the guarantee shall be installed, inspected, and approved within six months of acceptance of the guarantee.

(d) If during times of severe drought or water emergency, the owner/developer may request in writing an extension of the time period allowed for planting any required landscaping. The zoning administrator may permit the delayed installation at the discretion of the zoning administrator. Upon declaration of the end of said drought or water emergency, the owner/developer shall be required to install the required landscaping within six months.

(Code 2003, § 195-145; Ord. of 8-12-2013)

Sec. 36-692. - Maintenance.

Required landscaping shall remain alive and in good condition in perpetuity. The property owner shall be responsible for the ongoing protection and maintenance of all required landscaping in a manner consistent with the approved site development plan.

(Code 2003, § 195-146; Ord. of 8-12-2013)

Sec. 36-693. - Alternative landscape plan.

Upon written request, the council may approve an alternative layout to the required landscaping, provided that the spirit and intent of this chapter are preserved and the goals of this article are ensured.

(Code 2003, § 195-147; Ord. of 8-12-2013)

Secs. 36-694—36-714. - Reserved.

ARTICLE XVI. - SIGNS

Sec. 36-715. - Intent.

(a) It is the intent of the sign article to promote the public necessity, convenience, general welfare and good zoning practice by regulation of the placement, height and size of signs. The goals of the sign article are to provide sign requirements that will prevent visual blight, clutter, and impairment to sight lines of vehicular traffic and the obscuring of other permitted signs that result from the unregulated placement of signs while ensuring public safety and promoting the town as a great place to live and work.

(b) It is not the intent of the sign article or the town to suppress any free speech activities protected under the First Amendment to the United States Constitution.

(Code 2003, § 195-148; Ord. of 8-12-2013)

Sec. 36-716. - Severability.

If any provision of this chapter regulating signs is declared invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions of this chapter regulating signs, and all of such provisions shall remain in full force and effect.

(Code 2003, § 195-149; Ord. of 8-12-2013)

Sec. 36-717. - Applicability.

The provisions of the sign article are applicable to the placement of new signs and to the alteration or replacement of existing signs, whether such signs are permanent or temporary. The provisions of the sign article shall apply to all zoning districts.

(Code 2003, § 195-150; Ord. of 8-12-2013)

Sec. 36-718. - Exempt signs.

(a) *Exemptions enumerated.* The following signs are exempted from the provisions of this article and may be erected or constructed without a permit but in accordance with the structural and safety requirements of the building code:

(1) *Traffic signs and signals.* Signs erected and maintained pursuant to and in discharge of any federal, state or town government function, or as may required by law, ordinance, or governmental regulation including official traffic signs and signals, warning devices, and other similar signs.

(2) *Changing of message content.* Changing a copy on a bulletin board, poster board, display encasement, marquee or changeable copy sign.

(3) *Temporary signs.* Any sign that is not mounted to a permanent structure and/or foundation advertising a specific activity, service, or event shall be deemed a temporary sign and subject to the following restrictions:

a. Temporary signs shall not be displayed for more than 90 days.

b. Temporary signs shall be maintained in good order and repair and shall be properly anchored so as to be kept in sound condition.

c. Temporary signs advertising an event, activity or service as differentiated from signs advertising established commercial enterprises may be erected in any zoning district.

d. Temporary signs shall be a maximum of 32 square feet.

e. Lots with over 100 linear feet of street frontage may be allowed a temporary sign of up to 100 square feet.

f. Temporary signs shall only be erected on the property on which the activity, service or event is occurring.

g. Temporary signs shall be installed no earlier than 90 days prior to the activity, service, or event and shall be removed within five days after the activity, service, or event.

h. No temporary sign may be placed on utility poles, traffic control signs, or within the public right-of-way.

(4) *Temporary construction signs.* Non-illuminated signs not more than 32 square feet in total area, erected in connection with new construction work and displayed on the premises during such time as the actual construction work is in progress; one such sign shall be permitted for each street frontage.

(5) *Signs warning trespassers.* Non-illuminated signs warning trespassers or announcing property as posted, without limitations on number or placement, limited in area to three square feet in area.

(6)

Mounted or painted on a vehicle. Mounted, attached or painted signs on an automobile, truck, bus, or other vehicle shall be permitted while in use in the normal course of business. Such signs must be of a size, style, counting, color, and configuration which would be in conformance with all state division of motor vehicle laws and regulations for on-street operation of the subject vehicle. The vehicle must be in good operating condition and have proper registration and inspection certifications.

(7) *Address signs.* A sign displaying only the assigned address of a property or building that is attached to a building or sign structure or part thereof. An address sign shall not be included in the maximum permissible sign area of the district in which it is located.

(8) *Decal.* Decals affixed to windows or door glass panes, such as those that indicate membership in a business group or credit cards accepted at the establishment, provided that such decals do not exceed 36 square inches.

(b) *Discontinued uses.* Within 30 days after the use or activity that is advertised by a sign ceases, the owner of such use or activity or the owner of the property on which the sign advertising the discontinued use or activity is located shall remove all sign faces and cover all sign boxes and/or sign frames with a durable material. In the event the use of any nonconforming sign is abandoned for two or more years, the sign box, sign frame and its supporting structure shall be removed by the owner of the use or activity or by the owner of the property on which the sign is located. If the sign and its supporting structure are not removed, the town shall give the property owner notice to remove the sign and a deadline for removal. If the property owner fails to remove the sign after having been given written notice by the town to so do, or if the town, after reasonable efforts to do so, is unable to locate the property owner, the town may pursue any or all of the following remedies:

(1) Through its employees and agents enter the property upon which the sign is located, remove the sign and its supporting structure and bill the property owner for the costs of such removal;

(2) Apply to a court of competent jurisdiction for an order requiring the removal of such abandoned nonconforming sign by the owner by means of injunction or other appropriate remedy; and/or

(3) Charge the owner of the property where the sign is located with a violation of this chapter as provided in section 36-7.

(Code 2003, § 195-151; Ord. of 8-12-2013)

Sec. 36-719. - Maintenance.

(a) All signs, banners, inflatable items and similar devices, and their supporting structures that are displayed within the town shall be maintained in good order and repair and shall be properly anchored so as to be kept in sound condition. All exposed surfaces shall be protected against

decay or rust by proper application of weather-coating material, such as paint or a similar surface treatment.

(b) Residential subdivision signs not placed on individual lots shall be placed in the ownership and control of a homeowners' association capable of providing adequate maintenance.

(Code 2003, § 195-152; Ord. of 8-12-2013)

Sec. 36-720. - Permit required.

(a) Sign permit. No sign or sign structure, banner or part thereof shall be erected, enlarged or altered by any person or organization until such person or organization has:

(1) Submitted to the zoning administrator a completed sign application including the size of surface area, size of sign structure, size of sign frame, size of sign face, size of sign box, size of sign base, height, copy, source of illumination, type of material, and location of said sign on any wall or property.

(2) Met all sign application requirements and has obtained from the town a sign permit specifying the size, height and location of such sign or sign structure.

(3) All applicable permit fees have been paid to the town for signs for profit-only businesses.

(b) Upon receipt of a completed sign application, the zoning administrator will review the submitted information for compliance with this article. The zoning administrator will mark on the sign application approved, approved with conditions or denied and make notification to the applicant within ten working days of receipt of the completed sign application, unless the applicant has agreed to a longer period of time. Any conditions or reasons for denial shall be attached to the sign application and returned to the applicant.

(c) Permits issued to for-profit businesses, temporary banners, inflatable items, streamers and/or pennants shall include the date of issue and the date of expiration. Said permit shall be kept with the owner or manager of the business and be presented to town staff upon request.

(d) If a proposed sign or temporary banner, inflatable item, streamers and/or pennant complies with the standards set forth in this chapter, a sign permit shall be granted. The zoning administrator shall not deny a permit for a sign based upon the content of the sign, and the denial of a permit on such grounds is prohibited.

(e) Appeals of a decision to deny a sign permit shall be taken to the board of zoning appeals in the same manner as provided in this chapter and in the state code.

(Code 2003, § 195-153; Ord. of 8-12-2013)

Sec. 36-721. - General requirements.

The following regulations shall apply generally to all signs and are in addition to the regulations that apply to the signs in each district:

(1) All signs shall be erected on or before the expiration of the permit; otherwise, the permit shall become null and void and a new permit shall be required.

(2) Except as otherwise provided, these regulations shall be interpreted to permit one design of each permitted basic sign type, in accordance with the applicable regulations, for each street frontage, for each permitted use on the premises. For the purpose of this article, basic sign types are freestanding (including monuments), building mounted, projecting, and temporary.

(3) The owner and/or tenant of the premises and the owner and/or erector of the sign shall be held responsible for any violation of these regulations. Where a sign has been erected in accordance with these regulations, the sign company shall be relieved of any further responsibility under these regulations after final approval of the sign by the zoning administrator.

(4) All signs shall be maintained in good condition and appearance. Lights for illuminated signs shall be maintained in good working order. After due notice has been given as provided in subsection (5) of this section, the zoning administrator may cause to be removed any sign which shows gross neglect or becomes dilapidated. The owner of said property shall be responsible for any expenses incurred by the town in the execution of this requirement.

(5) The zoning administrator shall remove or cause to be removed any sign erected or maintained in conflict with these regulations if the owner or lessee of either the site or the sign fails to correct the violation within 30 days after receiving written notice of violation from the zoning administrator.

(6) A landscaped planting area may be provided around the base of any freestanding or detached sign. The planting area shall contain two times the area of the sign, shall be a minimum of four feet in width, shall be protected from vehicular encroachment, and shall contain a combination of low-lying shrubs and ground covers (other than grass). The landscape treatment shall be designed and maintained to not exceed a height of three feet above the average grade.

(7) Changeable message signs, including those with panels, including electronic changeable copy panels or zip tracks, are allowed. The changeable message area of the sign may cover the entire maximum allowable sign area. Electronic changeable copy panels are allowed so long as the message is placed on the sign for a minimum duration of eight seconds and does not scroll either horizontally or vertically.

(8)

Externally illuminated signs shall be illuminated only by a steady, stationary light source directed only at the sign without causing glare for motorists and pedestrians or illumination spillover on neighboring properties. Internally illuminated signs shall be illuminated only by a steady, stationary light source internal to the sign without causing glare for motorists and pedestrians or illumination spill over on neighboring properties.

(9) Sight distance. The land adjoining a street intersection that is to be kept clear of obstructions between three feet and seven feet above the ground to protect the visibility and safety of motorists and pedestrians. The impact of sign placement, size, and height shall be addressed with each sign permit application, with graphic information to be provided with the submission of a site plan sufficient for the zoning administrator to assess the applicant's sight distance determination.

(Code 2003, § 195-154; Ord. of 8-12-2013)

Sec. 36-722. - Sign area calculation.

(a) *Generally.* The sign area shall be calculated as the entire area within a single continuous perimeter, and a single plane, composed of a square, circle, rectangle, or other geometric figure that encloses the extreme limits of the sign's message background and trim, and including all letters, figures, graphics, or other elements of the sign.

(b) *Frame and bracing material.* Any supporting frame and/or bracing material of the sign shall not be included in the sign area calculations, provided that:

(1) There are two or less such members per sign;

(2) Any member does not exceed six inches in diameter or square;

(3) The member has no advertising value; and

(4) The supporting member does not form an integral part of the sign display, as determined by the zoning administrator.

(c) *Sign faces to be calculated.* The sign area shall be calculated based upon the maximum number of faces viewable for any ground position, as follows:

(1) Single-faced sign: one face counted.

(2) Double-faced sign: one face counted.

(3) V-shaped sign: one face counted.

(4) Three-dimensional sign: projected to single flat planes, all visible sign faces counted.

(5) Cylindrical sign: The sign area on each side of the cylinder shall be calculated by multiplying the height of the cylinder by the diameter of the cylinder.

(d)

Sign height. The dimension to the top of any point on a sign, including support structure, shall be the distance from the average grade level to the top of the sign or sign structure and shall not exceed the requirements set forth in the district requirements.

(e) *Maximum allowable sign area.* The maximum allowable sign area shall not exceed the area defined in each zoning district.

(Code 2003, § 195-155; Ord. of 8-12-2013)

Sec. 36-723. - Temporary signs.

The following signs and displays may be erected only after obtaining a temporary sign permit from the zoning administrator. The temporary sign permit shall cite the applicant's stated purpose for the sign, the size, type, and configuration of the sign, and the time period the sign is intended to be displayed as well as any other information necessary to allow the zoning administrator to issue the permit. Temporary sign permits shall be issued for 30-day periods, when in the opinion of the zoning administrator such sign or display will be in the public interest and would not result in damage to private property. The sign permit may be extended for one 30-day period. Such temporary sign permits may be issued no more than three times in a calendar year for the same business or event. If a temporary sign is not removed by the expiration of the time limitation, then the zoning administrator may remove the sign or display and charge the cost of the removal to the individual applicant or responsible party.

(1) *Commercial banner.* Banners when used in conjunction with the opening of a new business or an establishment going out of business in any commercial or industrial district. Limit two banners per business.

(2) *Residential banner.* Banners when used in conjunction with grand openings and/or initiation of sales or leasing of lots and/or dwelling units within a newly developing residential project.

(3) *Temporary portable sign.* Temporary portable signs, such as A-frame signs or changeable copy signs, which are intended to identify or display information pertaining to an establishment for which a permanent freestanding signage has not been established. Such signs shall be removed upon installation of the permanent freestanding sign or within the limitations of the temporary sign permit, whichever occurs first, and in no case shall exceed 32 square feet in aggregate area.

(4) *Moored balloon and/or floating signs.* Moored balloon and floating signs tethered to the ground or a structure, provided that the size, type, location and duration of such sign shall be approved at the sole discretion of the zoning administrator.

(5) *Commercial promotional signs.* Special sales promotion displays in a district where such sales are permitted, including displays incidental to the opening of a new business and special one-time auctions or real or personal property. Limit two banners per business.

(Code 2003, § 195-156; Ord. of 8-12-2013)

Sec. 36-724. - Prohibited signs.

(a) The following signs and/or displays are prohibited in all zoning districts, unless otherwise specified:

(1) *Permanent pennants and banners.* Permanent pennants, banners, festoons, streamers, and all other flutter, spinning, or similar type signs and advertising devices are prohibited, except for national flags, state/local flags of a political subdivision, decorative house flags, and flags of a bona fide civic, charitable, or fraternal organization.

(2) *Flashing signs/animated signs.* No flashing signs or signs containing strings of lights or running animation shall be permitted in any district. No such sign shall be constructed, erected, used, or operated which displays intermittent lights resembling or seeming to resemble the flashing lights customarily associated with danger or any emergency services vehicles.

(3) *Signs attached to freestanding signs.* Separate signs attached to a freestanding sign or its supporting structure, advertising services, including, but not limited to, automobile travel clubs and/or credit cards accepted.

(4) *Billboards.* Off-premises signs (billboards) shall not be allowed in any zoning districts. For those existing nonconforming uses, the structural supporting members, sign framing, lighting, electrical service, etc., may be replaced or upgraded as long as the sign area is not enlarged, extended, modified or altered.

(b) No sign shall be attached to trees, utility poles, public property, improvements in the public right-of-way, or any unapproved supporting structure, with such determination made at the sole discretion of the zoning administrator.

(Code 2003, § 195-157; Ord. of 8-12-2013)

Sec. 36-725. - Nonconforming signs.

Any sign which was erected in accordance with all applicable regulations in effect at the time of its erection, was lawfully in existence at the time of the effective date of the ordinance from which this article is derived, and which does not conform to the provisions herein, and any sign which is accessory to a lawful nonconforming principal use, shall be deemed a lawful nonconforming sign, and may remain subject to the following:

(1) A nonconforming sign must be maintained in good repair and condition. If any sign which is nonconforming is declared unsafe or in poor physical condition by a town official, then such sign must be removed at the expense of the owner and replaced by a sign conforming to the current standards of this chapter.

(2) Nonconforming signs may not be enlarged, extended, modified, reconstructed or altered in any way other than in accordance with this article.

(3) Nonconforming signs may be repainted or refaced, provided such improvement does not change or alter the wording, composition, color, or material of the sign.

(4) A nonconforming sign which is damaged or destroyed to an extent exceeding 50 percent of its appraised value may not be altered, replaced or reinstalled unless it is in conformance with the current standards of this chapter. If the damage or destruction is 50 percent or less of the appraised value, then the sign may be restored within 60 days of the damage, but may not be enlarged in any manner.

(Code 2003, § 195-158; Ord. of 8-12-2013)

Sec. 36-726. - Abandoned signs.

A sign, including its supporting structure or brackets, shall be removed by the owner or lessee of the premises upon which the sign is located when the business it advertises is no longer on the premises. Such sign, if not removed within 60 days from the termination of occupancy by such business, shall be considered a violation of this article and may cause the zoning administrator to have such sign removed at the property owner's expense. This shall not apply to sign listings within multi-tenant buildings in which a tenant changes. Allowances for tenant changes will be made for such signs, without requiring the sign to be declared abandoned.

(Code 2003, § 195-159; Ord. of 8-12-2013)

Sec. 36-727. - Modified signs.

(a) Modified signs are permitted in all zoning districts by conditional use permit approving a comprehensive signage plan. A request for a conditional use permit shall be sought in the same manner as provided by section 36-60. The council may grant a conditional use permit upon a determination that:

(1) There is good cause for deviating from a strict application of the requirements of this chapter.

(2) The modifications, as proposed, will serve the public purposes and objectives set forth in this chapter at least as well, or better, than the signage that would otherwise be required under the zoning standards and requirements.

(3) For purposes of this section, the term "comprehensive signage plan" refers to a written plan detailing the type, quantity, size, shape, color, and location of all signs within the development that is the subject of the plan, where the number, characteristics, and/or location of one or more signs referenced in the plan do not comply with the requirements of this chapter.

(b)

In approving a conditional use permit, the council may impose conditions regarding the location and other features of the proposed signs as it may deem necessary to promote the public interest and to ensure the spirit and intent of this chapter are met.

(c) The council will not grant more than the minimum modifications to the standards or requirements for signs than are necessary. The council will not grant a permanent modification to a standard or requirement if a temporary modification will suffice. A temporary modification may be granted if the council determines that permanent compliance can be obtained in a future phase of development of the site where the sign is located.

(d) The council will not grant a modification of any standard or requirement of a sign if:

(1) Ordinary financial considerations are the principal reason for the requested modification.

(2) The applicant created the condition or situation generating the need for the modification or the applicant has not exhausted all other practical solutions to the problem, including, but not limited to, the redesign or relocation of the sign.

(3) The requested modification would create a special privilege or convenience for the applicant.

(e) Applications for a conditional use permit for a modified sign shall include the following:

(1) A written narrative description of the proposed modified sign, including a listing of the total number of signs proposed for the site and a summary of how the applicant believes the modified sign will serve the objectives set forth in this chapter.

(2) A written description of the type, size (dimensions), materials and proposed location of each sign on the site.

(3) A written description of any proposed lighting for illuminated signs.

(4) Color illustrations or photographs of signage existing on adjacent properties.

(f) The council shall not deny an application for a modification based upon the content of the sign, and the denial of the application on such ground is prohibited.

(g) Appeals of a decision of the council shall be taken in the same manner as provided in this chapter and in the state code.

(Code 2003, § 195-160; Ord. of 8-12-2013)

Sec. 36-728. - R-1, R-2, R-3 and MHP-1 districts.

Within the R-1, R-2, R-3 and MHP-1 districts, signs pertaining only to the uses conducted on the premises shall be permitted, subject to the following regulations:

(1) One sign announcing a permitted home occupation will be allowed for each street on which the lot abuts. Each sign shall not exceed two square feet in area. Such signs shall not be illuminated.

(2)

Signs for other permitted uses shall be permitted when such signs do not exceed an aggregate area of 32 square feet for each use. Such signs may be illuminated by either backlighting or direct light, provided no light from any illuminated sign shall cause direct glare on to any adjoining property or public right-of-way.

(3) One subdivision identification sign not exceeding 100 square feet may be erected at each main entrance to the development. The maximum area of the sign may be on one sign or divided into two signs located on each side of the subdivision entrance road.

(4) Sign height shall not exceed ten feet above average grade.

(Code 2003, § 195-161; Ord. of 8-12-2013)

Sec. 36-729. - B-1, B-2 and M-1 districts.

Within the B-1, B-2 and M-1 districts, signs pertaining only to the uses conducted on the premises shall be permitted, subject to the following regulations:

(1) Building-mounted signs (roof signs) shall face only upon an abutting street or an abutting parking lot on the same parcel where the sign is located. The aggregate face area of all signs on any one wall of the building shall not exceed 40 square feet unless the building wall is longer than 100 linear feet. Building walls longer than 100 linear feet shall have one sign equal to one square foot of area for every one linear foot of building frontage with measures from corner to corner. Newly constructed groups of buildings or shopping centers shall have unified and/or coordinated building-mounted signs. The total aggregate sign area for the unified/ coordinated sign plan shall be equal to one square foot of sign area for every one linear foot of building frontage width measured from corner to corner.

(2) Building-mounted signs (roof signs) shall not project more than 15 inches beyond the face of the building. Projecting signs or suspended signs mounted perpendicular to the building may project a maximum of four feet beyond the face of the building and must allow for a minimum of eight feet of clearance from the bottom of the sign to the average grade.

(3) One freestanding sign structure permanently fixed to the ground may be erected, provided such sign structure does not extend beyond the lot line. In the B-1 Less Intense Use Business District, the aggregate area of a freestanding sign shall not exceed 100 square feet and shall not be taller than 24 feet high.

(4) When a group of buildings are coordinated into a business or shopping area (business park, industrial park, shopping center, mall, etc.), one freestanding sign structure, permanently fixed to the ground, may be erected on each street on which the area abuts, provided such sign structure does not extend beyond the lot line nor shall such signs be located closer than 75 feet from the next adjoining sign in either direction. The aggregate face area shall not exceed 32 square feet for the first business or tenant. The aggregate face area may be

increased in increments of ten square feet for each subsequent business or tenant up to a maximum aggregate face area of 300 square feet in the B-1 Less Intense Use Business District.

(5) Signs may be illuminated by either backlighting or direct light, provided no light from any illuminated sign shall cause direct glare on to any adjoining property or public right-of-way.

(6) Directional signs, each not exceeding four square feet in area and four feet in height may be displayed as needed to control egress and ingress in a safe and proper manner.

(7) One sign with the word "open" (neon or otherwise) shall be permitted per use, provided the sign does not exceed four square feet. Said sign shall not count towards the maximum allowable sign area.

(8) Sandwich boards will not be allowed within the public right-of-way, unless authorized by a permit from the town or the state department of transportation. If approved, one sandwich board with a maximum area of five square feet shall be permitted per business.

(9) Neon tubing of any color is permitted on a sign.

(Code 2003, § 195-162; Ord. of 8-12-2013)

Sec. 36-730. - P-1 Public Use District.

Signs pertaining only to the uses conducted on the premises will be permitted, subject to the following regulations:

(1) Building-mounted signs (roof signs) shall face only upon an abutting street or an abutting parking lot on the same parcel where the sign is located. The aggregate face area of all signs on any one wall of the building shall not exceed 40 square feet unless the building wall is longer than 100 linear feet. Building walls longer than 100 linear feet shall have one sign equal to one square foot of area for every one linear foot of building frontage with measures from corner to corner.

(2) Building-mounted signs (roof signs) shall not project more than 15 inches beyond the face of the building. Projecting signs or suspended signs mounted perpendicular to the building may project a maximum of four feet beyond the face of the building and must allow for a minimum of eight feet of clearance from the bottom of the sign to the average grade.

(3) One freestanding sign structure permanently fixed to the ground may be erected, provided such sign structure does not extend beyond the lot line. The aggregate area of a freestanding sign shall not exceed 40 square feet and shall not be taller than 15 feet high. Sign bases, uprights, poles, or other support located under the sign shall not count toward the calculation.

(4) Signs may be illuminated by either backlighting or direct light, provided no light from any illuminated sign shall cause direct glare on to any adjoining property or public right-of-way.

(5) Directional signs, each not exceeding four square feet in area and four feet in height may be displayed as needed to control egress and ingress in a safe and proper manner.

(6) Sandwich boards will not be allowed within the public right-of-way, unless authorized by a permit from the town or the state department of transportation. If approved, one sandwich board with a maximum area of five square feet shall be permitted per access point.

(7) Neon tubing of any color is permitted on a sign.

(Ord. of 8-12-2013; Ord. of 7-11-2022, § 1(195-162.1))

Secs. 36-731—36-758. - Reserved.

ARTICLE XVII. - ADDITIONAL USE REGULATIONS

Sec. 36-759. - Residential chicken keeping.

The keeping of up to six female chickens (hens) shall be permitted as an accessory use to a single-family residence, subject to the standards set out in chapter 6, article II in the following districts: R-1, R-2, R-3 and MHP-1. Residential use types may include the following accessory structures on the same site or lot:

(1) Coops and chicken enclosures, provided they are set back at least ten feet from side and rear property lines and at least 50 feet from any residential dwelling on an adjacent lot. Coops and chicken enclosures shall also be located behind the front building line of the principal structure. Coops shall provide at least two square feet of interior space per chicken, and chicken enclosures shall provide at least ten square feet of exterior space per chicken, with a maximum total area of 150 square feet for both the coop and chicken enclosure. Neither the coop nor the chicken enclosure shall exceed ten feet in height.

(2) No such accessory use shall be permitted on any lot until the lot owner has first obtained a zoning permit.

(Code 2003, § 195-163; Ord. of 8-12-2013; Ord. of 6-14-2021)

CODE COMPARATIVE TABLE - 2003 CODE

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