

**BOARD OF SUPERVISORS
COUNTY OF NEW KENT
VIRGINIA**

O-15-08 (R2)

At the regular meeting of the Board of Supervisors of the County of New Kent in the Boardroom of the County Administration Building in New Kent, Virginia, on the 12th day of January, 2009:

Present:	Vote:
James H. Burrell	Aye
Stran L. Trout	Aye
Thomas W. Evelyn	Aye
David M. Sparks	Aye
W. R. Davis, Jr.	Aye

Motion was made by Mr. Burrell, which carried 5:0, to adopt the following ordinance:

**AN ORDINANCE AMENDING CHAPTER
98, OF THE NEW KENT COUNTY CODE
AND THE COUNTY ZONING MAP**

WHEREAS, the New Kent County Board of Supervisors ("the Board") has forwarded a comprehensive rewrite of Chapter 98, Zoning Ordinance, to the Zoning Ordinance Review Committee to review and make recommendations to the Board and Planning Commission ("the Commission"); and

WHEREAS, the Zoning Ordinance Re-write Committee has completed a thorough review of the first phase of the rewrite process which includes the establishment of new zoning districts, general lot requirements, a table of uses, and a comprehensive zoning map amendment; and

WHEREAS, the Zoning Ordinance Re-write Committee and has forwarded its recommendation to the Planning Commission and Board of Supervisors for consideration; and

WHEREAS, the Planning Commission scheduled and conducted a formal and duly advertised public hearing in accordance with the applicable requirements of the Code of Virginia, carefully considering the public comment received; and

WHEREAS, the Commission has voted 5:3:1 to forward a unfavorable recommendation to the New Kent County Board of Supervisors to amend Chapter 98 and the County zoning map; and

WHEREAS this ordinance and zoning map amendment has been advertised for public hearing before the Board of Supervisors in full accord with applicable provisions of the Code of Virginia; and

WHEREAS, in order to assure compliance with the Code of Virginia, it is stated by the Board that the public purpose for this Ordinance is to further the public necessity, convenience, general welfare and good zoning practice in the County of New Kent and that approval will further these public purposes; and

NOW THEREFORE BE IT ORDAINED this, the 12th day of January, 2009, by the New Kent County Board of Supervisors that Chapter 98 of the New Kent County Code be amended to read as follows:

“ARTICLE I. IN GENERAL

Sec. 98-1. Purpose and intent of chapter.

For the purpose of promoting the health, safety, and general welfare of the public and of further accomplishing the objectives of Code of Virginia, § 15.2-2200, this chapter shall be the zoning ordinance of the county, together with the accompanying official zoning map. This article has been designed to:

- (1) Provide for adequate light, air, convenience of access, and safety from fire, flood and other dangers;
- (2) Reduce or prevent congestion in the public streets;
- (3) Facilitate the creation of a convenient, attractive and harmonious community;
- (4) Facilitate the provision of adequate police and fire protection, disaster evacuation, civil defense, transportation, water, sewerage, flood protection, schools, parks, forest, playgrounds, recreational facilities, airports and other public requirements;
- (5) Protect against destruction of or encroachment upon historic areas;
- (6) Protect against one or more of the following: overcrowding of land, undue density of population in relation to the community facilities existing or available, obstruction of light and air, danger and congestion in travel and transportation, or loss of life, health or property from fire, flood, panic or other dangers;
- (7) Encourage economic development activities that provide desirable employment and enlarge the tax base; and
- (8) Provide for the preservation of agricultural and forestal lands and other lands of significance for the protection of the natural environment.

(Code 1999, § 9-35)

State law references: Similar provisions, Code of Virginia, § 15.2-2283.

Sec. 98-2. Definitions and rules of construction.

(a) Words, terms and phrases not defined in this section shall be interpreted in accordance with their normal dictionary meaning and customary usage.

(b) 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:

Acceleration lane means an added roadway lane which permits integration and merging of slower moving vehicles into the main vehicular stream.

Accessory building means a subordinate structure which is clearly incidental to or customarily found in connection with and (except as otherwise provided in this chapter) located on the same lot as the main building or principal use of land. (See section 98-10.)

Accessory use means a use of land or of a building or portion thereof customarily incidental and subordinate to the principal use of the land or building and (except as otherwise provided in this chapter) located on the same lot with such principal use. (See section 98-10.)

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.

Addition means a structure added to the original structure at sometime after the completion of the original.

Administrator (See, Zoning administrator)

Adult business means a use, such as an adult bookstore/video store, adult motion picture theater, a business providing adult entertainment or any other establishment, including without limitation any adult modeling studio, adult cocktail lounge or adult nightclub, that regularly emphasizes an interest in matter relating to specified sexual activities or specified anatomical areas or is intended for the sexual stimulation or titillation of patrons.

Adult bookstore/adult video store means an establishment having as its principal purpose or one which derives in excess of 20 percent of its gross sales from the stock-in-trade of books, magazines and other periodicals and/or videotapes, computer disks, CD-ROMs, DVD-ROMs, virtual reality devices or any other similar media that are distinguished or characterized by their emphasis on matter depicting, describing or relating to "specified sexual activities", or "specified anatomical areas" or are intended for the sexual stimulation or titillation of patrons.

Adult daycare center means any facility that is either operated for profit or that desires licensure and that provides supplementary care and protection during only a part of the day to four (4) or more aged, infirm, or disabled adults who reside elsewhere, except (i) a facility or portion of a facility licensed by the State Board of Health or the Department of Mental Health, Mental Retardation, and Substance Abuse Services, and (ii) the home or residence of an individual who cares for only persons related to him by blood or marriage. Included in this definition are any two or more places, establishments, or institutions owned, operated, or controlled by a single entity and providing such supplementary care and protection to a combined total of four or more aged, infirm, or disabled adults.

Adult entertainment means dancing, modeling, or other live performances if the performers' performance is characterized by an emphasis on specified anatomical areas or specified sexual activities, or is intended for the sexual stimulation or titillation of patrons. This definition also includes the showing of films, motion pictures, video cassettes, slides, photographic reproductions, virtual reality devices, internet sites, or files transmitted over the internet, or other media that are characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas or is intended for the sexual stimulation or titillation of patrons.

Adult merchandise means magazines, books, other periodicals, videotapes, movies, photographs, slides, CD-ROMs, DVD-ROMs, virtual reality devices or other similar media that are characterized by their emphasis on matter depicting, describing or relating to specific sexual activities or specified anatomical areas or are intended for the sexual stimulation or titillation of patrons. This definition also includes toys, novelties, instruments, devices or paraphernalia either designed as representations of human genital organs or female breasts, or designed or marketed primarily for use to stimulate human genital organs and lingerie or leather goods marketed or presented in a context to suggest their use for sadomasochistic practices.

Adult motion picture theater means an enclosed building or open area, such as a drive-in theatre, used for presenting material for observation by patrons distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas."

Agricultural building means a structure on agricultural land designated, constructed, and used to house grain, hay, livestock, farm implements and equipment, and other agricultural produce or products.

Agricultural equipment sales and service means a building and/or associated land area for the display and sale or rental of new and/or used farm tools and implements, feed grain, tack, animal care products, and farm supplies. This includes repair of farm machinery repair when that repair is conducted in a fully enclosed building.

Agriculture means the bona fide production, keeping, or maintenance for sale or lease of plants and animals useful to man including, but not limited to, forages and solid crops, grains and seed crops, dairy animals and dairy products, poultry and poultry products, livestock including beef cattle, sheep, swine, horses, ponies, mules or goats or any mutations or hybrids thereof including the breeding and grazing of any or all of such animals, bees and aviary products, fur animals, trees and forest products, fruits of all kinds including grapes, nuts, berries, vegetables, nursery, floral, ornamental, and greenhouse products or lands devoted to a soil conservation or forestry management program. The term does not include home gardens nor does it include those activities that occur primarily or exclusively for the personal use or enjoyment of the land owner.

Air park means a complex of uses such as offices, stores, hotels and manufacturers that join or are part of an airport and requiring or desiring close access thereto.

Airplane landing strip means a facility with a runway, but without normal air base or airport facilities.

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

Airport elevation means the highest point of an airport's usable landing area measured in feet from mean sea level.

Airport hazard means any structure, object or natural growth, or use of land which obstructs the airspace required for the flight of aircraft in landing or taking off at an airport or is otherwise hazardous to such landing or taking off of aircraft.

State law references: Similar provisions, Code of Virginia, § 5.1-1.

Aisle means the traveled way by which cars enter into parking spaces.

Alteration means a change or rearrangement in the supporting members of an existing building such as bearing walls, columns, beams, girders, or interior partitions, as well as any change in doors or windows or any enlargement to or diminution of a building or structure whether horizontally or vertically or the moving of a building or structure from one location to another.

Amusement facility (indoor) means a facility where the public may play billiards, pool, video games, or bowl. This includes game rooms and similar forms of public entertainment or play, but does not include facilities where the public may play card games.

Amusement facility (outdoor) means a facility where the public may engage in entertainment or games where any portion of the activity takes place outside of a building, including golf driving ranges, archery ranges, batting cages or miniature golf courses. This definition excludes a facility for the shooting sports or any activity involving the use of firearms. It does not include a stadium or amphitheater.

Amusement park means an outdoor commercial facility that may include structures or buildings where there are various devices for entertainment including rides, booths for the conduct of games or sale of items, and buildings for shows and entertainment, sports, games including baseball diamonds, football stadiums, auto sports complexes, and outdoor amphitheaters.

Animal hospital (with outside runs) means a facility where animals or pets are given medical or surgical treatment and the boarding of animals is limited to short-term care incidental to the hospital use. Animal pens and runs are located outside or are located in such a manner that permits sound generated by the animals to be heard outside the buildings on the premises.

Animal hospital (without outside runs) means a facility where animals or pets are given medical or surgical treatment and the boarding of animals is limited to short-term care incidental to the hospital use. Animal pens and runs are located entirely within fully enclosed buildings designed and constructed to prevent sound generated by the animals to be heard outside of the buildings on the premises.

Animal husbandry means the raising of domesticated farm animals including dairy cows, beef cattle, horse, ponies, mules, llamas, goats, and sheep when their primary source of food, other than during the winter months, is from grazing in the pasture where they are kept.

Animal shelter means a facility which is used to house or contain animals and which is owned, operated, or maintained by a duly incorporated humane society, animal welfare society, society for the prevention of cruelty to animals, or other nonprofit organization devoted to the welfare, protection, and humane treatment of animals. This definition also includes a facility owned by a political subdivision of the Commonwealth of Virginia.

Antique shop means a facility primarily used for the display and sale of art, furniture, or decorative objects, which were created or manufactured in a period more than twenty-five years earlier.

Apartment means an apartment, apartment dwelling unit, or portion of a house or home which is an enclosed space consisting of one or more rooms occupying all or part of one or more floors in a building or buildings of one or more floors or stories regardless of whether it be designed or used for residence, for office, for the operation of any industry or business, or for any other type of independent use, or combination of uses, and shall include such accessories as may be appurtenant thereto, such as garage space, storage space, balcony, terrace and patio. Provided that the apartment has a direct exit to a thoroughfare or to a given common space leading to a thoroughfare and that it has not been lawfully submitted to the Virginia Condominium Act by the recordation of condominium instruments pursuant to the provisions of that Act.

Apartment house means a structure containing three or more apartments.

Approach, transitional, horizontal and conical zones means zones which apply to the area under the approach, transitional, horizontal and conical surfaces defined in the FAA regulations which apply to the type of facility involved.

Asphalt mixing plant means a facility where components are combined to manufacture asphalt which is then transported off-site.

Assembly means the use of a building and/or associated land area where various components of a product are fitted together to create a complete machine, structure, or unit of a machine.

Assembly of goods from finished components (See, Assembly)

Assembly hall, club, lodge means a building or portion of a building primarily used for the public or membership groups to gather for civic, educational, political, religious, or social purposes.

Automobile means a self-propelled, free-moving vehicle with four or more wheels primarily for conveyance on a street or roadway.

Automobile bodywork and painting means a facility that provides collision and other damage repair services for automobiles and light trucks, including body frame straightening, replacement of damaged parts, and painting.

Automobile fueling station means a facility or portion of property where flammable or combustible liquids or gases used as fuels (including alternative fuels such as ethanol, biodiesel, natural gas, or hydrogen), are stored and dispensed by either the customer or an employee of the business or both from

fixed equipment into the fuel tanks of motor vehicles. Accessory activities may include sales of vehicle lubricants and fluids for customer use, car wash service, convenience and food sales, but not automotive repair and/or maintenance.

Automobile retail parts sales means a facility primarily used for the sale of new and used auto parts and which does not incorporate any outside storage of automobiles or any associated components.

Automobile service station, automobile repair services, and garage means a facility engaged in furnishing automotive repairs, including general repairs, machine shops, vulcanizing shops, radiator repair shops, and engine and transmission repair shops. Such facilities may include minor bodywork and painting as a part of other operations. An automobile service station shall not include a public garage, body shop, or tractor-trailer service station. These facilities are not capable of major mechanical and body work, straightening of body parts, painting, welding, storage of automobiles or trucks not in operating condition. Operations involving noise, glare, smoke, fumes, or other characteristics to an extent greater than normally found in automobile service stations fall outside this definition.

Automobile vehicle sales and service means a facility for the display and sale of new and/or used automobiles in full working order that generally includes light trucks, vans, trailers, or recreational vehicles and including any vehicle preparation or repair work conducted as an accessory use.

Bank, financial institution means a facility primarily used for the custody, loan, or exchange of money; for the extension of credit; for facilitating the transmission of funds or for any financial institution transaction. The term shall also include credit unions, thrift savings institutions and similar facilities serving the same or similar purposes, but does not include pawn, consumer finance, payday loan, check cashing and similar establishments. The facility may or may not have a drive-up window.

Bar means a facility licensed by the Virginia Alcohol Beverage Control Board primarily devoted to the serving of alcoholic beverages and in which the service of food is only incidental to the consumption of such beverages. Such facilities may have music, comedy and other entertainment as an ancillary part of operations. The term also includes drinking establishments and taverns. [See also, Nightclub.]

Barber and beauty shop means a facility primarily used for the practice of barbering and/or cosmetology with accessory uses such as tanning booths, pedicures, or similar services.

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

Basement means a story partly underground having more than one-half of its height above ground. A basement shall be counted as a story for the purpose of height regulations. (See, Cellar)

Bed and breakfast means a single-family dwelling in which the principal use is permanent residential quarters in which the owner or operator lives; and in which, as an accessory use, for compensation, meals and overnight

accommodations are provided for guests staying less than 30 days. The term also includes a tourist home stay establishment.

Bicycle sales and service means a facility primarily used for the retail sale of human powered vehicles and accessories thereto. It also includes the assembly and repair of such vehicles and installation of accessories and the retail sale of clothing and equipment for the operators of such vehicles.

Block means that property fronting on one side of a street or road lying between two intersecting streets or roads or otherwise limited by a railroad right-of-way, a live stream, or unsubdivided tract or physical barriers of such nature as to interrupt the continuity of the development.

Board means the board of zoning appeals of the county.

Boardinghouse means a dwelling or part of a dwelling where, for compensation, lodging and meals are provided for at least three and for not more than 14 persons.

Boat dock, commercial means the combination of piers, however supported, and the water immediately between and surrounding those piers which is constructed upon the water of a lake, river, or stream for the use of more than one person for the mooring of boats or as a landing place for marine transport in exchange for compensation.

Boat dock, individual means the combination of piers, however supported, and the water immediately between and surrounding those piers which is constructed for personal use upon the water of a lake, river, or stream, and that serves a single user or property owner for mooring boats or as a landing place for marine transport.

Boat launch ramp means a facility where a person may launch and retrieve recreational boats, typically from a trailer. Ramps may be limited to the hand launching of canoes or other small boats. Ramps may have breakwater protection from large waves, a courtesy pier to assist in launching, toilets, refuse containers, lighting, telephones, and parking lots,

Boat parts or accessories sales means a facility for the retail sale, service, or rental of accessory items primarily for use on boats and ships, but excludes uses in which fuel for boats and ships is the primary item sold.

Boat sales and service means a facility with its associated display and storage areas primarily used for the retail sale of boats and watercraft. This facility may include the sale of accessory marine equipment. The facility also may include any watercraft preparation or repair work conducted as an accessory use. This definition excludes uses in which fuel for boats and ships is the primary item sold.

Boatbuilding, boat yard means a facility that provides such facilities as are customary and necessary to the construction, reconstruction, repair, or maintenance of boats, marine engines, or marine equipment. This definition includes the accessory sale of supplies, or services of all kinds, including but not limited to the rental of covered or uncovered boat slips, dock space, or enclosed dry storage space, as well as lifting or launching services. The term includes marinas and boat liveries.

Boatel means a facility containing guest rooms or dwelling units that are designed, used, or intended to be used, wholly or in part, for the accommodation of transient boats or tourists, and which is located near by or abutting a river, lake, or ocean.

Book, card shop means a retail establishment that, as its primary business, engages in the sale, rental, or other charge-for-use of books, magazines, newspapers, greeting cards, postcards, videotapes, DVD's, computer software, or any other printed or electronically conveyed information or media, excluding any "adult bookstore" or "adult use" or theater of any type.

Brewpub means a restaurant that also as an accessory use prepares handcrafted natural beer (malt beverages with alcohol content as defined by federal or Virginia law) intended for consumption on the premises. Indoor live entertainment may be offered as a part of normal business operations.

Brick manufacture (See, Manufacture and/or manufacturing)

Broadcasting studios (See, Studio)

Buildable area means the area of that part of the lot not included within the yards or open spaces required by this chapter.

Buildable width means the width of that part of the lot not included within the open spaces required by this chapter.

Building means any structure having a roof supported by columns or walls for the housing or enclosure of persons, animals, and property of any kind. The term "building" or "structure" includes its parts, and the term "building" includes the term "structure."

Building, completely enclosed means any building having no outside openings other than ordinary doors, windows and ventilators.

Building coverage (lot coverage) means that percentage of a lot which when viewed from above would be covered by a structure or structures and any part thereof, excluding roof eaves.

Building, height of means the vertical distance from the average established curve grade or from the average level of the finished grade at the front building line, if higher, to the highest point of the roof if a flat roof, to the deck line of a mansard roof or to the mean height level between the eaves and ridge of a gable, hip or gambrel roof.

Building line means the line created where the building makes contact with the finished grade level. Building height is measured in a perpendicular direction from this line.

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

Building supply and lumber store means a facility selling or renting building materials and supplies, construction equipment, tools, lumber, hardware, or home decorating fixtures and accessories. This term includes establishments selling to the general public at retail paint, wallpaper, glass, fixtures, nursery stock, lawn and garden supplies, lumber, and other building materials such as brick, tile, cement, insulation, plumbing, roofing materials, and electrical goods, even if contractor sales account for a major proportion of total sales. No item

may be manufactured or fabricated on site; however this shall not preclude services provided to customers such as cutting lumber to customer-specified sizes, cutting and bending conduits, making keys, sharpening saws and bits, and similar services. Such establishments may include outdoor storage except where excluded by a specific zoning district. The term includes a home improvement supply store and showroom.

Bus station/terminal means any facility for the transient parking of motor driven buses and the loading and unloading of passengers. The facility may include a structure for storing the buses between scheduled trips.

Business and professional offices means a building primarily used for conducting the affairs of a business, profession, service, industry, or government, and may include ancillary services for office workers, such as a restaurant, coffee shop, newspaper or candy stand, and child-care facilities.

Cabinet, furniture manufacture (See, Manufacture and/or manufacturing)

Camper means any individual who occupies a campsite or otherwise assumes charge of or is placed in charge of a campsite.

Campground means a facility on which accommodations for temporary occupancy are located, or may be placed, including camping units and major recreational equipment, and which is primarily used for recreational purposes
Camping unit means any tent, travel trailer, cabin, lean-to, or similar structure established or maintained and operated in a campground as temporary living quarters for recreation, education or vacation purposes.

Campsite means any plot of ground in a campground intended for the exclusive occupancy by a camping unit or units under the control of a camper.

Canopy means a detachable roof like cover supported from the ground or deck, floor or walls of a building for protection from sun and weather.

Car wash means a facility containing mechanical means for the washing and/or waxing of private automobiles, light trucks and vans, but not commercial vehicles or fleets.

Cellar means a story entirely underground or partly underground with at least one-half of its height below grade.

Cement, lime and gypsum manufacture (See, Manufacture and/or manufacturing)

Cemetery, columbarium means a facility for the interment of human or animal dead, above or below the ground, with or without the sale of lots.

Change of use means any use which substantially differs from the previous use of building or land.

Childcare center, day care center, preschool, nursery school means a child day program offered to (i) two or more children under the age of 13 in a facility that is not the residence of the provider or of any of the children in care; or (ii) 11 or more children at any location.

Chimney means a structure containing one or more flues for drawing off emissions from stationary sources of combustion.

Civic center means a building or complex of buildings that house municipal offices and services and which may include cultural, recreational, athletic,

convention and entertainment facilities owned and/or operated by a governmental agency.

Clinic or emergency care center means a facility where patients are admitted for examination or treatment by physicians, dentists, or other healthcare professionals, but those patients are not lodged overnight but rather are expected to return home or be transported to an infirmary or hospital.

Clothing store, retail means a facility where clothing is sold at retail, such as department stores, dry goods and shoe stores, and dress, hosiery, and millinery shops. Such facilities may include businesses that receive clothing on consignment or through donations, including used clothing offered for retail sale.

Club means buildings and facilities owned and operated by a corporation, association or persons for a social, educational, or recreational purpose but not primarily to render a service which is customarily carried on as a business. This includes community pools and recreational facilities.

Cluster homes means a group of dwellings for private and separate ownership similar to condominium development but buildings may or may not be connected; generally associated with planned unit developments.

Code official means the legally designated building authority of the county or his authorized representative.

Commercial greenhouse means a structure in which plants, vegetables, flowers and similar other materials are grown for sale.

Commerce park means a tract of land that has been planned, developed and operated as an integrated facility for a number of individual offices and office buildings, industrial facilities, distribution and storage warehouses, and related accessory and ancillary uses, and where traffic/pedestrian circulation, parking, utility needs, open space, aesthetics and use compatibility have been specifically addressed through the site plan process.

Commission means the planning commission of the county.

Common area means all land within a subdivision or townhouse development excluding public streets and rights-of-way and private lots held either by the owner/developer or an individual nonprofit corporate owner whose members shall be all property owners within the subdivision or townhouse development.

Communications facility means a facility, including towers, where the principal use is to provide communication services whether by wire or radio, either aurally or visually, including radio, telephone and television broadcasting and the exchange or recording of messages.

Community center means a facility owned and operated by a governmental agency or duly constituted property owners association to provide a community service to the public or a specific subset of the public, such as a particular neighborhood or community on a non-commercial basis.

Community facility means a building or structure owned and operated by a governmental agency to provide a governmental service to the public.

Commuter parking means a parking lot designed for use by drivers to leave their cars for a period of time when commuting to and from a place of employment.

Compost means a stabilized organic product produced by a controlled aerobic decomposition process in such a manner that the product can be handled,

stored, and/or applied to the land without adversely affecting public health or the environment. Composted sludge shall be as specified in 12 VAC 5-581-630.

Composting means the manipulation of the natural aerobic process of decomposition of organic materials to increase the rate of decomposition.

Computer and data processing center and services means a facility primarily used for the processing of orders, claims, and similar activities or engineering of software and data management systems, including telemarketing or electronic or digital marketing communications.

Computer retail sales and service means a retail facility primarily engaged in the sale of personal computers, peripherals, and digital devices and includes the custom assembly of computers using pre-manufactured parts.

Conditional use means a use permitted in a particular zoning district only upon a showing that such use in a specified location will comply with all the conditions and standards for the location or operation of such use as specified in this chapter and as established by the board of supervisors.

Conditional use permit means a written permit issued by the proper authority stating that the conditional use meets all conditions required by this chapter.

Condominium means real property, and any incidents thereto or interests therein, lawfully submitted to the Virginia Condominium Act by the recordation of condominium instruments pursuant to the provisions of that Act. No project shall be deemed a condominium within the meaning of the Condominium Act unless the undivided interests in the common elements are vested in the unit owners.

Condominium unit means a unit together with the undivided interest in the common elements appertaining to that unit.

Conference center means a facility used for conferences and seminars, which may include accommodations for sleeping, food preparation and eating, indoor and outdoor recreation, resource facilities, and meeting rooms.

Conservation area means an area for the conservation of natural habitat.

Construction debris landfill means a facility regulated by the Commonwealth of Virginia and engineered, constructed and operated to contain and isolate construction waste, demolition waste, debris waste, or combinations of the above solid wastes.

Construction trailer or portable building/office means a structure without any foundation or footing and removed when the designated time period, activity, or use for which the temporary structure was erected has ceased.

Construction waste means solid waste which is produced or generated during construction, remodeling, or repair of pavements, houses, commercial buildings, and other structures. Construction wastes include, but are not limited to lumber, wire, sheetrock, broken brick, shingles, glass, pipes, concrete, paving materials, and metal and plastics if the metal or plastics are a part of the materials of construction or empty containers for such materials. Paints, coatings, solvents, asbestos, any liquid, compressed gases or semi-liquids and garbage are not construction wastes. Vegetative wastes are not construction wastes.

Contractor office or shop with outdoor storage means a facility which a contractor customarily uses for the fabrication, assembly or repair of materials or

equipment, storage of supplies, materials or equipment, or places for vehicular and equipment storage. Storage of equipment and materials occurs within buildings or associated land area or both.

Contractor office or shop without outdoor storage means a facility which a contractor customarily uses for the fabrication, assembly, or repair of materials or equipment; storage of supplies, materials, or equipment; or for vehicle and equipment storage. All storage of equipment and materials on the premises occurs within one or more fully enclosed buildings.

Contractor storage means a building and/or associated land area primarily used for a contractor's office and storage of associated equipment and materials. Storage of all equipment and materials must be screened from adjoining properties and public rights-of-way.

Convenience store means any retail establishment offering for sale a limited selection and quantity of prepackaged food products, delicatessen or fast-food items, household items and other goods commonly associated with the same. Such stores may also have self-serve pumps for the dispensing of fuel into motor vehicles and car wash facilities. The term shall not include truck stops nor any activity commonly associated with truck stops such as storing, maintaining, or parking trucks and other commercial vehicles overnight.

Copy center means a facility for the reproduction and copying of printed or digital materials or drawings. This does not include sign shops, off-set printing establishments, or similar large-scale operations.

Correctional facility means any jail, jail farm, or other place used for the detention or incarceration of adult offenders, excluding a lock-up as defined by § 53.1-1, Code of Virginia, 1950, as amended, and which is owned, maintained or operated by any political subdivision or combination of political subdivisions of the Commonwealth.

Court means an open space which may or may not have direct street access and around which is arranged a single building or a group of related buildings.

Cul-de-sac means the turnaround at the end of a dead-end street.

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

Dance and music studios (See, Studio)

Daycare center/day nursery (See, Childcare center, day care center, preschool, nursery school)

Density means the number of families, individuals, dwelling units or housing units per unit of land.

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, drilling operations, or storage of equipment or materials.

Development standard means regulations which limit the size, bulk or siting conditions of particular types of buildings or uses located within any designated district or permitted as conditional uses.

Distillation of ethanol from grain means the process of producing ethanol from the fermentation of grain.

Distillery means a facility where alcoholic liquors are distilled or manufactured.

Distribution center means a building primarily used for the receipt, storage, and distribution of goods, products, cargo, and materials, including transshipment by boat, rail, air, or motor vehicle.

District means areas established by this chapter under the provisions of Code of Virginia, § 15.2-2280.

Driveway means a private roadway providing access for vehicles to a parking space, garage, dwelling or other structure.

Drugstore/pharmacy means a facility primarily used for the retail sale of prescription drugs, nonprescription medicines, cosmetics, and related supplies.

Dry cleaner means a facility where clothes and other articles are cleaned through chemical processes.

Dry cleaning outlet means a facility primarily used for the pickup and delivery of dry cleaning and/or laundry without the maintenance or operation of any equipment or machinery on the premises.

Dump means a land site used primarily for the disposal by dumping, aerial burning or other means for whatever purposes of garbage, sewage, trash, refuse, junk, discarded machinery, vehicles or part thereof, and other waste, scrap, or discarded material of any kind.

Dwelling means a building or portion thereof designed or used exclusively for residential occupancy but not including boats, trailers, mobile homes, motor homes, hotels, motels, motor lodges, tourist courts, or tourist homes.

Dwelling, modular means a single-family dwelling which is constructed in units which are movable but not designed for regular transportation on highways and designed to be constructed on a permanent foundation.

Dwelling, multifamily means a structure arranged or designed to be occupied exclusively by three or more families living independently of each other.

Dwelling, semidetached means two single-family dwellings attached by a common vertical wall without openings between them and with separate entrances for each dwelling unit.

Dwelling, single-family means a building arranged or designed to be occupied by one family, the structure having only one dwelling unit.

Dwelling, single-family attached means a row or combination of at least two (2) one-family dwelling units, with each unit having a separate outside access, each unit separated from any other unit by one or more common fire-resistant walls without openings between the units, and with each unit located on its own lot.

Dwelling, single-family detached means a dwelling unit that is surrounded on all sides by yards or other open spaces located on the same lot and which is not attached to any other principal dwelling unit by any means and does not share its utility systems (i.e., hot water heater, heating system, cooling system) with any other dwelling unit.

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

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

Educational institution means a college or university authorized by the Commonwealth to award degrees or certificates.

Electrical and electronic device manufacture and assembly (See, Manufacture and/or manufacturing)

Equestrian facility means a facility designed and intended for the showing of equestrian skills and used to host events including, but not limited to, rodeos, show jumping, cross country horse races, and other disciplines in horsemanship. Such facilities may be open to the public and may include such structures as riding rings, bleachers, stables, tack rooms, veterinarian/medical facilities, and concession stands.

Existing use means the use of a lot or structure at the time of enactment of the applicable provisions of this chapter.

Extended care facility (See, Nursing, convalescent, or rest home)

Exterior wall means any wall which defines the exterior boundaries of a building or structure.

Facility means the combination of real property (land and the buildings on that land) and the personal property within, that allows, permits, or otherwise performs a particular land use.

Family means one or more persons occupying a premises and living in a single dwelling unit as distinguished from an unrelated group occupying a boardinghouse, lodging house, tourist home or hotel. The term shall include unrelated persons occupying single dwelling units, if the number of such unrelated persons does not exceed four.

Farm means a parcel of land used for agriculture.

Farm equipment sales (See, Agricultural equipment sales and service)

Farm structures mean any building or structure used for agricultural purposes.

Farmers market means a facility where farmers or other people who are engaged in truck farming gather regularly for selling produce, goods, and crafts produced at their farms. The sale of raw seafood is included in this definition.

Feed and seed store means a facility engaged in the retail sale of supplies related to the day-to-day activities of agricultural uses.

Feed lot means a relatively small confined land area for fattening cattle or holding temporarily for shipment.

Flood means a general and temporary inundation on 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 of runoff of surface water from any source.

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

Floodway means the designated area of the floodplain required to carry and discharge floodwaters of a given magnitude. For the purposes of this chapter,

the floodway shall be capable of accommodating a flood of the 100-year magnitude.

Floor area means:

(1) *Commercial, business, and industrial buildings or buildings containing mixed uses.* The sum of the gross horizontal areas of the several floors of a building measured from the exterior faces of the exterior wall or from the centerline of walls separating two buildings, but not including:

- a. Attic space providing head room of less than seven feet;
- b. Basement or cellar space not used daily;
- c. Uncovered steps or fire escapes;
- d. Accessory water towers;
- e. Accessory off-street parking spaces; and
- f. Accessory off-street loading spaces.

(2) *Residential buildings.* The sum of the gross horizontal areas of the several floors of a dwelling exclusive of garages, basements, cellars and open porches measured from the exterior faces of the exterior walls.

Floor area, finished means that area that is so completed as to be in conformity with the conditions of the main living area but not necessarily utilizing the same building material.

Floor area, livable means floor area designed for year-round family living enclosed or protected from the weather but not intended for storage or similar uses and not including garages, carports, cellars, basements, attics, open porches, atriums, patios and breezeways. Basement space may be included as livable floor area when designed as a family room, game room or similar use with an exposed outside wall containing windows or doors.

Florist shop means a facility primarily used for the selling of plants, which are not grown on the site, and conducting business within an enclosed building.

Flour, feed mill means a facility primarily used to grind grain into flour or feed for a fee.

Forestry means the operation of timber tracts, tree farms, forest nurseries, or the gathering of forest products under a forest management plan approved by the State Forester.

Freight terminal means a facility with the capability of handling a large variety of goods involving various forms of transportation and providing multimodal shipping capabilities, such as rail to truck and truck to air.

Frontage (See, Lot frontage)

Funeral home means a facility primarily used for human funeral services. Such a facility may contain space and equipment for embalming and the performance of other services used in the preparation of the human dead for burial; the performance of autopsies and other surgical procedures associated with preparing human bodies for burial; the storage of caskets, funeral urns, and other related funeral supplies; the storage of funeral vehicles and facilities for cremation. The term shall include funeral parlor and funeral chapel.

Game preserve means a land area that promotes the breeding of game and/or upon which hunting privileges have been granted.

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 an accessory. On a lot occupied by a multiple unit dwelling, the private garage may be designed and used for the storage of 1 1/2 times as many automobiles as there are dwelling units.

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

Garden apartment means a multistory building with one or more separate and individual apartments found in each story.

Gift, record, and tobacco shop means a facility where specialty items such as art, reproduction antiques, T-shirts and other clothing, jewelry, recorded music and videos, books, tobacco products and accessories, stationary, and/or notions are sold at retail. Such enterprises typically have relatively limited product lines as compared to a department store with broader product offerings and choices. The term shall include variety stores.

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

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

Government office means any room, clinic, suite or building wherein the primary use is to conduct local, state, federal agency or any other sub-unit of government business including accounting, correspondence, editing, enforcement, research, administration, analysis or maintenance operations. Included within this definition shall be the health department, social services department, school board administration and other similar functions and agencies.

Grade means grade or grade elevation shall be determined by averaging the elevations of the finished ground adjacent to all the corners and/or other principal parts in the perimeter wall of the building.

Grain elevator means a building primarily used for elevating, storing, discharging and processing grain.

Grain storage (See, Agricultural building)

Gravel pit/borrow pit means an open land area where sand, earth, gravel or rock fragments are mined or extracted for sale of off-tract use.

Greenbelt means a strip of land planted with evergreen trees, established to protect one type of land use from another with which it may be incompatible.

Greenhouse means a building whose roof and sides are made largely of glass or other transparent or translucent material and in which the temperature and humidity can be regulated for the cultivation of delicate or out-of-season plants for subsequent sale or for personal enjoyment.

Grocery store, retail (See, Retail stores and shops)

Group care residential facility for less than or equal to eight (8) residents means a facility in which no more than eight (8) mentally ill, mentally retarded, or developmentally disabled persons reside, with one or more resident counselors

or other staff persons. For the purposes of this subsection, mental illness and developmental disability shall not include current illegal use of or addiction to a controlled substance as defined in §54.1-3401 of the Virginia Code, 1950, as amended.

Group care residential facility greater than or equal to eight (8) residents means a facility in which more than eight (8) mentally ill, mentally retarded, or developmentally disabled persons reside, with one or more resident counselors or other staff persons. For the purposes of this subsection, mental illness and developmental disability shall not include current illegal use of or addiction to a controlled substance as defined in §54.1-3401 of the Virginia Code, 1950, as amended.

Guesthouse means living quarters with an attached accessory building located on the same premises with the main dwelling for use by guests of the occupants of the premises and not rented or otherwise used as a separate dwelling.

Handcrafted goods, traditional crafts means a facility that produces for sale on the premises articles of artistic quality or using handmade workmanship. Examples include candle making, glass blowing, weaving, pottery making, woodworking, blacksmithing, tinsmithing, metalworking, leather and bead work, coopering, sculpting, painting, stenciling, and other similar goods, crafts and activities.

Hardware store means a facility primarily used for the retail sale of various basic hardware lines such as tools, builder's hardware, plumbing, electrical supplies, paint, and glass; may also include limited availability of lumber, house wares, household appliances, and garden supplies. Hardware stores do not have outdoor storage of lumber, building materials, or equipment. However, these facilities may display merchandise for sale outdoors.

Hazardous waste means a solid waste or combination of solid waste which, because of its quantity, concentration or physical, chemical or infectious characteristics, may:

- (1) Cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating illness; or
- (2) Pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

Health and fitness center means a facility that contains equipment for the purpose of physical exercise.

Health director means the legally designated health authority of the county or his authorized representative.

Helipad means a facility combining a helipad with auxiliary facilities such as aircraft fueling, maintenance equipment, automobile parking, and a waiting room.

Helipad primary surface means the area of the primary surface coincides in size and shape with the designated landing and takeoff area of a helipad (runway). This surface is a horizontal plane at the elevation of the established helipad elevation.

Higher education institution means a college or university authorized by the Commonwealth to award degrees or certificates.

Historic area means an area or district established by the board of supervisors under the provisions of Code of Virginia, § 15.2-2306.

Historic structure means any structure that is:

- (1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register of Historic Places;
- (2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- (4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - a. By an approved state program as determined by the Secretary of the Interior; or
 - b. Directly by the Secretary of the Interior in states without approved programs.

Home appliance sales and service means a facility primarily used for the retail sale and service of home appliances such as washers, dryers, microwave ovens, stoves, and similar equipment and where all sales, display, repairs, and storage occur within a fully enclosed building.

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

Home occupation means an activity carried out for gain by a resident of the dwelling unit as an accessory and subordinate use to the residential use, which activity is carried on within the resident's dwelling unit unless otherwise specifically provided.

Horse means a solid-hoofed mammal of the family Equidae.

Horse racing track means a facility used for the racing of horses on a set course, involving a race between horses on which pari-mutuel wagering is permitted, with accessory uses including, stables, animal hospitals and temporary housing facilities used by persons participating in race track meetings, fairs or other exhibitions, but such housing facilities shall not be available for use or rental to the general public, nor may they be utilized for permanent occupancy.

Hospital or medical center facility means any facility licensed pursuant §32.1-123, Code of Virginia, 1950, as amended, in which the primary function is the provision of diagnosis, of treatment, and of medical and nursing services, surgical or nonsurgical, for two or more nonrelated individuals.

Hotel, motel means a facility offering the general public transient lodging accommodations for compensation and assigning rooms through a lobby or office supervised by a person in charge at all times. A hotel or motel excludes the

keeping of boarders or roomers in a multiple-family dwelling as that term is separately defined in this section. As accessory uses, a hotel or motel may include restaurants, taverns or club rooms, public banquet and conference halls, ballrooms, recreation and fitness facilities and meeting rooms. This term also includes a motor court, tourist court, and motor lodge.

Household furniture/furnishings sales means a facility primarily used for the retail sale and service of home furniture and furnishings, such as sofas, chairs, tables, lamps, artwork, rugs and carpets and where all sales, display, repairs, and storage occur within a fully enclosed building.

Hunt club means a facility used or operated by a private or public club, organized to pursue game or other animals that may include facilities to house and care for dogs or a shooting range.

Industrial park means a tract of land that has been planned, developed and operated as an integrated facility for a number of individual industrial uses, with special attention to circulation, parking, utility needs, aesthetics and compatibility.

Industrial supply store means a facility primarily engaged in the sale of machinery, tools, equipment, or supplies relating to, concerning, or arising from the assembling, fabrication, finishing, manufacturing, packaging, or processing of goods for mineral extraction by another enterprise.

Inn means a multiple-unit building or buildings, where overnight lodging and meals are provided by prearrangement for compensation and in which entrance to bedrooms is made through a lobby or other common room. Meals include, at least one of the following, breakfast, lunch, and dinner that are served exclusively, or nearly exclusively, to guests who are provided overnight lodging. The term includes guest house, lodging house, tourist home and tourist house.

Intensive dairy facility means a dairy operation with accessory uses or structures, which at any one time has at least an equivalent of 300 animal units as referenced in the intensive animal operations table below and where:

- (1) Each such animal is or will be stabled or confined and fed or maintained for a total of 45 days or more in any 12-month period; and
- (2) Crops vegetation, forage growth or post-harvest residues are not sustained over any portion of the operation of the lot or facility.

Intensive livestock facility –means a livestock operation with accessory uses or structures, which at any one time has at least an equivalent of 300 animal units as referenced in the intensive animal operations table below and where:

- (1) Each such animal is or will be stabled or confined and fed or maintained for a total of 45 days or more in any 12-month period; and
- (2) Crops, vegetation, forage growth or post-harvest residues are not sustained over any portion of the operation of the lot or facility.

Intensive poultry facility means a poultry operation with accessory uses or structures, which at any one time has at least an equivalent of 300 animal units as referenced in the intensive animal operations table below and where:

- (1) Each such animal is or will be stabled or confined and fed or maintained for a total of 45 days or more in any 12-month period; and

(2) Crops, vegetation, foliage growth or post-harvest residues are not sustained over any portion of the operation of the lot or facility.

TABLE INSET:

Type of Facility	Equivalent of 300 animal units
Livestock	300 slaughter and feeder cattle
Livestock	750 swine each weighing over 55 pounds
Livestock	150 horses
Livestock	3000 sheep or lambs
Dairy	200 mature dairy cattle (whether milked or dry cows)
Poultry	16,500 turkeys
Poultry	30,000 laying hens or broilers

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

State law references: Similar provisions, Code of Virginia, § 33.1-348.

Junkyard means an establishment or place of business which is maintained, operated or used for storing, keeping, buying or selling junk, or for the maintenance or operation of an automobile graveyard, and the term shall include garbage dumps and sanitary fills. The term shall also include automobile grave yards.

State law references: Similar provisions, Code of Virginia, § 33.1-348.

kennel, commercial means a facility in which canines, felines, or hybrids within either species are not owned by the owner of the property, but are kept for compensation for the purpose(s) of breeding, hunting, training, renting, buying, boarding, selling, or showing.

Laboratory (testing, medical, scientific, pharmaceutical) means a facility used for the scientific or medical analysis of natural resources, medical specimens, or manufactured materials. This category includes environmental laboratories for the analysis of air, water, and soil; medical and veterinary laboratories; and forensic laboratories for analysis of evidence in the support of law enforcement.

Laundromat means a facility providing washing, drying, or dry cleaning machines on the premises for rent to or use by the general public for laundering or dry cleaning purposes.

Laundry means a building or part of a building, other than a laundromat, where clothes and other articles are washed, dried and ironed.

Library means a facility primarily used for the storage, lending and borrowing, but not the sale, of literary, musical, artistic, or reference materials.

Livestock means all domestic or domesticated bovine animals including, but not limited to cattle; equine animals including, but not limited to, horses; ovine animals including, but not limited to, sheep; porcine animals including, but not limited to, hogs.

Livestock, dairy, poultry structure means any building, structure, installation, storage, container, or storage site used in the operation of an intensive livestock, dairy or poultry facility including, but not limited to, feed storage bins, litter storage sites, incinerators, manure storage sites, poultry houses, poultry disposal pits, and dead poultry cold storage chests.

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

Livestock raiser, dairy operator, poultry grower (operator) means the owner or operator of the livestock, dairy or poultry facility including, but not limited to, feed storage bins, litter storage sites, incinerators, manure storage sites, poultry houses, poultry disposal pits, and dead poultry cold storage chests.

Loading space means an off-street space or berth used for the loading or unloading of commercial vehicles.

Lot means a designated parcel, tract or area of land established by plat, subdivision, or as otherwise permitted by law to be used, developed or built upon as a unit. Such lot may consist of a single lot of record or a part or combination of one or more lots of record as provided in this section.

Lot area means the total area within the lot lines of a lot, excluding any street rights-of-way.

Lot, corner means a lot or parcel of land that at the time of recordation abuts upon two or more streets at their intersection or upon two parts of the same street forming an interior angle of less than 135 degrees. A reverse corner lot is a corner lot that is turned with reference to an adjoining lot to front on another street. The front of such corner lot shall be deemed to be the shortest of the two sides fronting on such street.

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

Lot, double frontage/through means an interior lot fronting on two streets.

Lot frontage means the minimum width of a lot measured from one side lot line to the other along the ultimate street right-of-way line on which the lot fronts.

Lot, interior means a side or rear lot line that directly abuts an adjacent lot. This term shall not include lot lines that abut easements, rights-of-way, or private or public streets.

Lot line, front means the line separating the lot from a street on which it fronts.

Lot line, rear means the lot lines opposite and most distant from the front lot line.

Lot line, side means any lot line other than a front or rear lot line.

Lot of record means a lot which exists as shown or described on a plat or deed in the records of the clerk's office of the county circuit court.

Lot width means the horizontal distance between the side lines of a lot measured at right angles to its depth along a straight line parallel to the front lot line at the minimum required building setback line.

Machine sales and indoor service means a facility primarily used for the sales and service of power and rotary equipment. Power equipment includes the following types of items; lawn mowers, chain saws, power washers, generators, and similar types of equipment and where all sales, display, repairs, and storage occur within a fully enclosed building.

Machine shop means a facility in which metal and other substances are cut, shaped, etc., by machine tools.

Mailing services center means a facility in which a commercial enterprise primarily conducts the retail sale of stationery products, provides packaging and mail services (inclusive of both U.S. Postal Service and private shipping services), and provides mailboxes for lease.

Main and *principal* are synonymous.

Main building (See, Building, main)

Manufacture and/or 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, including the assembling of component parts, the manufacturing of products, and the blending of materials.

Manufactured home means a structure, transportable in one or more sections, which in the traveling mode is 8 body feet or more in width or 40 body feet or more in length, or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein.

Manufactured home lot means a parcel of land within the boundaries of a manufactured home park provided for the placement of a single manufactured home and the exclusive use of its occupants.

Manufactured home parks means a parcel of land under single or common ownership upon which ten or more manufactured homes are located on a continual, non-recreational basis together with any structure, equipment, road or facility intended for use incidental to the occupancy of the manufactured homes, but shall not include premises used solely for storage or display of uninhabited manufactured homes, or premises occupied solely by a landowner and members of his family.

Manufactured home sales mean a facility for the display, sale, or lease of new manufactured housing or other transportable modular buildings.

Marina means a facility for storing, servicing, fueling, berthing, and securing pleasure boats, and which may include eating, sleeping and retail facilities for owners, crews and guests, as accessory uses. Marinas may include in-water berths or slips that are covered or uncovered; dry berths or slips for boat storage, boat storage on land, either indoors or outdoors, and provisions for transfer of boats to and from the water by means of ramps or mechanical equipment.

Marina, commercial means a marina intended for principal use by someone other than the owner or resident of the lot in exchange for compensation.

Marina, private means a marina intended for use by the owner or resident of the lot on which the facility sits without compensation.

Meat, poultry, fish processing means a facility in which meat, poultry, and fish are processed or otherwise prepared for eventual human or animal consumption, but is not consumed on the premises.

Medical waste means waste that meets either of the two criteria of this section:

- (1) Any solid waste, as defined in this chapter is a regulated medical waste if it is suspected by the health care professional in charge of being capable of producing an infectious disease in humans. A solid waste shall be considered to be capable of producing an infectious disease if it has been or is likely to have been contaminated by an organism likely to be pathogenic to healthy humans, such organism is not routinely and freely available in the community, and if such organism has a significant probability of being present in sufficient quantities and with sufficient virulence to transmit disease. If the exact cause of a patient's illness is unknown, but the health care professional in charge suspects a contagious disease is the cause, the likelihood of pathogen transmission shall be assessed based on the pathogen suspected of being the cause of the illness.
- (2) Any solid waste that is not excluded from regulation is a regulated medical waste if it is listed in 9 VAC 20-120-150, as that section may be amended from time to time.

Micro-brewery means a facility for the production and packaging of malt beverages with alcohol content as defined by federal or Virginia law, and distribution, either retail or wholesale or both, for consumption on or off premise, with a capacity measured in barrels per year that does not exceed federal or Virginia regulatory requirements for such facilities. The establishment may include accessory uses such as a sit down restaurant, bar or live entertainment.

Miniature golf means a theme oriented building and/or land area, typically comprised of nine or 18 putting greens, each with a "cup" or "hole," where patrons in groups of one to four pay a fee to move in consecutive order from the first hole to the last. Often other indoor recreational uses are associated with this type of facility.

Mining means the extraction of minerals including solids such as coal and ores, liquids such as crude petroleum and gases such as natural gases. The term also includes quarrying, well operations, milling such as crushing, screening, washing and floatation and other preparation customarily done at the mine site or as part of a mining activity.

Mini-storage warehouse means a building or series of buildings composed of various sized self-contained storage areas primarily used for self-service storage. These self-contained storage areas are independent, fully enclosed bays that are leased to individuals for long-term storage of their household goods or personal property or to businesses for storage of seasonal inventory and business personal property.

Mini-supermarket means a facility primarily selling food, as well as other convenience and household goods at retail and which occupies less than 10,000 square feet of gross floor area. Mini-supermarkets are distinguished from convenience stores by having broader product lines of fresh and other foods for which further preparation is required; also, such enterprises are without gas pumps.

Mobile home means a moveable home on a permanent chassis built to individual state "industrialized state building codes" prior to the enactment in 1976 of HUD regulations implementing the National Manufactured Housing Construction and

Safety Standards Act, adopted by Congress in 1974, of which the minimum size is ten feet by 30 feet, or 300 square feet.

Mobile Home Park means any parcel of land upon which two or more mobile homes, occupied for dwelling or sleeping purposes are located, or which is held out for the location of any such mobile home.

Mobile home sales mean a building and/or associated land area for the display, sale, or lease of new mobile homes, manufactured housing, or modular housing.

Modular home (See, Dwelling, modular)

Monumental stone work means a facility for the processing of stone into various monumental and artistic products.

Motor vehicle rental means a business facilitating the rental of any self-propelled vehicle designed primarily for the transportation of persons or goods along public streets or alleys, or other public ways.

Municipal solid waste landfill means any private or public area operated for the purpose of disposing of solid waste or put rescible waste in the county, not including transfer stations or convenience centers.

New construction means for the purposes of determining insurance rates, structures for which the start of construction commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, new construction means structures for which the start of construction commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

Nightclub means an entertainment establishment that may or may not offer alcoholic beverages at a bar or tables and which may also include a dance floor or periodic live entertainment and which is open for business after 11:00 p.m.

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

Nonconforming sign means any sign lawfully existing on the effective date of the ordinance from which this chapter is derived or an amendment to such ordinance or this chapter which renders such sign nonconforming because it does not conform to all the standards and regulations of the adopted or amended ordinance.

Nonconforming structure means a structure or building the size, dimensions or location of which was lawful prior to the adoption, revision or amendment to the ordinance from which this chapter is derived or this chapter but which fails by reason of such adoption, revision or amendment to conform to the present requirements of this chapter.

Nonconforming use means a use of part or all of a building or other structure or a use of land which was lawful prior to the adoption, revision or amendment of the ordinance from which this chapter is derived or this chapter but which fails

by reason of such adoption, revision or amendment to conform to the present requirements of this chapter.

Non-precision instrument runway means a runway having an existing instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or area-type navigation equipment, for which a straight-in, non-precision instrument approach procedure has been approved or planned, and for which no precision approach facilities are planned or indicated on an FAA planning document or military service's military airport planning document.

Nuclear material means radioactive material, source material such as thorium or ores containing uranium or thorium; and by product material such as nuclear fuel rods which is made radioactive by exposure to the radiation incident to the process of producing or using special nuclear materials.

Nuclear waste means any waste that results from using radioactive materials for purposes that include electricity production by nuclear power plants, defense activities and nuclear weapons manufacture, medical treatment, nuclear research, industrial processes, and mining and milling of uranium ore.

Nursery school (See, Childcare center, day care center, preschool, nursery school)

Nursing, convalescent, or rest home means any facility, or any identifiable component of any facility, licensed under §32.1-123, et seq., of the Code of Virginia, 1950, as amended, and in which the primary function is the provision, on a continuing basis, of nursing services and health-related services for the treatment and inpatient care of two or more non-related individuals.

Office/construction trailer storage yard means a lot or portion of a lot or parcel used to store and maintain office and construction trailers.

Office park means a development that contains a number of separate office buildings, supporting uses, and open space designed, planned, constructed, and managed on an integrated and coordinated basis.

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

Open space means any parcel or area of land or water set aside, dedicated, designated or reserved for public or private use or enjoyment or for the use and enjoyment of owners and occupants of a land adjoining or neighboring such open space.

Orchard means a land area on which fruit or nut trees are planted and cultivated.

Outbuilding means a separate accessory building or structure not physically connected to the principal building.

Outdoor storage means the keeping in an unroofed area of any goods, junk, materials, merchandise, or vehicles in the same place for more than 24 hours.

Paint pellet competitive games means an event operated on a commercial basis where individuals are divided into teams for the purpose of shooting paint pellets at each other to determine a winner. These events are strictly a recreational sport and not a training exercise.

Park means a public or private open space designed for the use of residents of a neighborhood or community for passive or active recreation or for conservation,

educational, cultural, or aesthetic purposes and which is not to be designed or used for commercial or business purposes.

Parking lot, public means a facility containing one or more parking spaces designed for use by and available to the public as an accommodation for patrons, customers, or employees either with or without charge.

Parking space means an all-weather surfaced area not in a street or alley and having an area of not less than 162 square feet and dimensions of at least nine feet by 18 feet, exclusive of driveways permanently reserved for the temporary storage of one vehicle and connected with a street or alley by a surfaced driveway which affords ingress and egress for an automobile without requiring another automobile to be moved.

Party wall means a common shared wall between two separate structures, buildings or dwelling units.

Permit means written governmental permission issued by an authorized official empowering the holder thereof to do some act not forbidden by law but not allowed without such authorization.

Permitted use means any use allowed in a zoning district and subject to the restrictions applicable to that zoning district.

Personal service and hygiene establishment means a facility primarily engaged in the repair, care of, maintenance or customizing of personal items including laundering, cleaning and other garment services, tailors, diaper service, shoe repair and locker or clothing rentals or which offer personal hygiene services such as tanning, therapeutic massage, health and fitness, weight reduction, sauna and steam baths.

Pet stores, retail (See, Retail stores and shops)

Photography, dance, music studio means a facility providing photographic portraiture, instruction in dance, or instruction in music. Performances of limited scope and duration may occur in such facilities.

Pistol range means a facility designed for the purpose of providing a place open to the public on which to discharge firearms, not to exceed .45 caliber, with a barrel-length not to exceed 12 inches.

Place of worship means a facility that is designed and constructed, or is primarily used for, the conducting of religious services and accessory uses associated therewith. This term does not include any dwelling principally used as a residence, notwithstanding any incidental use for religious gatherings. This term includes churches, synagogues, mosques, etc.

Planned unit development means a development which may contain the following uses: single-family residences, apartments, townhouses, commercial and light industrial uses. Location of all uses shall be controlled in such a manner as to permit a variety of land uses in an orderly relationship to one another.

Plant nursery, garden center means a facility for the growth, display, and/or sale of plants, shrubs, trees, and accessory materials and equipment used in indoor and outdoor planting and landscaping.

Plumbing and electrical supply outlet means a facility primarily used for the retail sale of plumbing and/or electrical supplies, but may also include contractor sales as a part of the business operations.

Porch means a roofed open area which may be glazed or screened, attached to or part of and with direct access to or from a building.

Portable sawmill means a moveable sawmill located on a particular parcel of land for the processing of timber cut only from that parcel or from a parcel immediately adjacent thereto.

Precision instrument runway means a runway having an existing instrument approach procedure utilizing an instrument landing system (ILS) or a precision approach radar (PA). It also means a runway for which a precision approach system is planned and is so indicated on an FAA approved airport layout plan; a military service's approved military airport layout plan; any other FAA planning document, or military service's military airport planning document.

Premises means a lot parcel, tract or plot of land together with the buildings and structures thereon.

Primary highway means a highway designated as a state primary highway or U.S. highway by the adopted comprehensive plan of the county or by the state department of transportation.

Primary surface means a surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends 200 feet beyond each end of that runway; but when the runway has no specially prepared hard surface, or planned hard surface, the primary surface ends at each end of the runway. The width of the primary surface of a runway will be that width prescribed in Part 77 of the Federal Aviation Regulation (FAR) for the most precise approach existing or planned for either end of that runway. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline.

Principal building (See, Building, main)

Principal use means the primary or predominate use of any lot.

Print or copy shop means a building primarily used for the custom reproduction of written or graphic materials on a custom order basis for individuals or businesses. Typical processes include, but are not limited to, photocopying, blueprint, and facsimile sending and receiving, and including offset printing.

Printing plant means a facility for the printing, imprinting, reproducing, or duplicating of information using printing methods including, but not limited to, offset printing, lithography, web offset, flexography, and screen process printing.

Private club and lodge (See, Club, private)

Private school means any building or group of buildings the use of which meet state requirements for primary, secondary or higher education and which use does not secure the major part of its funding from any governmental agency.

Private yard means a single area adjacent to a dwelling unit maintained directly by the owner of the unit.

Professional office means a facility wherein the primary use is the conduct of a business by professionals including, but not limited to, engineers, architects, land surveyors, planners, artists, musicians, lawyers, accountants, real estate brokers, insurance agents.

Public access easement means any area through which ingress and egress is not restricted or limited to any individual occupant of the development or guest.

Public building means any building or structure held, used or controlled exclusively for public purposes by any department or branch of the Federal Government, Commonwealth of Virginia, or the New Kent County government under the direct authority of the Board of Supervisors, or the New Kent County School Board without reference to the ownership of the building or structures or the realty upon which it is situated.

Public sewer and water systems means any system other than an individual septic tank, tile field or individual well designed to furnish water on the premises where the well is located, that is operated by a municipality, governmental agency, or a public utility for the collection, treatment and disposal of waste and the furnishing of potable water. The term shall include all equipment and structures, all water and sewer mains, pipes, valves, pumping stations, and all other facilities, equipment and structures necessary for furnishing water and sewer.

Public utility facilities means telephone, electric and cable television lines, poles, equipment, structures, gas pipes, mains, valves, or structures, telephone exchanges and repeater stations and all other facilities, equipment and structures necessary for conducting a service by a government or public utility.

Putrescible waste means solid waste which contains organic material capable of being decomposed by micro-organisms and capable of causing odors.

Recreational vehicle means a vehicle which is:

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

Recreational vehicle (RV) sales & service means a facility primarily engaged in the retail sale and repair of recreational vehicles.

Recycling center/plant means a facility primarily used for the collection, processing, and/or baling of recyclable materials for shipment to others who will use those materials to manufacture new products. This definition does not include junkyards or wrecking yards.

Regulations means the whole body of regulations, text, charts, tables, diagrams, maps, notations, references and symbols contained or referred to in this chapter.

Rental center means a facility primarily used for offering a variety of products for short or long-term leasing/rental. Such products may include household appliances, televisions, furniture, tables, chairs, party equipment, power equipment, and small-scale power equipment for use in a house and yard.

Rental unit means a dwelling unit intended for rental to transients on a day-to-day or week-to-week basis but not intended for or used as a permanent dwelling.

Required open space means any space required in any front, side or rear yard or that area required for open space/recreation within a development.

Research center means a building primarily used for research and development of processes and materials, which may include manufacturing, fabrication, and processing of various products and substances.

Residence means a home, abode or place where an individual is actually living at a specific point in time.

Residential facility means any group home or other residence for which the Department of Mental Health, Mental Retardation, and Substance Abuse Services is the licensing authority pursuant to the Code of Virginia, 1950, as amended.

Resource extraction means a facility for the on-site extraction of surface or subsurface mineral products or natural resources. Typical uses are quarries, borrow pits, sand and gravel operations, mining, and soil mining. Specifically excluded from this definition is the grading and removal of dirt associated with an approved site plan or subdivision, or excavations associated with, and for the improvement of, a bona fide agricultural use.

Rest home (See, Nursing, convalescent, or rest home)

Restaurant, drive-in means any fast food restaurant where food, soft drinks and other beverages, ice cream, and similar confections are sold to the public in such manner as to have the effect that they are primarily, but not necessarily exclusively, served and eaten in vehicles on the premises.

Restaurant, fast food means any restaurant whose principal business is the high volume sale of foods or beverages to the customer in a ready-to-consume state for consumption either within the restaurant building or for carry-out with consumption off the premises, and whose design or principal methods of operation include selling food, frozen desserts, or beverages which are usually served in edible containers or in paper, plastic, or other disposable containers. These restaurants are distinguished by the high rate at which customers enter and depart the facility.

Restaurant, sit-down means a restaurant, other than a fast-food restaurant, where food and drinks are prepared, served, and consumed primarily within the principal building. Sit-down restaurants may include outdoor dining areas where full or limited table service is provided.

Restaurant, with drive-in window means either a sit-down restaurant or a fast-food restaurant with the capacity to serve customers while they sit in their vehicles. The term "drive-in window" is construed broadly to mean a separate entrance from the street or parking area that vehicle borne customers use to order and/or pick up food for on or off-premises consumption.

Retail bakery means a facility primarily engaged in the retail sale of baked products for consumption off the premises. The products may be prepared either on or off site. Such use may include incidental food service such as sandwiches prepared using bread sold on the premises and catering from the site.

Retail establishment means a facility for the display, sale and rental of merchandise at retail and in small quantities. This includes commonly used goods and merchandise for personal or household use and the incidental rendering of personal services, but excludes those classified more specifically by definition. The term includes retail shop, retail store, retail sales and services.

Retail sales and services (See retail stores and shops, Retail stores and shops)
Retail stores and shops means buildings for display and sale of merchandise at retail or for the rendering of personal services (but specifically exclusive of coal, wood, and lumberyards), such as the following which will serve as illustration: drugstore, newsstand, food store, candy shop, milk dispensary, dry goods and notions store, antique store and gift shop, hardware store, household appliance store, florist, optician, music and radio store, tailor shop, barbershop and beauty shop. The term shall not include truck stops, nor shall the use permit any activity commonly associated with truck stops such as storing, maintaining or parking overnight trucks and other commercial vehicles.

Rooming house (See, Boardinghouse)

Runway means a defined area on an airport prepared for landing and takeoff of aircraft along its length.

Salvage yard, automobile graveyard means a facility for storing, keeping, selling, dismantling, shredding, compressing, or salvaging of scrap or discarded material or equipment.

Sanitary landfill means a disposal facility for solid waste or putrescible waste.

Sawmill means a facility for the processing of timber into lumber. The timber must have been obtained from another site for a facility to fall within the purview of this definition.

School means any building or part thereof which is designed, constructed, or used for educational instruction in any branch of knowledge.

School, public means any building or group of buildings, the use of which meets state requirements for primary or secondary education and which receives the major part of its funding through governmental agencies and which is under the control of the school board of the county.

School, trade or vocational means a school operated for the express purpose of giving its students the skills needed to perform a certain job or jobs.

Seasonal use means a use carried on for only part of the year such as outdoor swimming during the summer months or skiing during the winter months.

Secondary highway means a highway designated as a state secondary highway by the adopted comprehensive plan of the county or by the state department of transportation.

Senior housing means housing (i) provided under any state or federal program that is specifically designed and operated to assist elderly persons, as defined in the state or federal program; or (ii) intended for, and solely occupied by, persons sixty-two years of age or older; or (iii) intended for, and solely occupied by, at least one person fifty-five years of age or older per unit.

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

Shopping center means a group of commercial establishments planned, constructed and managed as a total entity, with customer and employee parking provided on-site, a unified aesthetic appearance, landscaping and signage in accordance with an approved plan of development and which may include one (1) or more "out parcels" under separate ownership or lease and containing complementary commercial enterprises.

Sign means any object, device, display or structure or its part situated outdoors or indoors which is used to advertise, identify, display, direct or attract attention to an object, person, institution, organization, business, product, service, event or location by any means including words, letters, figures, design, symbols, fixtures, colors, illumination or projected images.

Sign area means the entire face of a sign including the advertising surface and any framing trim or molding but not including the supporting structure.

Sign, business means a sign which directs attention to a business or profession conducted or to a commodity or service sold, offered or manufactured or to an entertainment offered on the premises where the sign is located.

Sign, church means a sign which identifies a religious institution or organization on the premises of which it is located and which contains the name of the institution or organization, the names of any individuals connected with it and general announcements of events or activities occurring at the institution or similar messages.

Sign, construction means a temporary sign or placard on the premises on which construction is taking place, during the period of such construction, indicating the names of the architects, engineers, landscape architects, contractors or similar artisans and the owners, financial supporters, sponsors and similar individuals or firms having a role or interest with respect to the structure or project.

Sign, directional, off-site means a sign directing attention to premises other than the premises where the sign is located with its content limited to name, use, street, distance to and directional arrow.

Sign, directional, on-site means signs limited to directional messages principally for pedestrian or vehicular traffic such as one-way entrance and exit.

Sign, facade means a sign fastened to or painted on the wall or building structure in such a manner that the wall becomes the supporting structure for or forms the background surface of the sign and which does not project more than 12 inches from the building or structure, and which does not project above the height of the wall.

Sign, freestanding means any sign supported by structures or supports that are placed on, or anchored in; the ground and that are independent from any building or other structure.

Sign height means the distance from the base of the sign at the normal grade to the top of the highest point of the sign or sign structure, the normal grade being the lower of existing grade prior to construction, or the newly established grade after construction exclusive of any filling, berming, mounding or excavating solely for the purpose of locating the sign.

Sign, home occupation means a sign containing the name and/or occupation of a permitted home occupation and telephone number on premises.

Sign, illuminated externally means a sign which does not produce artificial light from within itself but which is opaque and backlighted or illuminated by floodlights or spotlights not a part of or attached to the sign itself.

Sign, illuminated internally means any sign designed to give forth artificial light or designed to reflect light from one or more sources of artificial light attached to and a part of the sign itself.

Sign, political means a temporary sign announcing or supporting political candidates or issued in connection with any national, state or local election.

Sign, prestige identification means a sign identifying the entrance to a subdivision, farm estate or other facility, which is a permitted principal use in the zoning district, including commercial or industrial facilities. This sign shall provide the name of the subdivision, farm, estate or other facility only and shall be surrounded by special landscaping treatment.

Sign, private sale or event means a temporary sign advertising private sales of personal property such as house sales, garage sales, rummage sales, and the like or private, not for profit events such as picnics, carnivals, bazaars, game nights, art fairs, craft shows and Christmas tree sales.

Sign, real estate off-site means a sign pertaining to the sale or lease of real property other than the premises on which the sign is located.

Sign, real estate nonresidential means a sign pertaining to the sale or lease of business premises or a portion of the business premises on which the sign is located.

Sign, real estate residential means a sign pertaining to the sale or lease of residential premises or a portion of the premises on which the sign is located.

Sign, shopping center, on-site means a sign located on the same premises as a shopping center which directs attention to the shopping center or to businesses conducted therein.

Sign, temporary means a sign or advertising display, including portable signs, constructed of cloth, canvas, fabric, plywood, sheet metal or other material displayed for a period of time not to exceed 90 days.

Single-family conversion to two-family means modifying a dwelling so that it will accommodate to separate families, typically by providing a separate access to the outside and by providing separate utility systems.

Site plan means the development plan for one or more lots on which is shown the existing and proposed conditions of the lot, including topography, vegetation, drainage, floodplains, marshes and waterways, open spaces, walkways, means of ingress and egress, utility services, landscaping, buildings structures and signs, lighting and screening devices, and any other information required by the terms of this chapter.

Sludge means any solid, semisolid, or liquid wastes with similar characteristics and effects generated from a public, municipal, commercial or industrial wastewater treatment plant, water supply treatment plant, air pollution control facility or any other waste producing facility.

Smelting means the process of heating and melting ores and concentrates; then separating the desirable molten metals such as copper from other elements.

Smelting on an industrial scale means smelting is the principal use of the parcel or that smelting yields more than two tons of metal within any 12-month period.

Solid waste means any garbage, refuse, sludge and other discarded material, including solid, liquid, semisolid or contained gaseous material, resulting from

industrial, commercial, mining and agricultural operations, or community activities but does not include (i) solid or dissolved material in domestic sewage, (ii) solid or dissolved material in irrigation return flows or in industrial discharges which are sources subject to a permit from the state water control board, (iii) source, special nuclear, or by-product material as defined by the Federal Atomic Energy Act of 1954, as amended, or (iv) compost or mulch produced from vegetative waste.

Solid waste management facility means a site used for planned treating, long-term storage, or disposing of solid waste. A facility may consist of several treatment, storage, or disposal units. Recycling facilities are not solid waste management facilities.

Spa, day spa means a commercial establishment, employing professional, licensed therapists whose services include therapeutic massage and body or facial treatments. Typically private treatment rooms are provided for each client receiving a personal service. Treatments may include body packs and wraps, exfoliation, cellulite and heat treatments, electrolysis, body toning, waxing, aromatherapy, cleansing facials, medical facials, non-surgical face lifts, electrical toning, and electrolysis. Hydrotherapy and steam and sauna facilities, nutrition and weight management, spa cuisine, and exercise facilities and instruction may be provided in addition to the therapeutic massage and treatment services. Full service hair salons, make-up consultation and application, and manicure and pedicure services may be provided as accessory services.

Special exception is synonymous with the term "conditional use."

Specified anatomical area means the less than completely and opaquely covered human genitals; pubic region; buttock; female breast below a point immediately above the top of the areola; and human male genitals in a discernibly turgid state, even if completely and opaquely covered.

Specified sexual activities means the human genitals in a state of sexual stimulation or arousal; acts or simulation of human masturbation, sexual intercourse or sodomy; and/or fondling or other erotic touching of human genital, pubic region, buttock or female breast.

Stable means a facility that is used for the shelter of horses and cattle; also, a facility for stabling, pasturing, breeding, training, riding, teaching, sale or lease of horses, and providing riding lessons. For facilities accommodating more than 150 horses at any time, see Intensive livestock facility.

Start of construction means the date the building permit was issued provided that the actual start of construction, repair, reconstruction, rehabilitation, addition, placement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on-site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the

installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not the alteration affects the external dimensions of the building.

Steeplechase means a horse race over a distance with diverse fence and ditch obstacles.

STOL primary surface means an imaginary plane, 300 feet wide, centered in the runway. Its length extends 100 feet beyond each runway end. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline.

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

Story, half means a space under a sloping roof which has the line of intersection of roof decking and wall face not more than three feet above the top floor level and in which space possible floor area with headroom of five feet or less occupies at least 40 percent of the total floor area of the story directly beneath.

Street, centerline means the centerline of a street as shown in any official records of the county or as established by the state department of transportation. If no such centerline has been established, the centerline of a street shall be a line lying midway between the sidelines of the ultimate right-of-way.

Street, collector means a street that will carry the largest volume of traffic at higher speeds within a residential subdivision. Such streets may carry traffic from one neighborhood to another or from the neighborhood to other areas of the community.

Street line means the line between a lot, tract or parcel of land and a contiguous street.

Street, road means a public or private thoroughfare which affords the principal means of access to abutting property.

Structural alteration means any change in either the supporting members of a building such as bearing walls, columns, beams, and girders or in the dimensions or configurations of the roof or exterior walls.

Structure means anything constructed or erected, the use of which required permanent locations on the ground, or attachment to something having a permanent location on the ground. This includes, among other things, dwellings, buildings, towers, antennas, satellite dishes, etc. It does not include fences or signs.

Studio means a facility primarily used for artistic or creative endeavors including photography, cinema, dance, music, art, and the graphics transmission or broadcasting of radio or television programs.

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

Substantial improvement means any reconstruction, rehabilitation, additional, percent of the market value of the structure before the start of construction of the improvement. This term includes structures which have incurred substantial damage regardless of the actual repair work performed. The term does not, however, include either:

(1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary or safety code specifications which have been identified by the local code enforcement officials and which are the minimum necessary to ensure safe living conditions; or

(2) Any alteration of a historic structure provided that the alteration will not preclude the structure's continued designation as a historic structure.

Swimming pool means a water-filled enclosure permanently constructed or portable having a depth of more than 18 inches below the level of the surrounding land or an above-surface pool having a depth of more than 30 inches designed, used and maintained for swimming and bathing.

Temporary structure means a structure without any foundation or footings and which is removed when the designated time period, activity or use for which the temporary structure was erected has ceased.

Temporary use means a use established for a fixed period of time with the intent to discontinue such use upon the expiration of the time period.

Tenant house means living quarters within a portion of a main building or in an accessory building located on the same lot with the main building used for persons employed on the premises.

Terminal, bus means a building and/or associated land area primarily used for the handling, receiving, and transferring of passengers from incoming and outgoing buses. Accessory to this terminal is the storage and repair of the buses in a fully enclosed building.

Theater means a building primarily used for showing motion pictures, or for dramatic, dance, musical, or other live performances.

Timeshare resort means a resort in which an individual owner has a right to occupy a unit or any of several units during five or more separated time periods over a period of at least five years, including renewal options, whether or not coupled with an estate or interest in a cooperative or a specified portion thereof.

Tourist home means an establishment in a private dwelling that supplies temporary accommodations for up to 14 overnight guests for a fee.

Townhouse means a one-family dwelling in a row of at least three such units in which each unit has its own front and rear access to the outside, no unit is located over another unit and each unit is separated from any other unit by one or more common fire-resistant walls.

Transportation, storage and disposal (TSD) facilities means those facilities that transport, store and dispose of hazardous waste.

Travel trailer means a mobile unit which is less than 32 feet in length and less than eight feet in width which is designed to be towed by a car or truck and designed for human habitation.

Truck fueling station means any facility having pumps and storage tanks at which fuels and oils for trucks, buses, automobiles and recreational vehicles are

dispensed or sold at retail. Any fueling station with the capability to fuel two or more tractor-trailers at the same time shall be deemed a truck fueling station. Services and repairs of trucks are not permitted. A truck fueling station may offer accessory retail sales of convenience foods and items. Such facilities shall not have overnight parking facilities for tractor-trailers. Provided, however, that tractor-trailers shall be permitted to park on the site for the purpose of loading or unloading goods to the businesses located on the premises and for the duration of fueling or purchasing goods at retail from the facility.

Truck stop means a commercial facility that provides fuel, parking, scales, and usually food and other services to long-haul trucks. In addition to functions normally associated with a convenience store or restaurant, the presence of any one of the following will be sufficient to classify the entire use as a truck stop:

- (1) Diesel on-road grade fueling station with bays wide and tall enough for modern tractor/trailer rigs;
- (2) Fueling bays capable of filling trucks from both sides simultaneously;
- (3) A parking area large enough to accommodate at least five tractor-trailer trucks or other heavy vehicles;
- (4) A large vehicle scale;
- (5) Offering goods and services principally for use by the over-the road or long haul trucking industry.

Trucking terminal means a facility where trucks load and unload cargo on a regular basis and where cargo is stored pending its further shipment or delivery.

Turkey shoot means a shooting match or similar activity conducted by a nonprofit organization involving the discharge of firearms at a target or targets with the object of such activity being to determine a winner of a prize such as a turkey or pork ham or other food stuff or other prize.

Unit means a portion of the condominium designed and intended for individual ownership and use.

Upholstery shop means a facility that primarily cleans, repairs, or replaces upholstery to household and office furnishings. This does not include motor vehicle upholstery or repair.

Utility runway means a runway that is constructed for and intended to be used by propeller-driven aircraft of 12,500 pounds maximum gross weight and less.

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 that such variance is not contrary to the intended spirit and purpose of this chapter, and would result in substantial justice being done. It shall not include a change in use which change shall be accomplished by a rezoning or by a conditional zoning.

State law references: Similar provisions, Code of Virginia, § 15.2-2201.

Vegetative waste means decomposable materials generated by yard and lawn care or land-clearing activities and includes, but is not limited to, leaves, grass trimmings, and woody wastes such as shrub and tree pruning, bark, limbs, roots,

and stumps. Compost or mulch produced from vegetative waste is not a waste product.

Veterinary clinic (See, Animal hospital (with outside runs)/Animal hospital (without outside runs))

Vineyard means a land area on which grape vines are planted and cultivated.

Visual runway means a runway intended solely for the operation of aircraft using visual approach procedures with no straight-in instrument approach procedure, and no instrument designation indicated on a Federal Aviation Administration's approved airport layout plan, a military service's approved military airport layout plan, or by any planning document submitted to the Federal Aviation Administration by competent authority.

Warehouse means a building used for the reception and indoor storage of goods and merchandise, excluding the storage of bulk petroleum, oil, and lubricants.

Warehousing means a building primarily used for storage and distribution of manufactured products, supplies, and equipment, excluding bulk storage of materials that are flammable.

Waste transfer station means any solid waste storage or collection facility at which solid waste is transferred from collection vehicles to haulage vehicles for transportation to a central solid waste management facility for disposal, incineration, or resource recovery.

Waterway means any body of water including any creek, canal, river or lake or any other body of water, natural or artificial, except a swimming pool or ornamental pool located on a single lot.

Waterway line means a line marking the normal division between land and a waterway as established by the zoning administrator or other county requirements.

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

Well drilling and septic tank business (See, Contractor storage yard)

Yacht club means a group of buildings and structures designed to provide boating and sailing facilities for a group of persons organized as an entity characterized by certain membership qualifications, payment of fees and dues, regular meetings and a constitution and bylaws.

Wholesale business and distribution center (See, Warehousing)

Winery, commercial means an establishment with facilities for fermenting and bottling wine for sale and distribution. This establishment does not have a producing vineyard, orchard, or similar growing area, but does have facilities for fermenting and bottling wine on the premises where the owner or lessee manufactures wine that contains not more than 18 percent alcohol by volume. As used in this definition, the terms "owner" and "lessee" shall include a cooperative formed by an association of individuals for the purpose of manufacturing wine.

Winery, farm means an establishment located on a farm in the Commonwealth with a producing vineyard, orchard, or similar growing area and with facilities for fermenting and bottling wine on the premises where the owner or lessee

manufactures wine that contains not more than 18 percent alcohol by volume. As used in this definition, the terms "owner" and "lessee" shall include a cooperative formed by an association of individuals for the purpose of manufacturing wine. If such cooperative is licensed as a farm winery, the term "farm" as used in this definition includes all of the land owned or leased by the individual members of the cooperative as long as such land is located in the Commonwealth.

Wood preserving operation means a facility primarily used for the application of chemicals to wood products to enhance their resistance to rotting and deterioration.

Wood yard means a facility primarily used to the storage of timber products (logs), and preparation for transport to manufacturing plants or mills.

Yard means an open space that lies between the principal or accessory building or buildings and the nearest lot line. Such yard is unoccupied and unobstructed from the ground upward, except as may be specifically provided in this chapter.

Yard, front means an open space on the same lot as a building between the front line of the building (excluding steps) and the front lot or street line, and extending across the full width of the lot.

Yard, measurement means in measuring yard size, the line of measure shall be taken perpendicular from the building line to the nearest lot line of the building or group of buildings nearest to such lot line. This measure shall be taken from a point on the building line nearest the lot line.

Yard, rear means a space extending across the full width of the lot between the principal building and the rear lot line. Such rear yard is unoccupied and unobstructed from the ground upward except as may be permitted in this chapter.

Yard, side means a space extending from the front yard to the rear yard between the principle building and the side lot line. Such side yard is unoccupied and unobstructed from the ground upward except as may be permitted elsewhere in this chapter.

Zoning administrator means the director of planning of the county.

Zoning map means the map described in section 98-4.

Zoning permit means a document signed by the authorized official and required in this chapter as a condition precedent to the commencement of a use or the erection, construction, reconstruction, restoration, alteration, conversion or installation of a structure or building which acknowledges that such use, structure or building complies with the provisions of this chapter or an authorized variance therefrom.

Zoological gardens mean a place where live, non-indigenous animals are kept for educational displays.

(Code 1999, §§ 9-36, 9-37, 9-307; Ord. No. O-05-00, § 9-37, 8-7-2000; Ord. No. ZO-01-01, 6-11-2001; Ord. No. ZO-05-01, 7-9-2001; Ord. No. O-13-06(R), 10-6-2006; Ord. No. O-14-06(R2), § A, 1-8-2007; Ord. No. O-01-07, § B, 1-16-2007)

Cross references: Definitions generally, § 1-2.

Sec. 98-3. Application of chapter.

Except as provided in this chapter, no building or structure shall be erected, moved, altered, or extended and no land, building or structure or part thereof shall be occupied or used unless in conformity with the requirements specified in this chapter for the district in which it is located.

(Code 1999, § 9-38)

Sec. 98-4. Zoning districts and map.

(a) For the purpose of this chapter, the county is hereby divided into the following districts which are shown on the map included as a part of this chapter by reference:

Conservation, C-1

Agricultural, A-1

Single-family residential, R-O, R-OA, R-1, R-1A

General residential, R-2, R-2A

Multiple-family residential, R-3

Mobile home park, MHP

Business

Economic Opportunity

Industrial

(b) The official boundaries of these zoning districts are established on a set of maps on file in the office of the zoning administrator which are entitled "Certified Zoning Maps of the County of New Kent." These maps are hereby incorporated in this chapter by reference as though set forth in their entirety in this section.

(Code 1999, § 9-39)

Sec. 98-5. Zoning permit required.

(a) All buildings, structures, signs or other uses of property shall be started, reconstructed, enlarged or altered only after a zoning permit has been obtained from the zoning administrator. The use for which the zoning permit is issued shall be commenced within one year of the date of the permit. If the use is not commenced within one year, the permit shall be null and void and a new permit shall be required.

(b) Each application for a zoning permit involving land disturbing activity in excess of 2,500 square feet, shall be accompanied by a copy of a survey completed by a certified land surveyor, professional engineer or landscape architect. The survey and application shall indicate the size and shape of the parcel of land on which the proposed building is to be constructed, the nature of the proposed use of the building to be constructed, the location of such building or use with respect to the property lines of such parcel of land and with respect to the right-of-way of any street or highway adjoining such parcel of land. The survey shall also indicate the location of the drainfield and reserve drainfield location, and any other information which the zoning administrator may deem necessary for consideration of the application. If the proposed construction is to be located in a Chesapeake Bay Preservation Area and involves land disturbing

activity in excess of 2,500 square feet, the survey shall also indicate the location of erosion and sediment control devices, and any vegetation needed to be preserved under article II of chapter 94 of this Code. If the proposed construction is to be located outside of a Chesapeake Bay Preservation Area and involves land disturbing activity in excess of 10,000 square feet, the survey shall also indicate the location of erosion and sediment control devices, and any vegetation needed to be preserved under article II of chapter 94 of this Code. Applications involving disturbance of less than 2,500 square feet shall be accompanied by a drawing roughly showing those items required by the survey above.

(c) If the health department finds it necessary or more feasible to alter the location of the septic tank and drainfield after land disturbing activity has begun, the director of planning shall administratively note the changes on the survey. No change made in the location of septic tank and drain field sites or erosion and sediment control measures will be permitted unless water quality standards set forth in this part can be maintained.

(Code 1999, § 9-40)

Sec. 98-6. Fees.

Applications submitted for various permits and approvals are required to be accompanied by the fees as provided in appendix A to this Code.

(Code 1999, § 9-41; Ord. No. O-09-00, 12-11-2000)

Sec. 98-7. Enforcement authority.

This chapter shall be enforced by the zoning administrator who shall be appointed by the board of supervisors.

(Code 1999, § 9-42)

Sec. 98-8. Interpretation.

Unless district boundary lines are fixed by dimensions or otherwise clearly shown or described, and where uncertainty exists with respect to the boundaries of any of such 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) Where district boundaries are so indicated that they approximately follow the lot lines, such lot lines shall be construed to be the boundaries.

(4) Where district boundaries are so indicated that they are approximately parallel to the centerlines or street lines of streets or the centerlines or right-of-way lines of highways, such district boundaries shall be construed as being parallel thereto, and at such distances therefrom as indicated on the zoning map.

If no distance is given, such dimension shall be determined by the use of the scale shown on the zoning map.

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

(6) Whenever any street or public way is vacated by official action, the zoning districts adjoining the side of such public way shall be automatically extended to include the right-of-way that has been vacated, which shall be subject to all regulations of the extended district or districts. Where the vacated right-of-way is bounded on either side by more than one district, the former centerline of the right-of-way shall determine the extension of each district.

(7) Uses not specifically permitted within a district are prohibited.

(8) All charts, drawings and graphs included in this chapter are for the convenience of the user. If any conflict exists between the written text of the ordinance and any chart, drawing or graph, the written text of the ordinance shall control.

(Code 1999, § 9-43)

Sec. 98-9. One principal building or use per lot.

Every building hereafter erected, reconstructed, converted, moved or structurally altered shall be located on a lot of record, and in no case shall there be more than one principal building or use on one lot unless otherwise specifically provided in this chapter. Agricultural or forestal buildings or uses may be constructed or conducted on lots upon which there is a single-family dwelling. More than one principal building or use may be permitted in the Business, Economic Opportunity and Industrial districts. An accessory residential dwelling unit is permitted under the conditions set forth in sections 98-10(c)(14) and 98-10(d)(9).

(Code 1999, § 9-44; Ord. No. O-03-03, 3-10-2003)

Sec. 98-10. Accessory buildings and uses.

(a) Accessory buildings or uses as defined by this chapter are only permitted on:

(1) Lots with existing permitted principal buildings.

(2) Lots on which a building permit for a permitted principal building has been issued.

(3) Lots adjacent to a lot with the principal building when both lots are owned by the same person.

This prohibition shall not apply to accessory buildings such as barns, sheds, etc., constructed in conjunction with a bona fide farming operation and normally associated with farming uses. No accessory building on a farm or otherwise shall be used for dwelling purposes unless specifically allowed elsewhere in this chapter. Accessory uses require a zoning permit. Unless otherwise specifically

provided, no accessory building or structure shall be permitted in the front yard area of a permitted use in any zone designated with an R classification.

(b) Subject to the conditions of subsection (a) of this section, accessory uses and structures are permitted in any zoning district unless specifically prohibited elsewhere in this chapter.

(c) The following accessory uses or structures shall be permitted in conjunction with a residence:

- (1) Antenna structures for radio, television and other noncommercial communication purposes.
- (2) In the A-1, agricultural districts, radio, television, or communication stations and/or towers which exceed 50 feet in height shall be permitted as an accessory use, with a conditional use permit.
- (3) On properties in a residential zoning district, carports, garages, utility sheds and similar storage facilities customarily associated with residential living, provided such structure does not exceed 50 percent of the total floor area of the primary structure. In the agricultural, A-1 district, such structure may total 3,000 square feet.
- (4) Children's playhouses limited to 120 square feet in floor area and without plumbing.
- (5) Doghouses, pens or other similar structures for the housing of household pets.
- (6) Home occupations in accordance with section 98-16.
- (7) Parking or storage of small cargo or utility trailers, recreational vehicles and similar equipment including, but not limited to, boats, boat trailers, motor homes, tent trailers and horse vans, provided that such equipment shall not be used for living, housekeeping or business purposes when parked or stored on the lot, and that wheels or transporting devices shall not be removed except for necessary repairs.
- (8) Outdoor recreational facilities such as swimming pools, tennis courts, basketball courts, private boat docks, piers or boathouses, provided that use of such facilities shall be limited to occupants of the premises and guests for whom no admission or membership fees are charged.
- (9) Fences or walls which are neither electrified nor constructed of barbwire, which do not block site triangle easements at intersections and which are no higher than four feet in the front yard and six feet in the side and rear yards.
- (10) Roadside stands when located in the A-1 district, provided that such stands shall be limited to the sale of produce grown or raised on the premises and shall provide off-street parking for not less than three vehicles.
- (11) Other uses and structures of a similar nature which are customarily associated with and incidental to residential uses and do not constitute or create the potential for nuisance situations which will adversely affect the health, safety and general welfare of adjoining or nearby residents.
- (12) In-ground or partially in-ground outdoor swimming pools shall meet the minimum yard setback distances for principal buildings for each particular zoning district as specified in this chapter but may be located in either front, side or rear yards. In-ground swimming pools shall be located no closer than 15 feet to any

rear lot line. A minimum distance from the nearest portion of the principal building to the closest portion of the swimming pool structure shall not be less than ten feet. All in-ground swimming pools shall be surrounded by a suitable fence with a self-latching gate at least four feet but no more than six feet in height.

(13) Guesthouses as an accessory use to a residence in agricultural zones only.

(14) Accessory single-family residential units (detached dwellings or apartments) under the following conditions:

a. There shall not be more than one accessory residential unit in conjunction with a single-family detached dwelling.

b. All occupants of the accessory residential unit shall be related by blood, marriage, or adoption.

c. The external appearance of the principal dwelling shall not be altered and there shall be no signage, additional mailbox or any other externally visible indication that an accessory residential unit exists.

d. Accessory residential units may be located either in the single-family dwelling or in an existing detached structure accessory thereto provided that all building code requirements are met.

e. Except as may be approved by the board of supervisors for good cause shown, accessory residential units shall in no case contain in excess of 25 percent of the total floor area of the single-family dwelling to which it is accessory or 450 square feet, whichever is greater.

f. Except as approved by the board of supervisors, all accessory residential units shall be designed to provide independent accessibility for residents or guests who may be elderly, handicapped or otherwise challenged in one or more life function. Unless otherwise required by law this shall not require installation of grab bars and special plumbing fixtures, however pipes and appropriate anchor points allowing subsequent installation shall be required.

g. Provisions shall be made for off-street parking of motor vehicles that are adequate and compatible with the character of the single-family dwelling and adjacent properties.

h. Approval of an accessory residential unit shall be contingent upon prior certification by the health department that any on-site water supply and sewage treatment facilities are adequate to serve the anticipated number of residents.

i. The accessory residential unit shall not be visible to or apparent from the street or adjoining residential properties.

(d) The following accessory uses shall be permitted in conjunction with commercial and industrial uses:

(1) Uses intended specifically for the use and benefit of the employees of the principal use such as snack bars, cafeterias, recreation facilities and similar uses.

(2) Other uses and structures of a similar nature which are customarily associated with and incidental to commercial or industrial uses.

(3) Residential units in conjunction with a business or commercial use located in an area designated as a village in the comprehensive plan. The residential unit(s) shall constitute no more than 50 percent of the total floor area of any structure in which located, provided however, that the board of supervisors may

authorize a greater percentage through the issuance of a use permit. The zoning administrator shall determine in writing prior to approval of plans or permits for such accessory residential units that the subject property is within a designated village and providing the reasons for said determination.

(4) Residential unit (detached dwelling or apartment) when such use is reasonably and customarily a part of the business operation such as providing living quarters for a proprietor or manager and his family or living quarters for a watchman or custodian of an establishment under the following conditions:

a. The residential use shall contain no more than 1,000 square feet, provided however, that the board of supervisors may authorize a greater size through the issuance of a use permit.

b. There shall not be more than one residential unit in conjunction with the commercial or industrial use nor more than one residential unit on any property.

c. The residential unit may be located either within the commercial or industrial structure or in an existing detached structure accessory thereto provided that all building code and health code requirements are met.

d. Accessory residential units shall be designed to provide independent ingress and egress for the occupants.

e. Provisions shall be made for off-street parking of motor vehicles that are adequate and compatible with the character of the zoning district and adjacent properties.

f. Approval of an accessory residential unit shall be contingent upon prior certification by the health department that any on-site water supply and sewage treatment facilities are adequate to serve the anticipated number of residents.

g. The residential unit shall be occupied only by a current employee of the commercial or industrial facility.

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

(e) The following accessory uses shall be permitted in conjunction with a mobile home park, provided that they are designed and situated for the specific use of the park occupant:

(1) Laundromats.

(2) Office space for managers.

(3) Retail convenience stores, provided that the mobile home park is larger than 25 acres in size.

(f) The following accessory uses and none other shall be permitted in conjunction with apartment or condominium developments in the R-3 district:

(1) Outdoor recreational facilities such as swimming pools, tennis courts, basketball courts, private boat docks, piers, or boathouses, provided that use of such facilities shall be limited to occupants of the premises and guests.

(2) Laundry and storage areas for use of the occupants of the development.

(3) One office to be located within the complex and to be used as facilities for the management of the development.

(4) Garages; provided, however, that if garages are provided, they shall have a floor area of not less than 240 square feet. No garage or accessory building shall be placed closer to the side or rear property line than 50 feet when abutting a residential or agricultural zoning district; in all other cases this distance may be

reduced to 25 feet. Each group of attached garages shall have a joint capacity of not more than ten vehicles arranged in a row and there shall be a minimum distance of 12 feet between such structures. The architectural design and materials used in the construction shall conform to the design and building materials used in the construction of the apartment or condominium buildings. No part of any such garage or other accessory building shall be used for living purposes.

(5) Antenna structures as provided for in the A-1 district regulations.

(6) Home occupations under the same conditions as are set forth in subsection (c)(6) of this section.

(7) Parking or storage of small cargo or utility trailers, recreational vehicles and similar equipment, provided that special separate parking areas are included for the same.

(8) Fences or walls which are neither electrified nor constructed of barbed wire and which do not block site triangle easements and intersections.

(Code 1999, § 9-45; Ord. No. O-03-03, 3-10-2003; Ord. No. O-14-06(R2), § B, 1-8-2007)

Sec. 98-11. Violations; 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 punishable by a fine of not less than \$10.00, nor more than \$1,000.00. If the violation is uncorrected at the time of conviction, the court shall order the violator to abate or remedy the violation of the 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) Nothing in this section shall be construed as to prohibit the zoning administrator from applying to the appropriate court of the county to restrain, correct or abate any violation of this chapter by injunction or other appropriate proceedings.

(Code 1999, § 9-46(b), (c))

State law references: Similar provisions, Code of Virginia, § 15.2-2286(A)(5).

Sec. 98-12. Conflicting laws.

Whenever the requirements of this chapter require a greater width or size of yards, courts or other open spaces, require a lower height of building or less number of stories, require a greater percentage of lot left unoccupied or impose other higher standards than are required in any other statute, ordinance or regulation, provisions of this chapter shall control. Whenever the provisions of any other statute or ordinance or regulation require a greater width or size of yards, courts or other open spaces, require a lower height of building or a less number of stories, require a greater percentage of lot to be left unoccupied or

impose other higher standards than are required by this chapter, then the provisions of such statutes or ordinances or regulations shall control.
(Code 1999, § 9-47)

Sec. 98-13. Effective date.

(a) The zoning ordinance adopted by the board of supervisors on November 14, 1966, became effective at 12:01 a.m., January 3, 1967. All amendments thereto and other provisions of this chapter shall become effective on the date of adoption.

(b) A copy of this chapter shall be filed in the office of the county administrator and in the office of the clerk of the county circuit court.

(c) Nothing contained in this section shall require any change in the plans or construction of any building or structure for which a permit was granted prior to the effective date of the ordinance from which this chapter derives. However, such construction must commence within 30 days after the ordinance from which this chapter derives becomes effective. If construction is discontinued for a period of six months or more, further construction shall be in conformity with the provisions of this chapter for the district in which the operation is located.

(d) If any section, subsection, paragraph, sentence, clause or phrase of this chapter shall be declared invalid for any reason whatever, such decision shall not affect the remaining portions of this chapter. The remaining portions shall remain in full force and effect; and for this purpose the provisions of this chapter are hereby declared to be severable.

(Code 1999, § 9-48)

Sec. 98-14. Amendments.

The regulations, district boundaries or classifications of property established by this chapter may, from time to time, be amended, supplemented, changed or repealed by ordinance adopted by the board of supervisors, provided that:

(1) Public notices be given and public hearings be held in accordance with the requirements of state law.

(2) Action shall be taken by the board of supervisors only after a report has been received from the commission, unless a period of 100 days has elapsed after the first meeting of the commission after the proposed amendment or reenactment was referred to the commission. After such time the change or amendment shall be deemed approved by the commission, unless the proposed amendment or reenactment has been withdrawn by the applicant prior to the expiration of the time period. In the event of and upon such withdrawal, processing of the proposed amendment or reenactment shall cease without further action as otherwise would be required by this subsection.

(3) Applications for amendments to the ordinance or rezoning shall be in such form and contain such information as is required by the zoning administrator.

(4) All applications for amendment of a zoning classification shall contain a statement by the owner granting permission for the erection of signing announcing the proposed change on the premises. The zoning administrator may

erect appropriate signing on the premises during the time the application is pending to provide additional notice to interested persons.

(5) No application for rezoning shall be considered by the planning commission or the board of supervisors, if the same request has been denied within 12 months of the date that the application is submitted.

(Code 1999, § 9-49)

State law references: Similar provisions, Code of Virginia, § 15.2-2285.

Sec. 98-15. Development agreements.

(a) Pursuant to the authority provided in Code of Virginia, § 15.2-2303.1, and in order to promote the public health, safety and welfare and to encourage economic development consistent with careful planning, the board of supervisors may enter into binding developments agreements with any persons owning legal or equitable interests in real property in the county if the property to be developed contains at least 1,000 acres, provided that any such agreement shall:

(1) Be for the purpose of stimulating and facilitating economic growth in the county;

(2) Not be inconsistent with the comprehensive plan of the county at the time of the agreement's adoption, except as may have been authorized by existing zoning ordinances;

(3) Not authorize any use or condition inconsistent with this chapter or other ordinances in effect at the time the agreement is made, except as may be authorized by a variance, special exception or similar authorization;

(4) Be authorized by this chapter;

(5) Be for a term not to exceed 15 years, and may be renewed by mutual agreement of the parties for successive terms of not more than ten years each.

(b) Any such agreement may provide, among other things, for uses; the density or intensity of uses; the maximum height, size, setback and/or location of buildings; the number of parking spaces required; the location of streets and other public improvements; the measures required to control stormwater; the phasing or timing of construction or development; or any other land use matters.

(c) Any such agreement may authorize the property owner to transfer to the county land, public improvements, money or anything of value to further the purposes of the agreement on other public purposes set forth in the county's comprehensive plan, but not as a condition to obtaining any permitted use or zoning. The development agreement shall not run with the land except to the extent provided therein, and the agreement may be amended or canceled in whole or in part by the mutual consent of the parties thereto or their successors in interest and assigns.

(d) If, pursuant to the agreement, a property owner who is a party thereto and is not in breach thereof:

(1) Dedicates or is required to dedicate real property to the county, the commonwealth or any other political subdivision or to the federal government or any agency thereof;

- (2) Makes or is required to make cash payments to the county, the commonwealth or any other political subdivision or to the federal government or any agency thereof; or
 - (3) Makes or is required to make public improvements for the county, the commonwealth or any other political subdivision or for the federal government or any agency thereof, such dedication, payment or construction therefore shall vest the property owners' rights under the agreement.
- If a property owner's rights have vested, neither any amendment to the zoning map for the subject property nor any amendment to the text of the zoning ordinance with respect to the zoning district applicable to the property which eliminates or restricts, reduces or modifies the use; the density or intensity of uses; the maximum height, size, setback or location of buildings; the number of parking spaces required; the location of streets and other public improvements; the measures required to control stormwater; the phasing or timing of construction or development; or any other land use or other matters provided for in such agreement shall be effective with respect to such property during the term of the agreement unless there has been a mistake, fraud or change in circumstances substantially affecting the public health, safety or welfare.
- (e) Nothing in this section shall be construed to preclude, limit or alter the vesting of rights in accordance with existing law; to authorize the impairment of such rights; or to invalidate any similar agreements entered into pursuant to existing law.
- (Code 1999, § 9-50)

Sec. 98-16. Home occupations.

- (a) *Home occupations permitted.* Home occupations shall be permitted in conjunction with any legal residential use if in conformance with the following standards:
- (1) No person other than individuals residing on the premises shall be engaged on the premises in such home occupation.
 - (2) The home occupation shall be clearly incidental and subordinate to the residential use of the property. The home occupation use may not exceed the greater of 400 square feet or 25 percent of the living space of the residence.
 - (3) There shall be no change in the outside appearance of the building or premises or other evidence of the conduct of such home occupation visible from the street or adjacent properties. Signs and outdoor storage are not permitted except for a single four square foot identification sign.
 - (4) There shall be no on-premises direct retail sales of goods or materials to the general public. This shall not be interpreted to preclude the occasional delivery of products produced on the premises in low volume or as a custom order, inclusive of specialty bakeries, dressmakers, tailors, artists and similar craft and artisan occupations.
 - (5) Exclusive of child or adult day care, on-site customer or client contact shall be limited to the period between 8:00 a.m. and 8:00 p.m., Monday through Saturday.

(6) Parking is limited to two off-street spaces in addition to the spaces required for residential occupancy. Parking must be ten feet from any property line and shall be suitably surfaced and effectively screened and buffered by landscaping from view of adjacent residential properties.

(7) The occupation or activity shall not require the use of machinery or equipment that creates noise, odor, smoke, dust or glare or is unreasonably dangerous or disruptive to persons residing in the home or on adjacent property nor shall flammable or toxic substances be utilized other than that which would customarily be utilized in the home in association with a hobby or avocation not conducted for gain or profit.

(8) Commercial vehicles must be kept behind the principal building setback line applicable in the district unless kept in a garage or an enclosed and screened storage yard. Only two vehicles or pieces of equipment may be operated from the site in connection with a home occupation except as permitted in subsection (b) (2) below. In the R-0, R-0A, R-1, R-1A, R-2, R-3 and PUD districts, the maximum gross vehicle weight for any vehicle operated from the property shall be 26,000 pounds.

(b) *Certain home occupations limited to certain districts.*

(1) The following home occupations and those with similar patterns and intensities of customer visitation and activity levels may only be conducted in the A-1, R-0, R-0A, R-1, and R-1A, districts:

- a. Photography studios.
- b. Adult day care centers for not more than four, aged, infirm or disabled adults who reside elsewhere.
- c. Tutoring, music or voice lessons or similar services for not more than four persons, other than the family members of the provider, at any single time.

(2) Small contracting businesses operated as a home occupation where equipment and materials are stored on site may only be conducted in the A-1 district provided that the criteria established below are met. The business office operations of a small contracting business where no materials or equipment are stored on the premises of the home, nor are employees and sub-contractors physically on the premises to receive task orders shall not be subject to the limitations of this subsection.

- a. The minimum area for any lot used for a small contracting business in the A-1 district shall be five acres.
- b. All structures, parking and loading areas, and storage areas associated with such use shall be located behind the residential structure on the site and inside of all required setbacks and shall be effectively screened from view from all adjacent properties by landscaping supplemented if necessary by fencing.
- c. Not more than three vehicles and/or pieces of equipment associated with the operation of a business shall be operated from the site or stored there overnight. Small transportable equipment including lawn mowers, chain saws, power hand tools, table, band or radial arm saws, and similar items shall not be included in this limitation.
- d. The total indoor area in accessory buildings used in connection with the home occupation uses shall not exceed a total of 2,500 square feet.

e. The total outdoor area used in connection with the home occupation shall not exceed a total of 1,500 square feet.

(c) *Home occupations permitted by conditional use permit.* The board may authorize, by conditional use permit the enlargement or expansion or intensification or operation of home occupations beyond the limits otherwise specified herein, including the employment of one or more non-resident employees. In so doing, the board shall specify the allowable number of non-resident employees and shall impose such conditions as deemed necessary to protect the residential character of the property and structure(s) used in the conduct of the home occupation and the properties in the general vicinity of the subject property. Such conditions may include a specific time in the future by which the home occupation shall cease on the property.

(d) *Prohibited home occupations.* The following uses shall not be permitted as accessory home occupations unless permitted as a principal use in the district in which located:

- (1) Automobile repair and servicing.
- (2) Funeral chapels or funeral homes.
- (3) General retail sales.
- (4) Medical or dental clinics or hospitals.
- (5) Restaurants, tearooms, or other eating or drinking establishments.
- (6) Animal clinics or hospitals, commercial stables, commercial kennels.
- (7) Other activities and land uses which the zoning administrator determines to be materially similar to the activities listed above.

(Ord. No. O-14-06, § C, 1-8-2007)
Secs. 98-17--98-50. Reserved.

ARTICLE II. GENERAL AREA, FRONTAGE, YARDS, HEIGHT, SETBACK, PERFORMANCE REQUIREMENTS AND STANDARDS

Sec. 98-51. Purpose and intent of article.

The purpose of this article is to provide those regulations which shall apply in all zoning districts. The regulations of this article shall be in addition to any specific regulations contained within any zoning classification and in the event of a conflict between the regulations of this article and those contained within a particular zoning district, then the regulations within the particular zoning district shall apply. For the convenience of the user of this chapter, a chart entitled "General Lot, Yard and Height Requirements" is incorporated as a part of this section. This chart is for convenience only and in the event of a conflict between the chart and the requirements set forth in this chapter for each zoning district, the requirements set forth in this chapter for each district shall control.

GENERAL LOT, YARD AND HEIGHT REQUIREMENTS

TABLE INSET:

	Minimum Size of Lot	Minimum Yard Requirements In Feet	Maximum
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Zone	Interior Lots		Corner Lots		Principle Buildings				Accessory Structures		Height In Feet	
	Area (sq. ft.)	Width (ft.)	Area (sq. ft.)	Width (ft.)	Front Yard	One Side Yard	Total of Two Side Yards	Rear Yard	Front	Side and Rear Yard	Principle Buildings	Accessory Structures
C-1	65,340	150			125	25	50	50	125	50	35	35
A-1	65,340	150			75	25	50	50	125	15	35	20
R-O, OA	See section 98-412 for applicable requirements.											
1, 1A	See section 98-412 for applicable requirements.											
R-2, 2A	See section 98-412 for applicable requirements.											
R-3	See section 98-412 for applicable requirements.											
MHP	See section 98-412 for applicable requirements.											
Lot within a research park over 25 acres	3 acres	300	3 acres	300	100	50	100	50	100	50	45	45
Lot within an industrial park over 25 acres	1 acre	175	50,000	175	50	20	40	50	50	20 side 50 rear	45	45
Lot within	2 acres	250	2.5 acres	250	100	50	100	100	100	50 side	45	45

park over 25 acres										100 rear		
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(Code 1999, § 9-56)

Sec. 98-52. General area and lot requirements.

(a) *Conformity with the area regulations; reduction.* No building or structure shall be erected, structured, converted, enlarged, structurally altered or moved on a lot or moved to another lot unless such building or enlargement conforms with the area regulations of the district on which the building is located. No lot shall be reduced in size so as to produce a parcel which is not in conformity with these regulations unless the parcel is combined with other property to produce a conforming lot or unless such parcel is needed and accepted for public use.

(b) *Exclusions from minimum lot area computation.* The following areas shall not be included as part of a lot for the purpose of computing the required minimum area:

(1) Any existing or required right-of-way established by easement or dedication.

(2) Any area contained within an easement area for overhead high voltage utility lines.

(3) Any area within the floodplain or subject to periodic or occasional inundation.

(c) *Required front yard and area for lots on rights-of-way less than 50 feet in width.*

(1) Where a building lot has frontage upon a right-of-way which is less than 50 feet in width, the area of the lot shall be increased in such a manner as to permit the future widening of the right-of-way without the resulting effect of creating a nonconforming situation.

(2) The zoning administrator may require additional front yard setbacks for any new construction or for any structures altered or remodeled adjacent to existing or future planned rights-of-way, in order to preserve and protect the rights-of-way for future street or highway widening.

(d) *Consolidation of contiguous lots under a common ownership upon which structures exist or are proposed.*

(1) Lots of record which are contiguous and owned by the same person may be consolidated for the purposes of this chapter.

(2) Where a principal or accessory building encroaches upon an interior lot line which separates such lots, all setback yard dimensions and other requirements shall apply as if the lots were a single lot. A building permit shall not be issued on the lots unless they are consolidated. If ownership becomes separate rather than common, a building permit shall be withheld on the separated lots. Where a principal or accessory building does not encroach on an interior lot line, all setback yard dimensions and other requirements shall apply as if the lots were in separate ownership if such lots are conforming in all other respects.

(3) The owner of such lot may submit a request to consolidate to the zoning administrator on such forms and containing such information as may be required

by the zoning administrator. By submitting an application for consolidation, the owner waives any right for himself, his successors and assigns to develop the lots as separate lots without conforming to all the requirements of this part.

(4) Once such lots have been combined, they shall be treated as one lot for the purposes of this chapter. The zoning administrator shall note the combination on the zoning map and shall keep a properly indexed file of all such consolidations. If ownership of such lots becomes separated after a consolidation without compliance with the terms of this part, then in addition to any other penalties as may be provided, no building permit shall be issued on any lots so created.

(5) If any such lots are located in a platted subdivision, then the owner may elect to proceed in accordance with the subdivision chapter and follow the procedures set forth therein for a re-subdivision.

(e) *Lots not meeting minimum lot size requirements.* No building or structure shall be constructed on lots not meeting the minimum lot size requirements of the district in which they are located. Any such lots may be consolidated under the provisions of subsection (d) of this section in order to meet minimum lot size requirements. The following shall be exempt from the provisions of this subsection:

(1) Lots of record on the date of adoption of this section, provided that they contain a minimum area of 20,000 square feet and have a minimum lot width of 100 feet.

(2) Lots within a subdivision established and approved in accordance with chapter 90 of this Code after July 1, 1962.

(3) Lots of record prior to January 3, 1967, and not within a subdivision mentioned in subsection (e) (2) of this section, regardless of size or dimension. The burden of proof of qualification for any exemption is on the applicant.

(Code 1999, § 9-57)

Sec. 98-53. General frontage requirements.

(a) *Multiple frontage lots.* Any building proposed to be constructed on a lot having a frontage on two or more streets shall be so located as to comply with the regulations governing the front yard restrictions and setbacks on all the streets on which such lot has frontage. In the case of an interior through lot, the owner shall elect and so designate which yard shall be the required rear and the required front yard. The designated rear shall be attractively landscaped and maintained so as to conform to the character of the front yards in the general area. In the case of a corner lot, the required rear yard shall be the opposite of the front yard, as defined in this chapter.

(b) *Determination of frontage for lots.* The minimum frontage requirements for lots shall be measured at the right-of-way line. In no case shall the lot frontage at the street line be less than two-thirds of the minimum lot width required by this chapter. If the provisions of section 98-52(c) apply, then the frontage shall be measured at the future right-of-way line.

(c) *State standards.* In Business, Economic Opportunity and Industrial districts all lots shall front on streets designed and constructed in accordance with the state department of transportation standards.

(Code 1999, § 9-58)

Sec. 98-54. General yard and setback requirements.

(a) *Maintenance of required yards.* No yard or other open space for each and every building shall be encroached upon or reduced in any manner except in conformance with this chapter. No yard for one principal building shall be considered as a yard for any other principal building, and no yard on one lot shall be considered as a yard for a principal building on another lot. Shrubbery, driveways, off-street parking spaces, retaining walls, fences, curbs, planted screens and planted buffer strips shall not be construed to be encroachments on yards.

(b) *Permitted encroachments into required yards.* Architectural features may project into a required yard a distance not greater than the following:

TABLE INSET:

Open entrance shelter	Four feet
Cornices and eaves	Three feet
Window sills	Six inches
Chimneys	Two feet
Steps and landings	Four feet
Fire escapes (side and rear yard only)	Six feet
Open balconies	Four feet
Porches, platforms or open landings	Ten feet

(Open structures such as steps, platforms, paved terraces or landing places which do not extend above the first floor level of the building and which have no wall more than 30 inches high)

TABLE INSET:

Awnings and movable canopies	Four feet
Bay or bow windows	Two feet

(c) *Minimum setback.* The minimum setback from any lot line for any permitted use, activity, sign, building or structure shall be five feet unless otherwise specifically provided. Fences may be erected up to the property line unless specifically restricted elsewhere in this chapter.

(Code 1999, § 9-59)

Sec. 98-55. General height requirements.

(a) *Public or semipublic buildings.* Public or semipublic buildings such as a school, church, library or hospital may be erected to a height of 65 feet from grade, provided that required front, side and rear yards shall be increased one foot for each foot in height over 35 feet.

(b) *Church spires, belfries, cupolas, monuments, water towers, chimneys, flues, flagpoles and antennas.* Unless otherwise specifically provided, church spires, belfries, cupolas, monuments, water towers, chimneys, flues, flagpoles, television antennas and radio aerials are exempt from any height requirements. Parapet walls may be up to four feet above the height of the building on which the walls rest.

(c) *Agricultural structures.* Agricultural structures are exempt from the height requirements of this chapter.

(Code 1999, § 9-60)

Sec. 98-56. General setback requirements.

(a) *Roadside stands.* Roadside stands shall be set back at least 20 feet from any right-of-way.

(b) *Docks, piers and boathouses.* Docks, piers and boathouses are exempt from the rear yard setback requirements.

(c) *Accessory buildings attached to principal buildings.* Accessory buildings or structures attached to a principal building by any wall or roof construction shall be considered a part of the principal building and shall observe all yard regulations applicable thereto.

(d) *Accessory buildings with greater than 50 percent of floor area of primary buildings.* Accessory buildings and structures with greater than 50 percent of the total floor area of the primary building or structure shall be set back a distance of not less than 30 feet from the primary building or structure.

(e) *Accessory buildings with less than 50 percent of floor area of primary buildings.* Accessory structures with less than 50 percent of the total floor area of the primary building or structure shall be set back not less than ten feet from the primary building or structure.

(Code 1999, § 9-61)

Sec. 98-57. Floodplain.

(a) *Purpose.* The purpose of the provisions of this section 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 with areas subject to flooding.

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

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

(b) *Applicability.* The provisions of this section shall apply to all lands within the jurisdiction of the county and identified as being in the 100-year floodplain by the Federal Insurance Administration.

(c) *Compliance and liability.*

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

(2) The degree of flood protection sought by the provisions of this section is considered reasonable for regulatory purposes and is based on acceptable engineering methods of study. 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 section does not imply that areas outside the floodplain area or that land uses permitted within such area will be free from flooding or flood damages.

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

(d) *Abrogation and greater restrictions.* This section supersedes any ordinance currently in effect in flood prone areas. However, any underlying ordinance shall remain in full force and effect to the extent that its provisions are more restrictive than this section.

(Code 1999, § 9-62)

Sec. 98-58. Establishment of zoning districts.

(a) *Description of district.*

(1) *Basis of district.* The floodplain district shall include areas subject to inundation by waters of the 100-year flood. The basis for the delineation of the district shall be the 100-year flood elevations or profiles contained in the flood insurance study for the county prepared by the Federal Emergency Management Agency, Federal Insurance Administration, dated December 5, 1990, as amended. 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 maps (FIRM). For these areas, the 100-year flood elevations and floodway information from federal, state and other acceptable sources shall be used, when available. Where the specific 100-year flood elevation cannot be determined for this area using other sources of data, such as the U.S. Army Corps of Engineers Floodplain Information Reports, U.S. Geological Survey Flood prone Quadrangles, etc., then the applicant for the proposed use, development and/or activity shall determine this elevation in accordance with hydrologic and hydraulic engineering techniques. Hydrologic and hydraulic analyses shall be undertaken only by professional engineers or others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently-accepted technical concepts. Studies, analyses,

computations, etc., shall be submitted in sufficient detail to allow a thorough review by the county.

(2) *Overlay concept.*

a. The floodplain district described above shall be overlays to the existing underlying area 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.

b. 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.

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

(b) *Official zoning map.* The boundaries of the floodplain district are established as shown on the flood insurance rate map which is declared to be a part of this chapter and which shall be kept on file at the department of planning offices.

(c) *District boundary changes.* The delineation of any of the floodplain district may be revised by the board of supervisors where natural or manmade changes have occurred and/or where more detailed studies have been conducted or undertaken by the U.S. Army Corps of Engineers or other qualified agency, or an individual documents the need for possibility for such change. However, prior to any such change, approval must be obtained from the Federal Insurance Administration.

(d) *Interpretation of district boundaries.* Initial interpretations of the boundaries of the floodplain district shall be made by the zoning administrator. Should a dispute arise concerning the boundaries of any 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 his case to the board and to submit his own technical evidence if he so desires.

(Code 1999, § 9-62.1)

Sec. 98-59. District provisions.

(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 chapter and with all other applicable codes and ordinances, such as the Virginia Uniform Statewide Building Code and chapter 90 of this Code. Prior to the issuance of any such permit, the zoning officer shall require all applications to include compliance with all applicable state and federal laws. Under no circumstances shall any use, activity and/or development adversely affect the capacity of the channels or floodways of any watercourse, drainage 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 shall be obtained from the U.S. Army Corps of Engineers, the Virginia Marine Resources commission, the Virginia State Water Control Board (a joint permit application is available from anyone of these organizations). Notification of the proposal shall be given to all adjacent jurisdictions and adjacent property owners, the Division of Soil and Water Conservation (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 all 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 the basement.
- (2) For nonresidential structures that have been flood proofed, the elevation to which the structure has been flood proofed.
- (3) The elevation of the 100-year flood.
- (4) Topographic information showing existing and proposed ground elevations.

(d) *Encroachment provisions.*

(1) No new construction or development shall be permitted within the floodplain district unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the elevation of the 100-year floodplain more than one foot at any point.

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

(e) *Mobile homes.*

(1) Mobile homes that are placed or substantially improved within zones A-1 and MHP on the county's FIRM, on sites:

- a. Outside of a mobile home park or subdivision;
- b. In a new mobile home park or subdivision;
- c. In an expansion to an existing mobile home or subdivision; or
- d. In an existing mobile home park or subdivision on which a mobile home has incurred substantial damage as the result of a flood, must be elevated on a permanent foundation such that the lowest floor of the mobile home is elevated to or above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist floatation, collapse and lateral movement.

(2) Mobile homes to be placed or substantially improved on sites in an existing mobile home park or subdivision within zones A-1 and MHP on the county's FIRM that are not subject to the provisions of subsection (e)(1) of this section must be elevated so that either:

- a. The lowest floor of the mobile home is at or above the base flood elevation;
- or

- b. The mobile home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and are securely anchored to an adequately anchored foundation system to resist floatation, collapse and lateral movement.
- (f) *Recreational vehicles.* Recreational vehicles placed on sites within zone A-1 or C-1 on the county's FIRM must:
- (1) Be on the site for fewer than 180 consecutive days; and
 - (2) Be fully licensed and ready for highway use.
- (Code 1999, § 9-62.2)

Sec. 98-60. Design criteria for utilities and facilities.

- (a) *Sanitary sewer facilities.* All new or replacement sanitary sewer facilities and private package sewage 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 damages.
- (c) *Drainage facilities.* All storm drainage facilities shall be designed to convey the flow of surface waters without damage to persons or property. The systems shall ensure drainage away from buildings and onsite waste disposal sites. The board of supervisors may require a primarily underground system to accommodate frequent floods and a secondary surface system to accommodate larger, less frequent floods. Drainage plans shall be consistent with local and regional drainage plans. The facilities shall be designed to prevent the discharge of excess runoff onto adjacent properties.
- (d) *Utilities.* All utilities, such as gas lines, electrical and telephone systems being placed in flood prone areas shall be located, elevated (where possible), and constructed to minimize the chance of impairment during a flooding occurrence.
- (e) *Streets and sidewalks.* Streets and sidewalks shall 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 1999, § 9-62.3)

Sec. 98-61. Existing structures in floodplain districts.

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

- (1) Any modification, alteration, repair, reconstruction or improvement of any kind to a structure and/or use located in any floodplain areas to an extent or amount of less than 50 percent of its market value, shall be elevated and/or flood proofed 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 in full compliance with the provisions of the Virginia Uniform Statewide Building Code.
(Code 1999, § 9-62.4)

Sec. 98-62. Table of land uses.

TABLE INSET:

	Business	Economic Opportunity	Industrial	Conservation C-1	Agricultural A-1	Single Family Residential R-O, R-OA, R-1, R1A	General Residential R-2, R-2A	Multiple Family Residential R-3	Mobile Home Parks MHP
Agricultural, Forestal and Conservation									
Agriculture				P	P				
Agriculture, intensive					P				
Animal husbandry					P				
Farmers market	P	P		C	C				
Forestry				P	P				
Game preserve, conservation area				P	P				
Orchard & vineyard		P	C	P	P				
Portable sawmill				C	C				
Winery-farm				C	P				
Winery-commercial		P	P		C				
Residential									
Apartment		C						P	
Condominium		C						P	
Group care					P	P	P	P	

residential facility ≤8 residents									
Group care facility >8 residents					C	C	C	P	
Mobile home parks									P
Senior housing	C	C					C	P	
Single-family conversion to two-family					C		C		
Single-family detached dwelling					P	P	P		
Single-family attached dwelling							P	P	
Transitional home					P	P	C	C	
Business, Commercial Service									
Agricultural equipment sales and service	P	P	P						
Amusement facility (indoor)	P	P							
Animal hospital (with outside runs)	P	P	P		C				
Animal hospital (without outside runs)	P	P	P		C				
Antique shop	P	P			C				
Automobile fueling stations	P	P	P						
Automobile sales and service	P	P							
Auto body and	C	P	P						

painting									
Auto retail parts sales-new & used	P	P							
Auto service stations , automobile repair services and garages	P	P	P						
Bank, Financial Institution	P	P	A						
Barber and beauty shop	P	P							
Bar, nightclub	P	A							
Bed and breakfast					P				
Bicycle sales and service	P	P							
Boat parts or accessories sales	P	P							
Boat sales and service	P	P							
Book, card shop	P	P							
Brew Pub	P	P							
Building Supply and Lumber Store ≤15,000 square feet (without exterior storage)	P	P							
Building Supply and Lumber Store ≤15,000 square feet (with exterior storage)	C	P							
Building Supply and Lumber Store	P	P	P						

>15,000 square feet (without exterior storage)									
Building Supply and Lumber Store > 15,000 square feet (with exterior storage)	C	P	P						
Car wash	P	P	A						
Childcare center, adult daycare center, day care center, preschool, nursery	P	P	P		C	C	C		
Clothing store, retail	P	P							
Commerce park	P	P	P						
Computer and data processing center and services	P	P	P						
Computer sales and service--retail (includes assembly using pre-manufactured parts)	P	P							
Conference center	P	P	P						
Contractor office or shop without outdoor storage	P	P	P		A				
Contractor	C	P	P		C				

office or shop with outdoor storage									
Mini supermarket, without gas pumps	P	P	A						
Copy center	P	P							
Drugstore	P	P							
Dry cleaning outlet	P	P							
Feed and seed store	P	P							
Florist shop	P	P							
Flour, feed mill		P	P		C				
Funeral home	P	P							
Gift, record and tobacco shop	P	P							
Group residential care facility	P	C			C		C		
Hand crafted goods, traditional crafts	P	P	P						
Hardware stores	P	P							
Home appliance sales and service	P	P							
Hotel, motel	P	P							
Household furniture/furnishings sales	P	P							
Industrial supply store	C	P	P						
Inn ≤10 rooms (includes tourist home)	P				C				
Inn >10	P	P			C				

rooms (includes tourist home)									
Kennel, commercial	P	P			C				
Laundromat	P	P							
Machine sales and indoor service	P	P	P						
Mailing Services Center	P	P	P						
Manufactured Home Sales		P	P						
Micro-brewery	P	P	P						
Mini-storage warehouse	C	P	P						
Recreational Vehicle (RV) sales & service	P	P							
Nursing, convalescent, or rest home	P	C					P		
Personal service and hygiene establishment	P	P							
Photography, dance, music studio	P	P							
Plant nursery, garden center ≤15,000 square feet	P	P			C				
Plant nursery, garden center > 15,000 square feet	C	P	P						
Plumbing and electrical supply outlet	P	P	P						
Professional office	P	P	P						

Rental center	P	P	P						
Restaurant (sit-down)	P	P	P						
Restaurant (drive-thru)	P	P	C						
Restaurant (with drive-in window)	P	P							
Retail bakery	P	P							
Retail establishment ≤ 30,000 sq. ft.	P	P							
Retail establishment over 30,000 sq. ft.	C	P							
Shopping center 15,001- 30,000 sq. ft.	P	P							
Shopping center over 30,000 sq. ft.	C	P							
Spa, day spa	P	P							
Studio	P	P							
Theater	P	P							
Truck Fueling Stations	C	P	P						
Upholstery shop	P	P	P						
Industrial, Manufacturing, Processing, and Storage									
Asphalt mixing plant			C						
Boatbuilding, boat yard		P	P						
Brick manufacture			C						
Cabinet, furniture manufacture	C	P	P						
Cement, lime and gypsum manufacture			C						

Distillation of ethanol from grain			C		C				
Distillery		C	P						
Dry Cleaning Plant	C	C	P						
Electrical and electronic device manufacture and assembly		P	P						
Laboratory (testing, medical, scientific, pharmaceutical)		P	P						
Machine and welding shop	C	C	P						
Meat, poultry, fish processing			C						
Monumental stone work			P		C				
Office/construction trailer storage yard		C	P		C				
Printing plant	C	P	P						
Recycling center/plant	C	P	P						
Resource extraction		C	C		C				
Salvage yard, automobile graveyard			P						
Sawmill		C	P		P				
Warehouse		P	P						
Wholesale business and distribution center		P	P						
Wood preserving operation			C						

Wood yard			P						
Public, Semipublic, Institutional, Recreational									
Amusement park	C	C							
Animal shelter	C	C	P	C	C				
Amusement facility, outdoor	P	P			C				
Archery, firearms, paintball range--indoor	P	P	P		C				
Archery, firearms, paintball range—outdoor	C	C	P		C				
Assembly hall, club, lodge	P	P			C				
Campground		C		C	C				
Cemetery, columbarium	P	C	C		C	C	C	C	
Place of Worship	P	P	A		P	P	P	P	
Clinic or emergency care center	P	P	A						
Communications facility tower-radio, cellular ≤75 feet	P	P	P		P				
Communications facility tower-radio, cellular 75 ≥ 200 feet	C	C	P		C				
Communications facility tower-radio, cellular < 200 feet	C	C	C		C				
Community center	P	P			C	A	A	A	A

Construction debris landfill			C		C				
Correctional facility			C						
Educational institution, K-12 school	P	P			P	P	P	P	
Equestrian facility	P	P	C		C				
Golf course		P			P	C			
Government office	P	P	P		P		P		
Health and fitness center	P	P	A						
Higher education institution	P	P			C				
Horse racing track	C	P	C		C				
Hospital or medical center facility	P	P			P				
Hunt club				C	C				
Library	P	P			P		P	P	
Park,	P	P		C	P	P	P	P	P
School-trade, vocational	P	P	P						
Stable-commercial	C	C			C				
Steeplechase					C				
Theme park, amphitheater, stadium	C	C	C		C				
Timeshare Resort		C						C	
Turkey shoot					C				
Waste Transfer Station			C		C				
Wildlife preserve, conservation area				P	C				

Zoological garden		C		C	C				
Transportation									
Airplane hanger—commercial			C						
Airplane hanger—private			C		C				
Airplane landing strip		C	C		C				
Airport			C						
Commercial Pier	C	P	P						
Individual pier	C	P	C	C	P				
Boat launch ramp	P	P	P	P	P				
Bus station/terminal		C	C						
Commuter parking	P	P	P		C				
Freight terminal			P						
Heliport		C	P		C				
Helipad	C	C	P						
Parking lot, public	P	P	P						
Marina, boatel commercial	C	P		C	P				
Marina, private				C	P				
Motor vehicle rental	P	P	P						
Trucking terminal			P						
Truck stop (includes fuel sales and prepared food)	C	C	C						
Utilities									

Public utilities/railroads, transmission lines, impoundment	C	C	C	C	C	C	C	C	C
Energy generation facility			C						

- P = Permitted
- C = Requires Conditional Use Permit
- A = Permitted as an Accessory Use

- (1) The size limitations contained herein apply regardless of use; the specific use itself must be permitted within the district in which it is located.
- (2) The specific uses within a shopping center must be permitted within the district in which it is located.

Sec. 98-63. Additional design and performance standards.

Uses permitted under the provisions of this chapter, in addition to any other requirements, shall where applicable, be in conformance with the following standards:

- (1) *Air pollution standards.* Any activity, operation or device which causes or tends to cause the release of air contaminants into the atmosphere shall comply with the rules and regulations of the commonwealth.
- (2) *Drainage.* All rights-of-way shall be drained in accordance with the requirements of the state department of transportation. Off-street parking areas shall be designed to provide positive drainage of stormwater and natural drainage waters when deemed necessary by the site plan. Drainage systems shall be adequate to carry off or store the stormwater and natural drainage water which originates not only within the lot or tract boundaries but also that which originates beyond the original lot or tract boundaries. No stormwater runoff or drainage water shall be so diverted as to overload existing drainage systems or create flooding or the need for additional drainage structures on other private properties or public lands without proper and approved provisions being made for taking care of these conditions. Lots shall be graded to secure proper drainage away from buildings and prevent the ponding of stormwater unless within an approved retention or detention basin. Where a lot or tract is traversed by a watercourse, surface or underground drainage way or drainage system, channel or stream, there shall be provided and dedicated a drainage right-of-way easement to the county or to the state department of transportation which conforms substantially with the line of such watercourse and such further width or construction, or both, as will be adequate to accommodate expected stormwater runoff in the future and accommodate necessary maintenance.

(3) *Drainage and conservation easements.* Where a development is traversed by a watercourse, drainage way, channel or stream, or where it is desirable to preserve other areas within a subdivision because of the soil conditions, tree masses, wildlife habitat, vistas or other significant horticultural, environmental or natural features, there shall be provided a drainage and/or conservation easement of sufficient area and width to protect and preserve such feature if required by the planning commission. Drainage easements shall be designed and drainage structures constructed in such a manner as to reduce the burden of maintenance.

(4) *Electromagnetic radiation and interference standards.* Any activity, operation or use shall be deemed to cause electromagnetic radiation interference that adversely affects persons or the operation of any equipment across lot lines, and is not in conformance with the regulations of the Federal Communications Commission. All such uses are prohibited.

(5) *Fences and walls.* All permitted fences shall be situated on a lot in such a manner that the finished side of the fence shall face adjacent properties. No fence shall be erected of barbed wire, topped with metal spikes or constructed of any material in a manner which may be dangerous to persons or animals except that these provisions shall not apply to farms and that fences for industrial uses may be topped by barbed wire protective barriers. All barbed wire fences shall be faced into the property. A tennis court area may be surrounded by a fence a maximum of 12 feet in height. Its setback from any property line shall be the minimum distance required for accessory buildings in the zoning district in which the tennis court is proposed to be located. All fences constructed for farm operations may be placed on property lines.

(6) *Fire and explosion hazard standard.* All operations, activities and uses shall be conducted so as to comply with all applicable fire prevention codes.

(7) *Lands subject to flooding.* Lands subject to flooding and land deemed topographically unsuitable shall not be platted for use which would increase danger to health, life or property or aggravate erosion or flood hazard. Such land within a 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 the public welfare.

(8) *Landscaping and buffers.* In order to minimize any adverse impact on adjacent uses caused by nuisances on a site, to provide climate control in the form of shade trees and windbreaks, and preserve and enhance the rural nature of the county, all plans of development shall preserve existing landscaping whenever possible and supplement existing landscaping with landscaping which will offset the introduction of nuisance creating facilities.

(9) *Lighting.* All parking areas and walkways thereto and driveways servicing commercial, public, office, industrial, apartment, condominium or other similar uses having common off-street parking and/or loading areas shall be adequately illuminated for security and safety purposes. Lighting in and around parking and loading areas shall provide for non-glare, color-corrected lights focused downward. The light intensity provided at ground level shall be a minimum of one-half foot candle over the entire area and shall be provided by fixtures with a

mounting height of more than 25 feet or the height of the building whichever is less, measured from the ground level to the centerline of the light source. Light standards shall be spaced a distance not to exceed five times the mounting height. No light shall shine into windows or onto streets and driveways in such a manner as to interfere or to obstruct driver vision. The intensity of lights, the light shielding and similar characteristics shall be subject to development plan review.

(10) *Liquid and solid wastes standards.* Any activity, operation or device which causes or tends to cause the discharge or other release of liquid or solid waste into public sanitary sewer, storm drains or public waters shall comply with applicable laws, rules and regulations governing such discharge or release including, but not limited to, the Federal Water Pollution Control Act, the Virginia Water Control Law (Code of Virginia, § 62.1-44.2 et seq.) and the county regulations regarding sewers and sewage disposal, maintenance and cleanliness of storm drainage facilities, garbage, trash and refuse, and erosion and sediment control.

(11) *Natural features.* Natural features such as trees, hilltops and views, natural terrain, open waters and natural drainage lines shall be preserved whenever possible in designing any development. The topsoil shall not be removed from areas intended for lawn or open space. Topsoil removed during the course of construction shall be redistributed onto these areas and shall be stabilized by approved seeding and/or planting. A conscious effort shall be made to preserve all worthwhile trees and shrubs which exist on the site. Stripping trees from a lot or filling around trees on a lot shall not be permitted unless it can be shown that grading or construction requirements necessitate removal of trees, in which case these lots shall be replanted with trees to reestablish the tone of the area.

(12) *Radiation hazard standards.* All operations, activities and uses shall comply with the regulations of the U.S. Atomic Energy Commission set out in chapter I of title 10 of the Code of Federal Regulations which apply to byproduct material, source material and special nuclear material, as those terms are defined in section IIe., z. and aa. of the Atomic Energy Act of 1954, as amended (42 USC 2014 (e), (z) and (aa)). No activity, operation or use shall cause radiation emissions which are in violation of the Radiation Health and Safety Act of 1968 (Public Law 90-602), as amended, or the implementing regulations of the state department of health established pursuant thereto. Any water discharged from any facility must meet all radioactivity standards as specified in Environmental Protection Agency (EPA) Document 570/9-76-003, "National Interim Primary Drinking Water Regulations," in effect on the date of adoption of the ordinance from which this article is derived, irrespective of any subsequent amendments to such EPA document. Air emission discharges, including fugitive emissions, shall not be permitted to contain radioactive levels more than ten percent above background airborne radioactivity at the point of discharge. (Code 1999, § 9-64)

Sec. 98-64. Prohibited land uses.

Certain uses have been determined to be entirely inconsistent with the comprehensive plan and for which no acceptable conditions can be established that would reduce the inconsistency. These uses, enumerated below, are prohibited in the county.

- (1) Smelting on an industrial scale;
 - (2) Operating an adult business or use when located within 3,000 feet of any school, place of worship, public or community park, public building, or another adult business or use;
 - (3) Manufacturing nuclear materials;
 - (4) Processing, storing or disposing of nuclear waste;
 - (5) Manufacture of biologically accumulative poisons or other poisons that are, or ever were, registered in accordance with the provisions of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. § 136, et seq., as that section may be amended or superseded from time to time);
 - (6) Operation of a municipal solid waste landfill or sanitary landfill or solid waste management facility;
 - (7) Operation of a construction debris landfill;
 - (8) Hazardous waste incinerators;
 - (9) Medical waste incinerators;
 - (10) Transportation, storage and disposal (TSD) facilities.
- (Ord. No. O-13-06(R), 10-6-2006; Ord. No. O-01-07, § A, 1-16-2007)

Sec. 98-65. General traffic management and analysis requirements.

This section establishes requirements to ensure that the streets, roads and highways of the county can safely accommodate all new development without degrading the traffic carrying capacity of such streets, roads and highways. These requirements are also to meet the standards of the Code of Virginia, § 15.2-2222.1, as amended, and the implementing regulations contained in Virginia Administrative Code (24 VAC 30-155, Virginia Traffic Impact Analysis Regulations), as amended.

(1) *Traffic impact statement.*

- a. All development proposals must include estimated driveway traffic volumes based on the anticipated traffic generation, using the Trip Generation Manual (Institute of Transportation Engineers, Seventh Edition or as it may from time to time be amended). Where only a portion of the entire property is being used, the traffic projections for the balance of the land remaining to be developed shall be based on the most traffic-intense uses permitted under existing zoning. The applicant shall provide driveway volume data for 24-hours, AM peak hour, PM peak hour, and peak hour of use for weekday and weekend. In addition, the development proposal must show the existing volume of adjacent streets.
- b. Where any of the following criteria are met, based on the traffic generation figures provided above, the developer shall cause a transportation engineer or planner to prepare a minimum of five copies of a traffic impact statement and submit that traffic impact statement to the Virginia Department of Transportation and the county, for their review.

1. When the anticipated traffic generation based on permitted uses under the proposed zoning for the developable portion of the entire property equals or exceeds the lesser of 100 vehicle trips in any peak hour or the thresholds established in 24 VAC 30-155, as amended, and requires the amendment of the zoning map. The estimates shall be based on the most traffic-intense uses permitted unless enforceable conditions are offered to limit or remove such uses.
2. Any residential, commercial, industrial use, or combination thereof, or application for a special use permit, where the anticipated traffic generation equals or exceeds the lesser of 100 vehicle trips in any peak hour or the thresholds established in 24 VAC 30-155, as amended.
3. Any development or subdivision of a portion of property where the potential traffic generation for the developable portion of the entire property based on permitted uses under existing zoning equals or exceeds the lesser of 100 vehicle trips in any peak hour or the thresholds established in 24 VAC 30-155, as amended. The estimates for the balance of developable land shall be based on the most traffic-intense uses permitted under current zoning classification.
4. Any non-residential development which proposes to access a street which is residential in character and classified as a minor collector or lower order street.
 - c. Subdivision plats, site plans, rezoning applications, use permit applications, and other development proposals for which a traffic impact statement is required shall not be deemed to be properly received until the traffic impact statement is submitted.
 - d. The submitted traffic impact statement shall contain the information and analysis and be in the format as required in 24 VAC 30-155, as amended.
 - e. All existing or planned intersections, commercial entrances, median breaks, pavement markings, driveways, or other roadway features potentially affecting traffic flow located within 500 feet of the proposed development as well as all intersections and driveways internal to the development shall be considered and either shown or clearly noted on a scaled plan submitted with the traffic impact statement.
 - f. The developer shall be responsible for paying all review fees required by the Virginia Department of Transportation for the review of traffic impact statements. Such fees shall be submitted by check paid directly to the Virginia Department of Transportation.

(2) *Access management.*

- a. Access to a use shall be considered to be part of the use and shall require an equivalent or greater intensity of zoning classification, unless that access is over a publicly owned and maintained right-of-way. This provision shall not apply to legally established and operated home occupations, nor shall it apply to community recreation facilities constructed to serve the residential community in which they are located, nor shall it apply to pump stations and similar utility appurtenances.
- b. Driveways or entrances to streets classified in the adopted comprehensive plan as minor collector, major collector, minor arterial, and major arterial shall be appropriately limited in number and width and effectively spaced so as to preserve the public investment in the traffic carrying capacity of the roadway in

accordance with the recommendations contained in the National Cooperative Highway Research Program (NCHRP) Report 348, as amended, Access Management Guidelines for Activity Centers.

(3) *Roadway and traffic safety management.*

a. Any development proposal submitted for consideration shall provide details, plans, and/or notations relating to traffic safety, traffic maintenance, and roadway maintenance during and after the development process. Such details, plans and/or notations shall include the location, size and type of all necessary traffic signals, pavement markings and regulatory, warning and guide signs, both permanent and temporary and shall indicate how traffic, including motor vehicles, bicyclists, and pedestrians, will be accommodated along adjacent existing roadways during construction activities.

b. The developer shall be responsible for the installation of all traffic signals, pavement markings, regulatory signs, warning signs, and guide signs as indicated in the details, plans, or notations required in subsection a. above. Proper installation of these required elements shall be accomplished prior to the issuance of any certificate of occupancy for any structure within the development.

(4) *Construction traffic access management.* The zoning administrator shall specifically review and approve all construction entrances and the access routes to such construction entrances. In specifying and limiting these construction traffic entrances and the access routes to them, the zoning administrator shall consider all access alternatives currently or potentially available in order to ensure pedestrian, bicycle and motor vehicular safety. Construction traffic shall be deemed to include, but not be limited to, construction equipment used in site development or building activity, vehicles transporting such construction equipment or construction and building materials, and vehicles transporting persons engaged in site development, construction, or building activities.

(5) *Street dedication and construction.* The construction, extension and dedication of streets within the county shall conform to the provisions of the subdivision ordinance.

(6) *Street signs.*

a. Permanent street identification signs of a design approved by the zoning administrator shall be installed at all intersections by the developer. Permanent street signs shall have reflective backgrounds and lettering and shall conform to the standards found in the subdivision ordinance.

b. Prior to the issuance of building permits, temporary street identification signs shall be installed by the developer at all street intersections through which access to the parcel(s) upon which construction will occur passes.

(7) *Sight triangles.*

a. Sight triangles are required at all driveway and street intersection and shall be clearly shown on all development plans. The sight point location along a street shall be determined in the manner specified in the subdivision ordinance.

b. Signs, plantings, structures, or other obstructions which obscure or impede sight lines between three feet and six feet in height above grade shall be prohibited within the sight triangle.

c. A right-of-entry for the purpose of removing any object, material or other obstruction that hinders the clear sight across the sight triangle shall be dedicated to the county.

(8) *Traffic calming*. Notwithstanding the design criteria established above, the use of appropriate traffic calming measures is encouraged.

(Ord. No. O-14-07, 6-11-2007)

Secs. 98-66--98-90. Reserved.

ARTICLE III. ROUTE 33 PLANNING AREA OVERLAY REGULATIONS

Sec. 98-91. Intent of article.

It is the intent of the regulations of this article to establish design and performance criteria that exceed the density, general area, frontage, yard, height, setback, building size, off-street parking and loading regulations found elsewhere in this chapter in order to provide for a well planned community located within the study area of the Route 33 Area Plan identified by, and in accordance with, the adopted Route 33 Area Plan amendment to the county comprehensive plan.

(Code 1999, § 9-65)

Sec. 98-92. Permitted residential densities.

(a) The permitted density within the agricultural, A-1 district shall not exceed 0.2 dwelling units per acre.

(b) The permitted density within the single-family residential, R-O district shall not exceed 0.5 dwelling units per acres; however, a density of one dwelling unit per acre may be achieved if the parcel has access to central sewer service.

(c) The permitted densities within the single-family residential, R-OA, R-1, R-1A districts shall not exceed one dwelling unit per acre; however, greater density can be achieved up to a maximum density of six units per acre, provided that at the time of rezoning the developer, as part of the rezoning application, offers to provide a minimum of four of the following performance measures:

(1) A general plan of development is submitted to the county for its review and approval. Such plan at a minimum shall include the following:

a. Buffers, berms, landscaping or other design techniques to for the purpose of noise attenuation to mitigate adverse impacts of roadways and other forms of obtrusive noise.

b. Design techniques to maximize and enhance energy conservation.

c. Site design that enhances the existing natural features of the site.

d. Provisions for appropriate landscaping, architectural materials, and aesthetic amenities beyond the minimum required by this chapter.

(2) Provisions for dedications of land for public facilities such as schools, fire stations and libraries, and provide for site preparation of such land dedications to include rough grading, and stubbing of utilities at the property line.

(3) Provision for off-site road improvements and/or dedications for future road improvements. Such improvements must exceed the minimum standards established by the state department of transportation.

(4) Dedication of sites, and construction of parks and recreation facilities in accordance with the following:

a. Facility needs shall be based on an average of 2.7 persons per dwelling unit per the 1990 U.S. Census, or last decennial census figure.

b. All required facilities shall be provided on-site, except as provided below. In instances where the projected population of a project represents a fraction of the population necessary to generate a need for a specific facility, applicants wishing to be considered for development intensity above the base level of the permitted density ranges in accordance with this division shall follow the following guidelines:

1. If the population fraction is 75 percent or greater of the facility standard, the facility must be provided on-site.

2. If the population fraction is between 50 percent and 74 percent of the facility standard, the facility may, but need not, be provided on-site; if not provided on-site, a contribution in an amount equal to the cost of constructing the facility multiplied by the population fraction shall be made to the county for the purposes of the recreational facility development.

3. If the population fraction is less than 50 percent of the facility standard, then neither facility development nor contribution shall be required. However, credit toward justifying upper end density can be obtained by providing facilities under this option.

(5) Construction of on-site trails in accordance with the adopted Route 33 Area Plan.

(6) Provision of usable and accessible open space areas and other passive recreational facilities, on-site, in excess of other requirements found within this chapter.

(7) Preservation, protection or restoration of structural, historical or scenic resources of architectural or cultural significance to the county's heritage, where applicable.

(8) Provision of affordable housing, or contributions to state or local affordable housing programs.

(d) *Residential planned unit development performance criteria.* The permitted densities for single-family planned unit developments shall not exceed one dwelling unit per acre; however, greater density can be achieved up to a maximum density of six units per acre, provided that at the time of rezoning the developer, as part of the rezoning application, offers to provide a minimum of four of the following performance measures:

(1) A general plan of development is submitted to the county for its review and approval. Such plan at a minimum shall include the following:

a. Buffers, berms, landscaping or other design techniques to for the purpose of noise attenuation to mitigate adverse impacts of roadways and other forms of obtrusive noise.

b. Design techniques to maximize and enhance energy conservation.

- c. Site design that enhances the existing natural features of the site.
 - d. Provisions for appropriate landscaping, architectural materials, and aesthetic amenities beyond the minimum required by this chapter.
 - (2) Provisions for dedications of land for public facilities such as schools, fire stations and libraries, and provide for site preparation of such land dedications to include rough grading, and stubbing of utilities at the property line.
 - (3) Provision for off-site road improvements and/or dedications for future road improvements. Such improvements must exceed the minimum standards established by the state department of transportation.
 - (4) Dedication of sites, and construction of parks and recreation facilities in accordance with the following:
 - a. Facility needs shall be based on an average of 2.7 persons per dwelling unit per the 1990 U.S. Census, or last decennial census figure.
 - b. All required facilities shall be provided on-site, except as provided below. In instances where the projected population of a project represents a fraction of the population necessary to generate a need for a specific facility, applicants wishing to be considered for development intensity above the base level of the permitted density ranges in accordance with this article shall follow the following guidelines:
 - 1. If the population fraction is 75 percent or greater of the facility standard, the facility must be provided on-site.
 - 2. If the population fraction is between 50 percent and 74 percent of the facility standard, the facility may, but need not, be provided on-site; if not provided on-site, a contribution in an amount equal to the cost of constructing the facility multiplied by the population fraction shall be made to the county for the purposes of the recreational facility development.
 - 3. If the population fraction is less than 50 percent of the facility standard, then neither facility development nor contribution shall be required. However, credit toward justifying upper end density can be obtained by providing facilities under this option.
 - (5) Construction of on-site trails in accordance with the adopted Route 33 Area Plan.
 - (6) Provision of usable and accessible open space areas and other passive recreational facilities, on-site, in excess of other requirements found within this chapter.
 - (7) Preservation, protection or restoration of structural, historical or scenic resources of architectural or cultural significance to the county's heritage, where applicable.
 - (8) Provision of affordable housing, or contributions to state or local affordable housing programs.
- (Code 1999, § 9-65.1)

Sec. 98-93. Lot coverage criteria in the Business zoning district.

- (a) Maximum building lot coverage in the Business district shall not exceed 50 percent, and all required parking and stormwater management facilities shall be accommodated on-site.

(Code 1999, § 9-65.2)

Sec. 98-94. Performance standards.

(a) *Objectives.* In addition to those uses permitted within articles XV and XVII of this chapter, the uses found in subsection (g) of this section, off-street parking requirements, shall also be permitted within the Economic Opportunity and Industrial zoning districts located within the State Route 33 overlay district. The objective of these performance standards is to accommodate a mix of similar and compatible light industrial uses, industrial related businesses, and commercial uses in a park-like setting within areas designated for such uses by the Route 33 Area Plan.

(b) *Bulk regulations.* Bulk regulations in the Route 33 overlay district are as follows:

- (1) Minimum lot size: two acres
- (2) Minimum lot depth: 200 feet
- (3) Minimum lot width: 200 feet

(c) *Yard regulations.* Yard regulations in the Route 33 overlay district are as follows:

- (1) Front: 50 feet
- (2) Side: 20 feet
- (3) Rear: 25 feet

(d) *Other setbacks.* Other setbacks in the Route 33 overlay district are as follows:

- (1) From an arterial road as classified in the Route 33 area plan: 100 feet
- (2) From project boundary abutting:
 - a. Residential zoning district: 100 feet
 - b. Nonresidential zoning district: 25 feet

(e) *Maximum building lot coverage.* The maximum building lot coverage in the Route 33 overlay district shall be 45 percent.

(f) *Maximum building height.* The maximum building height in the Route 33 overlay district is 35 feet (one additional foot in height allowed for each additional two feet in all yard setbacks).

(g) *Off-street parking requirements.* Off-street parking requirements in the Route 33 overlay district are as follows:

- (1) Office: one space/250 square feet gross floor area
- (2) Flex-tech: one space/250 square feet gross floor area of office, plus one space/2,000 square feet of gross floor area warehouse
- (3) Storage/wholesale: one space/2,000 square feet gross floor area
- (4) Mini-warehouse: three spaces/office plus one space/25 units
- (5) Lumber/building materials supply: one space/2,000 square feet gross floor area
- (6) Convenience retail: Minimum of five spaces or one space/200 square feet gross floor area
- (7) Filling station with retail: one space/200 square feet gross floor area sales area, plus two spaces/gas pump, plus two spaces/service bay
- (8) Retail supplies: one space/400 square feet gross floor area

- (9) Bank with drive-in: one space/250 square feet gross floor area (in main building), plus five stacking spaces per drive-through window
 - (10) Plant nursery: minimum of five spaces or one space/250 square feet gross floor area interior and exterior sales display area
 - (11) Restaurant: one space for every three seats or one space for every three persons rated building capacity, whichever is greater, but in all cases, a sufficient number of spaces to prevent obstruction of driveways, fire lanes and aisles
 - (12) Quick service restaurant: one space for every three seats or one space for every three persons rated building capacity, whichever is greater, but in all cases, a sufficient number of spaces to prevent obstruction of driveways, fire lanes and aisles; drive-through facilities shall also provide a stacking lane which shall accommodate at least six vehicles
 - (h) *Off-street loading standards.* Off-street loading standards in the Route 33 overlay district are as follows:
 - (1) 3,000 to 14,999 square feet: one space
 - (2) 15,000 to 29,999 square feet: two spaces
 - (3) 30,000 to 49,999 square feet: three spaces
 - (4) 50,000 to 74,999 square feet: four spaces
 - (5) 75,000 to 99,999 square feet: five spaces
 - (6) 100,000+ square feet: five spaces, plus one additional loading space/100,000 square feet
 - (7) Hotels and offices: one space for every 100,000 square feet of floor area or fraction thereof
 - (i) *General standards.* General standards in the Route 33 overlay district are as follows:
 - (1) Yards, berms, vegetative screening (natural or planted), fences or walls shall be provided to buffer residential uses and public streets from outdoor storage, off-street parking and loading areas, storage and collection of materials, and refuse areas.
 - (2) Minimum landscaped open space on any individual lot shall not be less than 20 percent of the buildable area of any lot and shall be open only to emergency vehicles.
 - (3) No off-street parking or loading area shall be located in the required landscaped yards.
 - (4) All utilities shall be placed underground.
 - (5) No storage of any kind is permitted within any front yard.
 - (6) No individual lot shall have direct access to a state maintained arterial or major collector street as identified in the Route 33 area plan.
- (Code 1999, § 9-65.3)
Secs. 98-95--98-130. Reserved.

ARTICLE XIII. BUSINESS, DISTRICT*

Sec. 98-501. Intent of district.

The Business district is intended to provide opportunities for larger-scale retail, office and service uses located along major thoroughfares and designed to serve the motoring public.

(Code 1999 ch. 9, art. III, div. 10; §9-181; 2007 §§ 98-501, 98-541)

Sec. 98-502. Uses.

Uses permitted as a matter of right or only by conditional use permit are shown in the Table of Land Uses in section 98-62. All uses shall be established using the performance standards applicable to that use as found in sections 98-871, 98-872, and 98-873. All development and redevelopment in the Business district requires approval of a site plan or plan of development.

(Code 1999 §§ 9-169, 9-170; Ord. No. O-05-00, § 9-170, 8-7-2000; Ord. No. ZO-06-01, 9-6-2001; § 9-183; Ord. No. ZO-03-01, 7-9-2001; § 9-184; Ord. No. O-05-00, § 9-184, 8-7-2000; 2007 §§ 98-503—98-504; 98-543—98-544)

Sec. 98-503. Dimensional requirements.

Business District	
Standard	Requirement
Minimum Lot Area	
With public water and public sewer	20,000 sq ft
Without public water or sewer	1 acre
Minimum Lot Width	150 feet
Minimum Front Setback	
All parking to rear	20 feet
Parking in front	65 feet
Minimum Rear Yard	
Principal structures	20 feet
Accessory structures, parking and drive aisles	10 feet
Minimum Side Yard	
Principal structures	20 feet
Accessory structures, parking and drive aisles	10 feet
Maximum Height	50 feet

(Code 1999 §§ 9-171—9-175; 9-185—9-189; 2007 §§ 98-505—98-509; 98-545—98-549)

Sec. 98-504. Special standards for business development.

- (1) Building exteriors that face a public street shall not consist of barren, unfinished, or uncoated materials.

- (2) Outside display of goods and materials for sale is permitted. Outside display shall not encroach into the public right-of-way, required landscaping or required parking.
- (3) Outside storage is permitted behind the principal structure provided such storage is screened from view of public streets and adjacent properties by means of opaque fencing, vegetative screening or a combination thereof.

Secs. 98-505—98-540 Reserved.

ARTICLE XIV.

Secs. 98-541--98-580. Reserved.

ARTICLE XV. ECONOMIC OPPORTUNITY, DISTRICT*

Cross references: Businesses, ch. 14.

Sec. 98-581. Intent of district.

The Economic Opportunity district is intended to provide opportunities to create mixed-use commercial and employment centers that will provide employment for County residents and a positive fiscal impact to the community while balancing flexibility of uses with performance standards that will ensure an attractive, well-planned environment.

(Code 1999 §§ 9-196, 9-212; 2007 §§ 98-581, 98-621)

Sec. 98-582. Uses.

Uses permitted as a matter of right or only by conditional use permit are shown in the Table of Land Uses in section 98-62. All uses shall be established using the performance standards applicable to that use as found in sections 98-871, 98-872, and 98-873. All development and redevelopment in the Economic Opportunity district requires approval of a site plan or plan of development.

(Code 1999 § 9-198; Ord. No. ZO-04-01, 7-9-2001; §9-199; §9-213; Ord. No. O-8-99, § 9-213, 9-13-1999; Ord. No. O-9-99, § 9-213, 9-13-1999; §9-214; Ord. No. O-8-99, § 9-214, 9-13-1999; Ord. No. O-9-99, § 9-214, 9-13-1999; 2007 §§ 98-583—98-584, 98-623—98-624)

Sec. 98-583. Dimensional requirements.

Economic Opportunity District	
Standard	Requirement
Minimum Lot Area	
With public water and public sewer	20,000 sq ft

Economic Opportunity District	
Standard	Requirement
Without public water or sewer	1 acre
Minimum Lot Width	150 feet
Minimum Front Setback	
All parking to rear	30 feet
Parking in front	70 feet
Buffer between parking and street	30 feet
Minimum Rear Yard	
Principal structures	20 feet
Accessory structures, parking and drive aisles	10 feet
Minimum Side Yard	
Principal structures	20 feet
Accessory structures, parking and drive aisles	10 feet
Shared parking facility	None
Maximum Height	
Commercial Structures	50 feet
Residential Structures	50 feet
Research and Development and Warehouses	50 feet
Hotels and Hospitals	65 feet

(Code 1999 §§ 9-200—9-204, 9-215—9-219; 2007 §§ 98-585—98-589, 98-625—98-629)

Sec. 98-584. Special standards for economic opportunity development.

- (1) Building exteriors that face a public street shall not consist of barren, unfinished, or uncoated materials.
- (2) Outside display of goods and materials for sale is permitted. Outside display shall not encroach into the public right-of-way, required landscaping or required parking.
- (3) Outside storage is permitted behind the principal structure provided such storage is screened from view of public streets and adjacent properties by means of opaque fencing, vegetative screening or a combination thereof.

Secs. 98-585--98-620. Reserved.

ARTICLE XVI.

Secs. 98-621--98-660. Reserved.

ARTICLE XVII. INDUSTRIAL, DISTRICT*

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

Sec. 98-661. Intent of district.

The Industrial district is intended to provide opportunities where industry can thrive while maintaining a sensitive balance of aesthetic appeal and environmental protection.

(Code 1999 § 9-226; 2007 § 98-661)

Sec. 98-662. Uses.

Uses permitted as a matter of right or only by conditional use permit are shown in the Table of Land Uses in section 98-62. All uses shall be established using the performance standards applicable to that use as found in sections 98-871, 98-872, and 98-873. All development and redevelopment in the Industrial district requires approval of a site plan or plan of development.

(Code 1999 §§ 9-228; Ord. No. O-9-99, § 9-228, 9-13-1999; § 9-229; Ord. No. O-9-99, § 9-229, 9-13-1999; 2007 § 98-663—98-664)

Sec. 98-663. Dimensional requirements.

Industrial District	
Standard	Requirement
Minimum Lot Area	
With public water and public sewer	1 acre
Without public water or sewer	3 acres
Minimum Lot Width	150 feet
Minimum Front Setback	
Principal structures	70 feet
Accessory structures	30 feet
Buffer between parking and street	30 feet
Minimum Rear Yard	
Principal structures	30 feet
Accessory structures, parking and drive aisles	10 feet
Minimum Side Yard	
Principal structures	30 feet
Accessory structures, parking and drive aisles	10 feet
Maximum Height	60 feet

(Code 1999 §§ 9-230—9-234; 2007 §§ 98-665—98-669)

Sec. 98-664. Special standards for industrial development.

- (1) Outside storage of goods and materials is permitted behind the principal structure. Outside storage shall not encroach into the public right-of-way, required landscaping or required parking.
- (2) In the case where there is no principal structure, outside storage of goods and materials shall be screened from the view of public streets by opaque fencing, vegetative screening or a combination thereof.

Secs. 98-665--98-700. Reserved.

ARTICLE XIX. CONDITIONAL USES

Sec. 98-741. Purpose and intent of article.

In order to provide for certain uses which because of their unique characteristics are not generally permitted as a matter of right in the various zoning districts, these uses are designated as conditional uses and may be permitted in certain districts subject to conformance with the provisions of this article. This article is established for the purpose of ensuring compatibility of conditional uses with surrounding uses, promoting the county comprehensive plan and protecting the health, safety and general welfare of the public.

(Code 1999, § 9-241)

Sec. 98-742. Conditional use permits.

All conditional uses set forth in this chapter shall require a conditional use permit in order to be lawfully conducted. The permit shall be subject to such conditions in addition to any which may be specified in this article as are deemed necessary to carry out the intent of this chapter. There shall be a charge for the examination and approval or disapproval of every conditional use permit application and renewal. Such charge shall be established by the board of supervisors from time to time. The board of supervisors may at its discretion waive any and all required fees for conditional use permits to nonprofit civic organizations whose fund raising events require conditional use permits. All conditional use permits shall expire one year after issuance if the use has not commenced within that time period.

(Code 1999, § 9-242)

Sec. 98-743. Authority to issue conditional use permits; procedure.

Except as is set forth in section 98-745(b)(14), all conditional use permits shall be authorized by the board of supervisors provided that:

- (1) Public notices are given and public hearings are held in accordance with the requirements of state law.
- (2) Action shall be taken by the board of supervisors only after a report has been received from the planning commission, unless a period of 90 days has elapsed from the date the proposed change was submitted to the commission. After such time the change or amendment shall be deemed approved by the commission.
- (3) Applications for conditional use permits shall be in such form and contain such information as is required by the zoning administrator.
- (4) All applications for conditional use permits shall contain a statement by the owner granting permission for the erection of signing announcing the proposed change on the premises. The zoning administrator may erect appropriate signing

on the premises during the time the application is pending to provide additional notice to interested persons.

(5) No application for a conditional use permit shall be considered by the planning commission or the board of supervisors, if the same request has been denied within 12 months of the date that the application is submitted.

(Code 1999, § 9-243; Ord. No. O-15-02R, 5-23-2002)

Sec. 98-744. Standards for review.

In all requests for approval of conditional uses, the burden of proof shall be on the applicant. In making a decision, no action shall be taken which will be detrimental to the public welfare or which will substantially impair the intent or purpose of this chapter. Specific conditions for many particular conditional uses are set forth in section 98-745. If no specific conditions are set forth for a particular conditional use or if, in the opinion of the granting authority, additional terms and conditions are needed in addition to those specifically set forth in order to carry out the intent and purpose of this chapter, the following guidelines shall be used in determining the propriety of granting a conditional use permit and in requiring any conditions therefore:

(1) The proposed use shall not be prejudicial to the character of the neighborhood.

(2) The proposed use shall not adversely affect the general plans for the physical development of the county as embodied in the comprehensive plan.

(3) The proposed use shall not be detrimental to the use or development of adjacent properties or the general neighborhood nor impair the value of buildings or property in surrounding areas.

(4) The proposed use shall not unreasonably restrict an adequate supply of light, water or air to adjacent property nor produce undue congestion in the street.

(5) The proposed use shall adequately provide for access facilities for the estimated traffic.

(6) The proposed use shall be subject to any applicable site planning or performance standards enumerated in article XXII of this chapter.

(7) The proposed use shall be reasonable in terms of the logical, efficient, and economical extension of public services and facilities serving the county, such as water, sewer, streets, police and fire protection, transportation, recreation, and public schools.

(Code 1999, § 9-244)

Sec. 98-745. Specific use conditions.

(a) Restrictions on any conditional use including those for which specific provision is made in this chapter may include, but need not be limited to, the following:

(1) Hours of operation.

(2) Access to and from the subject property.

(3) Protection of surface water and groundwater.

- (4) Lighting of the site, including the intensity and shielding so as to not adversely affect adjacent or nearby property owners.
- (5) Adequate sewer and water supply.
- (6) Sound limitations as needed to ensure peaceful enjoyment of neighboring property.
- (7) Location, size, height, design of buildings, walls, fences, landscaping and buffer yards.
- (8) Covenants and/or homeowners associations for maintenance of applicable restrictions.
- (9) Timing or phasing of development.
- (10) Type and placement of utilities, including underground placements.
- (11) Controls for smoke, dust and odors.
- (12) Requirements for performance guarantees ensuring that all conditions are met and plans are implemented.
- (13) Any other conditions deemed necessary to protect the health, safety and general welfare of the public.

(b) The following conditional uses in addition to any other conditions or restrictions that may be imposed shall comply with the specific requirements set forth in this section. In addition to the following specific conditions, the planning commission may recommend, and the board of supervisors may adopt, any additional conditions or modifications to the enumerated conditions it deems necessary to ensure the compatibility of conditional uses with surrounding uses, promote the county comprehensive plan, and protect the health, safety and general welfare of the public.

(1) *Airports and helipads.*

a. All airports and helipads shall be designed in accordance with Federal Aviation Administration rules and regulations.

b. All approvals must be obtained from the board of supervisors.

(2) *Antique shops in A-1 zones.*

a. There shall be no outdoor display or storage of goods or merchandise.

b. Any building so used shall be the residence of the proprietor or an accessory structure thereto. Additionally, an accessory structure shall not exceed one percent of the size of the parcel, and in no case shall the structure exceed 5,000 square feet.

c. Employees shall be limited to residents of the dwelling.

d. Signs shall be limited to no more than two, and shall be two square feet or less in size.

e. Parking shall comply with section 98-903.

f. Site plans in accordance with article XXII of this chapter, site plans, shall be required.

g. Other conditions may be added to the conditional use permit, if they are deemed to be appropriate by the board of supervisors.

(3) *Cemeteries.*

a. Unless associated with and on the same property as a church, synagogue or other place of worship, a cemetery must be at least 20 acres in size.

- b. Cemeteries shall only be located in those areas which have favorable soil and water characteristics as identified by an inspection of the soil by an engineer or soil scientist.
- c. No permit shall be issued until all state and local health department approvals have been obtained.
- d. A plotting plan of the proposed burial sites and a traffic circulation and parking plan in the cemetery shall be submitted for approval.
- e. No interment plot shall be located within 50 feet of any public right-of-way.
- f. Rights-of-way throughout the cemetery shall be at least 20 feet in width.
- g. Cemeteries shall not be located in residential zoning districts unless they share the site with a church, synagogue or other place of worship.
- h. Any organization or entity other than an established church shall submit evidence which demonstrates that the cemetery will be maintained ad infinitum.
- i. For private family cemeteries for use of the property owners only, the conditions set forth in subsections (b)(5)b, c, e, f and g of this section are the only requirements which must be met.

(4) *Construction business with storage of equipment and maintenance as a home occupation on agriculturally zoned property.*

- a. All structures associated with the use shall meet frontage setbacks, side yard, rear yard and height provisions of the A-1, agricultural district.
- b. Operation must be conducted as a home occupation.

(5) *Equestrian show facilities.*

- a. A site plan prepared in accordance with article XXII of this chapter, site plans, shall be required. Particular attention will be paid to the traffic and parking, noise, dust, refuse and lighting controls.
- b. Parking and traffic safety plan approved by sheriff's department and department of public safety.
- c. State department of health approval is required for all food service, toilet facilities, sewage disposal facilities and water supply facilities.
- d. Fire protection and medical facilities plan approval by the department of public safety and the sheriff's department.
- e. For events at which more than 150 people will be in attendance, an outdoor gathering permit as required by chapter 6, article II of this Code, cultural events and programs, will be required.
- f. No billboards or signs are permitted on the riding rings, bleachers; stables tack rooms, or veterinary/medical facilities.
- g. If alcohol is to be served, the operator must submit a copy of the alcoholic beverage control permit to the county 90 days in advance of the event.
- h. Other conditions may be added to the conditional use permit if they are deemed appropriate by the board of supervisors.

(6) *Group care facility.*

- a. Each individual structure shall house no more than ten persons.
- b. Businesses which are agricultural or handicraft in nature and which are conducted for the sole benefit of the residents or other users of the group care facility may be established on the premises of the facility, if such businesses are part of an organized program of rehabilitation or therapy for the residents or

other users. Such businesses shall be in addition to those otherwise allowed in the zoning district.

c. Any such use shall meet all other requirements of this chapter and all regulations of the appropriate governing state, federal and local agencies.

(7) *Horse racing facility.*

- a. All information required for a site plan review permit under section 98-862.
- b. An archeological and historic site survey.
- c. Traffic impact study and approval by the state department of transportation.
- d. Stormwater management plan.
- e. Waste stream impact study.
- f. Environmental impact assessment including wetlands identification study and protection plan to include CBPA's.
- g. An economic impact assessment.
- h. Existing topography accurately shown with a maximum of five-foot contour intervals at a scale of not less than 100 feet to the inch. Other interval and/or scale may be required or permitted by the director of planning where topographic considerations warrant.
- i. Floodplain limits which shall be established by current soil survey, U.S. Army Corps of Engineers survey, and/or engineering methods.
- j. Connection to existing and proposed state department of transportation construction and to comprehensive plan proposed thoroughfares when necessary.
- k. A minimum of two data references for elevations to be used on plans and profiles and correlated, where practical, to U.S. Geological Survey data.
- l. Paved state-maintained roads will be provided for the site and all interior roads dedicated for purpose of vehicular access will be built to standards for state-maintained paved roads.

(8) *Mobile home as a storage shed in conjunction with a bona fide agricultural operation.*

- a. The mobile home shall not be used for living or sleeping purposes, and all plumbing and kitchen fixtures shall be removed. The mobile home shall only be used for the storage of personal property.
- b. The mobile home shall not be visible from any public road or from any residence not owned by the owner of the storage trailer.
- c. A drawing showing the proposed location of the mobile home including distances from all property lines and the septic tank and drainfield shall be submitted by the applicant and must be approved by the zoning administrator. The zoning administrator may require changes in the drawing which would make the location of the mobile home more harmonious with the neighborhood.
- d. The minimum lot size for any such use shall be 15 acres.

(9) *Paint pellet competitive games.*

- a. All activities are conducted within a designated area which is properly marked.
- b. The conditional use permit shall be renewed annually.

(10) *Permanent mobile homes for agricultural use.*

- a. The mobile home shall be used for dwelling purposes only.

- b. The minimum parcel size shall be 25 acres for the location and maintenance of a mobile home. The parcel on which the mobile home is located must be in use for agriculture or farming as defined in this chapter.
- c. One such mobile home may be located on the same parcel as the main dwelling, provided that the main dwelling is not also a mobile home.
- d. Only those mobile homes built since June 15, 1976, and constructed in accordance with regulations promulgated by the Department of Housing and Urban Development under the Federal Manufactured Housing Construction and Safety Standards Act and bearing the appropriate seals and labels to certify compliance are permitted. The mobile home must be skirted with a fire-resistant material approved by the code official.
- e. A drawing showing the proposed location of the mobile home, including distances from all property lines and the septic tank and drainfield, shall be submitted by the applicant and must be approved by the zoning administrator. The zoning administrator may require changes in the drawing which would make the location of the mobile home more harmonious with the neighborhood.

(11) *Pistol ranges.*

- a. A site plan per article XXII of this chapter, site plans, will be required. This site plan must meet, at a minimum, the requirements found in the National Rifle Association Range Manual for the type of pistol range proposed. A three-sided earth berm will surround the range.
- b. All shooting stations will be designed so they are away from existing residential uses and firearms will be discharged only in a direction away from these existing uses.
- c. Noise abatement barriers equal to the NRA Standard and Guidelines set forth in the NRA Range Manual shall be utilized and shall appear on the site plan.
- d. Direct fire zones extending a minimum of 3,000 yards shall be maintained directly down range. This distance may be reduced only in a manner that meets or exceeds the standards set forth in the NRA Range Manual.
- e. Hours of operation shall be Monday through Saturday from sunrise to sunset or as approved by the board of supervisors. Sunday hours shall be set on a case-by-case basis by the board of supervisors.
- f. A written list of the current range rules shall be created and filed in the department of planning.
- g. A safety plan, meeting at the minimum the safety standards set forth in the NRA Range Manual, shall be created for the pistol range's operation, and it shall be filed in the department of planning.
- h. The current range rules shall be posted in a conspicuous place. The operator of the range will require that each new user sign and date a copy of the range rules, stating that the user agrees to abide by such rules.
- i. Existing religious facilities shall be taken in consideration during site plan review.
- j. All instructors shall be certified by the National Rifle Association, and a copy of their certification shall be kept on file in the department of planning.
- k. A NRA certified instructor shall be present on-site during all hours of operation.

- l. Conditional use permits will be subject to an annual review by the board of supervisors or its agent to ensure compliance with the provisions of this chapter.
 - m. If the use is abandoned for a period of 12 consecutive months, the conditional use permit shall lapse, and all spent bullets shall be retrieved from the range.
 - n. No automatic weapons may be discharged on the range.
 - o. No combat-type ranges shall be permitted.
- (12) *Radio, television or communication stations and/or towers which exceed 50 feet in height in the conservation and agricultural zoning districts.*
- a. A buffer of evergreen screening (trees or hedging) shall be provided around the entire facility with the exception of any associated office building. A section of fence at least six feet in height shall be provided completely around the base of the tower and any associated equipment.
 - b. A site plan of the proposed facility must be submitted to and approved by the zoning administrator. As part of the site plan submittal, the applicant must provide the county with detailed information regarding the proposed facility's location, latitude and longitude, and service area.
 - c. The facility shall not interfere with the radio, television or communications reception of nearby property owners in residence at the time of construction. The applicant shall take steps to successfully eliminate any such interference.
 - d. All communication towers and other structures shall meet all safety requirements of all applicable building codes.
 - e. A communication tower structure shall be set back from any property line a distance equal to 120 percent of the tower height. This set back shall not be required when such tower location is abutting or within the VDOT right-of-way of an interstate highway.
 - f. A tower structure shall not be located within 750 feet of an existing residential structure unless the board finds that (1) topographical or similar physical conditions existing on the property make such a set back an undue hardship and (2) the reduction in the set back will not adversely impact the peaceful enjoyment and use of the residential structure by its occupants. Any such reduction in the distance permitted by the board shall not result in a tower structure being erected at a distance nearer than 125 percent of the tower height to any dwelling unit and shall be buffered from view from that dwelling unit.
 - g. Verifiable evidence of the lack of antenna space on existing communication towers, buildings or other structures within the county or within two miles of the county boundary (the co-locations), and/or evidence of that the available co-locations as a whole will not provide adequate telecommunications service to the proposed service area. Such evidence shall include propagation studies and an affidavit executed by a radio frequency engineer stating that in its professional opinion the available co-locations are inadequate or otherwise unsuitable for the provision of telecommunications service to the proposed service area.
 - h. An engineering report, certifying that the proposed communication tower is compatible for a minimum of four users, must be submitted by the applicant.

The applicant shall also permit collocation by additional users without requiring any form of reciprocal location agreement from subsequent users.

- i. Written documentation of compliance with all Federal Aviation Administration and Federal Communications Commission requirements shall be submitted by the applicant.
- j. Unless otherwise allowed under the specific use conditions of a conditional use permit, or as a requirement of the Federal Aviation Administration, all structures shall have a galvanized steel finish. If painting is required by the FAA, written documentation from the FAA requiring such painting must be provided to the county by the applicant. Should the applicant request to construct the tower from materials other than galvanized steel, the applicant shall state the reasons for the request in the application, and the applicant shall also furnish the county with photographs, videos, or some other visual sample of the proposed finish.
- k. All applicants must provide written documentation that the facility at full capacity will not exceed applicable health standards established by the federal government and/or American National Standards Institute.
- l. No advertising of any type may be placed on the communication tower or accompanying facility.
- m. All communication tower structures must be dismantled by the owner of the structure if it ceases to be used as communication tower or if it is not properly maintained for a period exceeding 24 consecutive months. The board of supervisors shall require the posting of surety by the applicant in an amount sufficient to cover the cost of dismantling and the surety shall be submitted to the county in a form approved by the county attorney prior to the issuance of the building permit.
- n. The applicant shall provide evidence that adjoining property owners and other residents of the community have been contacted to discuss specific proposals prior to public hearings before the planning commission and board of supervisors.
- o. The applicant shall conduct a balloon test or similar demonstration of visibility as a part of any application. Prior to the test, the applicant shall mail notice to all adjacent property owners and to the owners of any property located within 750 feet of the proposed tower whether adjacent or not and shall publish notice of intent to conduct the test in a newspaper of general circulation at least once a week for a period of two consecutive weeks.
- p. The communication tower owner shall notify the commissioner of the revenue no later than March 1 of each year of the name, address, and telephone number(s) for the tower owner and each lessee on the tower and the registered agent for each.
- q. Each telecommunications service provider who locates or otherwise places wireless communications equipment on a communications tower shall obtain a building permit from the county prior to attaching the equipment to the tower or erecting a structure on the tower or on its land and shall provide the building permit office with the costs of the communications equipment to be installed as well as the other related construction costs.

r. The applicant shall provide the county with space(s) on the communications tower for the location of its public safety transmitting and receiving antennae at no cost. Other than the providers who have submitted evidence of a need for a location on the communications tower at time of the application for a conditional use permit, the applicant shall notify the director of public safety before any additional location is under contract. The director of public safety shall have 20 work days to determine whether such location is necessary for the public safety needs of the county at the present or within a one-year period from date of notification. If such space(s) is determined to be needed for public safety purposes, the applicant shall not lease the space(s) for one year from the date notice was received by the director of public safety.

s. The applicant shall reimburse the county for the costs of evaluating the technical evidence submitted by the applicant in support of its application.

t. Documentation must be submitted to the county establishing clear legal rights to access to tower site from deeded easements and right-of-ways including rights to ingress and egress over private roads.

u. As used in this section a "communication tower" shall mean any structure greater than 50 feet in height that is designed and constructed primarily for the purpose of supporting one or more antennae, including self-supporting lattice towers, guy towers, or monopole towers. The term encompasses personal wireless service facilities, radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers or personal communications services towers, alternative tower structures, and the like. When all or portion of the tower is supported by guy wires, such wires and their anchors shall be considered a part of the tower for purposes of measuring setbacks and separations from adjacent uses.

(13) Radio, television or communication stations and/or towers which exceed 50 feet in height on property zoned Business, Economic Opportunity and Industrial.

a. A buffer of evergreen screening (trees or hedging) shall be provided around the entire facility with the exception of any associated office building. A section of fence at least six feet in height shall be provided completely around the base of the tower and any associated equipment.

b. A site plan of the proposed facility must be submitted to and approved by the zoning administrator. As part of the site plan submittal, the applicant must provide the county with detailed information regarding the proposed facility's location, latitude and longitude, and service area.

c. The facility shall not interfere with the radio, television or communications reception of nearby property owners in residence at the time of construction. The applicant shall take steps to successfully eliminate any such interference.

d. All communication towers and other structures shall meet all safety requirements of all applicable building codes.

e. All communication tower structures shall not be erected within 750 feet of an existing residential structure unless the board finds that (1) topographical or similar physical conditions existing on the property make such a distance an undue hardship and (2) the reduction in distance will not adversely impact the

peaceful enjoyment and use of the residential structure by the occupants. Any such reduction in the distance permitted by the board shall not result in a tower structure being erected nearer than 125 percent of the tower height to any dwelling unit.

f. If the property line abuts an agricultural or residential zoning district, all towers shall be set back from said property line a distance equal to 120 percent of the tower height.

g. Verifiable evidence of the lack of antenna space on existing communication towers, buildings or other structures within the county or within two miles of the county boundary (the co-locations), and/or evidence of that the available co-locations as a whole will not provide adequate telecommunications service to the proposed service area. Such evidence shall include propagation studies and an affidavit executed by a radio frequency engineer stating that in its professional opinion the available co-locations are inadequate or otherwise unsuitable for the provision of telecommunications service to the proposed service area.

h. An engineering report, certifying that the proposed tower is compatible for a minimum of four users, must be submitted by the applicant. This requirement shall not apply to facilities that are constructed to be camouflaged and which in fact harmonize with the existing landscape, structures, and views. The applicant shall also permit collocation by additional users without requiring any form of reciprocal location agreement from subsequent users.

i. Documentary evidence of compliance with all Federal Aviation Administration and Federal Communications Commission requirements shall be submitted by the applicant.

j. Unless otherwise allowed under the specific use conditions of a conditional use permit, or as a requirement of the Federal Aviation Administration, all structures shall have a galvanized steel finish. If painting is required by the FAA, documentary evidence from the FAA requiring such painting must be provided to the county by the applicant.

k. Should the applicant request to construct the communication tower from materials other than galvanized steel, the applicant shall state the reasons for the request in the application, and the applicant shall also furnish the county with photographs, videos, or some other visual sample of the proposed finish.

l. All applicants must provide documentary evidence that the facility will not exceed applicable health standards established by the federal government and/or American National Standards Institute.

m. No advertising of any type may be placed on the communication tower or accompanying facility.

n. All communication tower structures must be dismantled by the owner of the structure if not properly maintained for a period exceeding 24 consecutive months. The board of supervisors shall require the posting of a surety by the applicant in an amount sufficient to cover the costs of dismantling, and the surety shall be submitted to the county prior to the issuance of the building use permit.

o. The communication tower owner shall notify the commissioner of the revenue no later than March 1 of each year of the name, address, and telephone

number(s) for the tower owner and each lessee on the tower and the registered agent for each.

p. The applicant shall provide evidence that adjoining property owners and other residents of the community have been contacted to discuss specific proposals prior to public hearings before the planning commission and board of supervisors.

q. The applicant shall conduct a balloon test or similar demonstration of visibility as a part of any application. Prior to the test, the applicant shall mail notice to all adjacent property owners and to the owners of any property located within 750 feet of the proposed tower whether adjacent or not and shall publish notice of intent to conduct the test in a newspaper of general circulation at least once a week for a period of two consecutive weeks.

r. Each telecommunications service provider who locates or otherwise places wireless communications equipment on a communications tower shall obtain a building permit from the county prior to attaching the equipment to the tower or erecting a structure on the tower or on its land and shall provide the building permit office with the costs of the communications equipment to be installed as well as the other related construction costs.

s. The applicant shall provide the county with space(s) on the communications tower for the location of its public safety transmitting and receiving antennae at no cost. Other than the providers who have submitted evidence of a need for a location on the communications tower at time of the application for a conditional use permit, the applicant shall notify the director of public safety before any additional location is under contract. The director of public safety shall have 20 work days to determine whether such location is necessary for the public safety needs of the county at the present or within a one-year period from date of notification. If such space(s) is determined to be needed for public safety purposes, the applicant shall not lease the space(s) for one year from the date notice was received by the director of public safety.

t. The applicant shall reimburse the county for the costs of evaluating the technical evidence submitted by the applicant in support of its application.

u. Documentation must be submitted to the county establishing clear legal rights to access the tower site from deeded easements and right-of-ways including rights to ingress and egress over private roads.

v. As used in this section a "communication tower" shall mean any structure greater than 50 feet in height that is designed and constructed primarily for the purpose of supporting one or more antennae, including self-supporting lattice towers, guy towers, or monopole towers. The term encompasses personal wireless service facilities, radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers or personal communications services towers, alternative tower structures, and the like. When all or portion of the tower is supported by guy wires, such wires and their anchors shall be considered a part of the tower for purposes of measuring setbacks and separations from adjacent uses.

(14) *Telecommunications towers or antennae attached to or erected within existing structures or camouflaged towers that exceed 50 feet.*

- a. Subject to the conditions in subsection b., the following telecommunications towers or antenna ("facilities") shall be exempt from the provisions of subsections (16) and (17):
 1. Facilities that are attached to or within an existing structure provided that (a) the net effect of the facility shall not increase the height of the existing structure by more than 12.5 percent or exceed 199 feet, whichever is the lesser height; (b) the facility shall not overhang the outer dimension of the existing structure by more than 7.5 percent; and (c) the net effect of the facility will not cause the host structure to become non-compliant in any material respect with the New Kent County Code or the terms of any condition specifically or generally attached to the host structure through prior legislative or administrative action.
 2. Reserved.
- b. Conditions.
 1. A site plan of the proposed facility must be submitted to and approved by the zoning administrator. As part of the site plan submittal, detailed information regarding the proposed facility's location, latitude and longitude, and service area must be included.
 2. A fence at least six feet in height shall be erected completely around the area containing the facility, any shed, shelter, platform or equipment appurtenant to the facility. Security lighting shall be provided within the fenced enclosure. A buffer of evergreen screening (trees or hedging) shall be provided around the entire fenced area.
 3. All newly installed utilities leading to the site shall be placed underground.
 4. The facility shall not interfere with the radio, television or communications reception of nearby property owners in residence at the time of construction. The owner shall successfully eliminate any such interference within 30 calendar days of learning that such interference exists.
 5. The facility and all auxiliary structures shall meet all safety requirements and all applicable building codes.
 6. Certified evidence of the facility's compliance with all National Environmental Protection Act (NEPA), Federal Aviation Administration (FAA) and Federal Communication Commission (FCC) requirements shall be submitted with the building permit application.
 7. Certified evidence that the facility will not exceed applicable health standards established by the federal government and/or American National Standards Institute or shall be submitted with the building permit application.
 8. Except as may be required by law, no advertising of any type may be placed on the facility, auxiliary structures, or the host structure.
 9. The facility and all mounting devices and auxiliary structures shall be submitted at time of application.
 10. The facility and auxiliary structures shall be dismantled and the property restored to its original condition within 90 days if the facility ceases to be used for wireless telecommunications purposes for a period exceeding six consecutive months. Surety or an irrevocable line of credit in an amount sufficient to cover the costs of dismantling the facility, auxiliary structures, and site restoration plus reasonable administrative costs shall be provided to the county prior to the

issuance of the building permit. Such surety or line of credit shall remain in full force throughout the life and use of the facility and may only be released by the county. The surety or line of credit shall be in a form approved by the county attorney.

11. The county shall be notified no later than March 1 of each year of the name, address, and telephone number(s) for the owner and each co-located lessee on the structure and the registered agent for each.

12. Each telecommunications service provider who locates or otherwise places wireless communications equipment on the facility, auxiliary structures, or the host structure, or on the property shall obtain a building permit from the county prior to attaching the equipment to the structure or erecting any accessory structures within or adjacent to the existing structure.

c. A conditional use permit may be issued by the zoning administrator without public hearing and without planning commission review and approval of the Board of Supervisors provided that all of the conditions of the Code of New Kent are met. Notwithstanding the fact that all conditions may be met, when in the sound discretion of the zoning administrator additional conditions are required for the public health, safety, and welfare and for good zoning practice the applicant will be required to seek approval for the facility pursuant to either subsection (16) or subsection (17).

d. If the zoning administrator refuses to issue a permit pursuant to this section, the applicant has the right to proceed to seek approval under subsection (16) or subsection (17).

(15) *Single-family detached dwellings converted to two-family dwellings.*

a. The original dwelling unit shall be required to have not less than 1,300 square feet of livable floor area exclusive of attic, cellars, garages, porches or sheds and must not be in such a state of disrepair, obsolescence or dilapidation as to be in its existing state dangerous or injurious to health, safety or general welfare or the preservation of the value of adjacent properties.

b. Prior to the issuance of the conditional use permit by the zoning administrator, the applicant shall have secured all necessary health approvals related to the provision of water and the disposal of sewage.

c. Each separate dwelling unit shall be provided with a private bathroom and kitchen.

d. The minimum habitable floor area for each separate unit shall be as follows:

1. Efficiency or studio: 450 square feet;
2. One bedroom unit: 650 square feet;
3. Two bedroom unit: 750 square feet;
4. An additional 150 square feet shall be provided for each additional bedroom.

e. Each dwelling unit shall be independent with safe means of ingress and egress, provided also that no change in the exterior of the original dwelling shall be permitted to afford such ingress and egress except for a small porch not exceeding five feet in width.

f. No dwelling unit shall be permitted above the second floor or in the cellar of any building. All dwelling units located in the basement of any building shall

meet all county codes concerning the use of windows and doors for ingress and egress.

- g. The ground area of the original dwelling shall not be enlarged more than 25 percent of the original ground area, and the number of stories shall not be increased for the purpose of or in connection with the conversion of such structure into a second dwelling unit, except areas between projections of parts of the original dwelling may be incorporated into the building where reasonably necessary for the execution of a proper and otherwise approved plan for the conversion of the dwelling into two or more dwelling units.
- h. There shall be no outside alterations or changes which will in any way modify or change the single-family character or appearance of the original structure.
- i. A minimum of two off-street parking spaces shall be provided.
- j. One dwelling unit of a converted single-family dwelling must always be occupied by the owner of record.
- k. All rooms within a dwelling unit shall be accessible within the limits of the dwelling unit.

(16) *Sporting clays.*

- a. The conditional use permit may, at the discretion of the board of supervisors, return to the planning commission for review and approval.
- b. A site plan per article XXII of this chapter, site plans, will be required. The site plan may, at the discretion of the board of supervisors, return to the planning commission for review and approval.
- c. All shooting stations will be designed so they are away from existing residential uses and firearms will be discharged in a direction away from these existing uses with established safety standards.
- d. Noise abatement barriers equal to the NRA Standards and Guidelines set forth in the range manual shall be utilized and shall appear on the site plan.
- e. Lead shot size is limited to a maximum of 7 1/2, and shotguns no larger than 12 gauge shall be allowed. When wetlands areas are involved steel shot shall be used. If steel shot is of required usage, shot no larger than number six shall be allowed. If the state approves an alternative to steel shot, it shall be allowed.
- f. Hand traps may be used, provided that throwing positions are designed to protect the trap operator.
- g. Clay targets must be thrown only from designated positions and only in directions or elevations required by design specifications.
- h. A shotfall safety area of 300 yards in the direction of fire will be required at each station. Each field layout will require a different shotfall design.
- i. Hours of operation shall be Monday through Saturday from sunrise to sunset or as approved by the board of supervisors. Sunday hours shall be set on a case-by-case basis by the board of supervisors.
- j. A written list of range rules shall be created and filed in the department of planning.
- k. A safety plan shall be created for the sporting clays' operation, and it shall be filed in the department of planning.
- l. The range rules shall be posted in a conspicuous place and these rules shall be reviewed by any user of the range.

- m. Existing religious facilities shall be taken into consideration during site plan review.
 - n. A minimum of 100 acres shall be required for sporting clays.
- (17) *Steeplechase.*
- a. A site plan per article XXII of this chapter, site plans, will be required.
 - b. Traffic plan approved by sheriff's department and department of public safety.
 - c. Health department approval of regulations governing food service, toilet facilities, sewage disposal facilities and water supply facilities.
 - d. Fire protection and medical facilities plan approval by the department of public safety and sheriff's department.
 - e. Steeplechase tracks to be located on no less than 200 acres.
 - f. Parking plan approved by the planning department, the department of public safety and sheriff's department.
 - g. Sheriff's department and department of public safety shall be notified 90 days in advance of the event.
 - h. Health department notification 90 days prior to the event.
 - i. All signs of a temporary nature shall be removed within 48 hours after the event.
 - j. No billboards, grandstands or lighting on the track.
 - k. Operator to submit alcoholic beverage control permit to the county 90 days in advance of event if alcohol is to be served.
 - l. Other conditions may be added to the conditional use permit, if they are deemed to be appropriate by the board of supervisors.
- (18) *Temporary storage of a mobile home.*
- a. The permit shall be issued for the storage of a mobile home only, and no such mobile home shall be used for any purpose and specifically not as living or sleeping quarters.
 - b. The mobile home shall not be connected to any utilities nor shall water or electricity be furnished to the mobile home from any source.
 - c. Minimum lot size for storage of a mobile home shall be five acres.
 - d. The mobile home may be stored on the same parcel with any other principal permitted use but must be located in the rear yard area.
 - e. The permit shall be temporary and shall be issued for a period not to exceed 90 days.
 - f. The applicant must furnish to the zoning administrator a copy of the restrictive covenants, if any, applicable to the lot on which the mobile home will be located. No conditional use permit shall be issued which is in violation of such restrictive covenants. If there are no restrictive covenants applicable to the lot, the applicant shall so certify in writing.
 - g. A drawing showing the proposed location of the mobile home, including distances from all property lines and the existing septic tank and drainfield, shall be submitted by the applicant and must be approved by the zoning administrator. The zoning administrator may require changes in the drawing which would make the location of the mobile home more harmonious with the neighborhood.

h. The zoning administrator shall require the applicant to post a \$500.00 bond, with surety, conditioned upon removal of the mobile home at the termination of the prescribed time period. This bond shall not be released until the mobile home has been removed from the property. A violation of any condition of the conditional use permit or failure to remove the mobile home within the prescribed time period shall result in the forfeiture of the bond to the county, and the proceeds shall be used to pay any and all costs incurred by the county to remedy the violation including, but not limited to, the costs of removal and storage.

(19) *The keeping or raising of horses.*

- a. The keeping of horses shall be solely for the recreational purposes of the family living on the premises. The commercial boarding of horses which are not owned by the resident family shall be prohibited.
- b. The minimum area of any parcel used for the keeping or raising of horses shall be three acres for the first horse. One additional horse may be kept or raised for each additional two acres.
- c. A stable must be provided for the housing of all horses. Any stable or structure used for the keeping of such animals shall be located not less than 75 feet from any property line nor less than 20 feet from the principal structure on the property.
- d. All pastures, runs, or similar areas for the keeping or raising of horses shall be surrounded by fencing which does not block site triangle easements at intersections.
- e. Horses shall not be stabled, pastured, or otherwise kept within 1,000 feet of a drinking water reservoir unless it can be proven to the satisfaction of the health department and the zoning administrator that any runoff will be away from the reservoir and that public health will not be negatively impacted. In such cases, a 200-foot buffer must be maintained. This shall not be interpreted to preclude the riding of horses or establishment of bridle trails closer than the specified distance provided that the health department and owner of the reservoir approve.
- f. Manure or animal wastes shall not be stored, stockpiled, or permitted to accumulate within a designated Chesapeake Bay Resource Protection Area.
- g. Manure or animal wastes shall not be stored, stockpiled, or permitted to accumulate in any manner that diminishes the rights of adjacent property owners to enjoy reasonable use of their property.
- h. The keeping of horses shall not be excluded by the restrictive covenants and deed restrictions applicable to the property.

(20) *Turkey shoots.*

- a. Only turkey shoots conducted as fund raisers by nonprofit organizations will be permitted.
- b. The parcel on which the shoot is conducted shall have a minimum width of 300 feet and a minimum depth of 600 feet.
- c. The shoot shall be positioned so that the line of fire is directly away from any public or private road or right-of-way and shall not be directed towards any residence or any other structure.

- d. No firearms shall be discharged within 200 feet of any public or private street or right-of-way.
 - e. No firearms shall be discharged within 500 feet of any unrelated commercial building or residential dwelling.
 - f. The hours of operation shall be restricted to the hours between 9:00 a.m. and 10:00 p.m., except on Friday and Saturday when the operation until 11:00 p.m. is permissible.
 - g. The discharge of firearms shall be limited to: shotguns and muzzle loading shotguns. Any discharge of a rifle of caliber greater than 0.22 is prohibited for these events.
 - h. Conditional use permits will be subject to annual review by the board of supervisors or their agent to ensure compliance with the ordinance.
- (21) *Zoological gardens.*
- a. The garden is to be fenced with a heavy duty, chainlink, perimeter fencing ten feet high.
 - b. Individual cages will be prepared for each species of animal.
 - c. The facility will be operated in accordance with federal, state and SPCA guidelines.
 - d. Paved state-maintained roads will be provided for the site and all interior roads dedicated for purpose of vehicular access will be built to standards for state-maintained paved roads.
 - e. All health department requirements for animal facilities and public facilities must be met.
 - f. Site plan must be approved by the planning commission and board of supervisors.
 - g. The garden may not be closer than 1,000 feet to any adjacent residence.
 - h. The garden may not be closer than one mile from any residentially zoned property.
 - i. The garden may not be closer than two miles from any school or hospital.
- (Code 1999, § 9-245; Ord. No. O-14-98, 4-12-1999; Ord. No. O-3-02, 1-14-2002; Ord. No. O-15-02R, 5-23-2002; Ord. No. O-01-03(R2), 3-10-2003; Ord. No. O-33-05R, 12-19-2005; Ord. No. O-18-07, 7-23-07)
Secs. 98-746--98-780. Reserved.

ARTICLE XXVII. LANDSCAPING

Sec. 98-1060. Application of landscaping requirements.

- (a) The general landscaping requirements of this chapter apply to all development for which a site plan is required.
- (b) All site plans must depict those landscape materials that are to be protected and preserved on site together with those landscape materials that will be installed. Such plans shall contain sufficient information to determine compliance with the general landscape requirements and standards.
- (c) The application of the general performance standards located elsewhere in this chapter may result in additional requirements and standards having an effect

on the site. Specific additional requirements and standards adopted as part of a planned unit development or conditional rezoning or conditional use permit may also require supplemental landscaping.

(d) Additions or redevelopment proposed for already developed sites need only comply with the provisions herein to the extent of the addition or redevelopment. Provided however, that if the terms of a planned unit development or conditional rezoning or conditional use permit apply to the site, then those terms must be met.

(e) The zoning administrator may approve modifications of the landscaping requirements contained herein for good cause shown. All modification requests shall be in writing, clearly explaining the reasons therefore.

(Ord. No. O-18-06, 2-5-2007)

Sec. 98-1061. Landscaping preservation requirements.

(a) *Purpose and intent.* In order to preserve the rural landscape of New Kent County, no one shall disturb land more than the minimum necessary to allow the economically beneficial use of land.

(b) *Landscape preservation standards.* The owner or applicant of a development site shall demonstrate the necessity of any land clearing and landscape disrupting activities to the extent reflected in the application.

(1) In all cases, the preservation of naturally existing, healthy, landscape plants (especially trees) and the naturally occurring topography in which those plants are living is preferred to planting new or similar landscape materials after development.

(2) The county recommends the tree protection practices set out in the Virginia Erosion and Sediment Control Handbook, Third Edition, 1992, as amended, when trees are to be protected and preserved.

(3) In no case shall any viable heritage, memorial, specimen or significant tree (see definitions in section 98-2) be removed from any buffer area or landscape preservation easement except to accommodate necessary entrances or utility service to the site which cannot be relocated in an appropriate manner or where such preservation would create or perpetuate demonstrable public health, safety, or welfare hazards.

(Ord. No. O-18-06, 2-5-2007)

Sec. 98-1062. Buffer requirements.

(a) *Purpose and intent.* New Kent County requires buffers to help preserve the county's rural character and to promote a more harmonious development pattern. Buffers shield potentially incompatible uses and zoning districts from each other, as well as providing an appropriate rural look and feel from the roadway.

(b) *Buffer design standards.*

(1) Buffers shall be continuous except where driveways or other breaks are necessary. Owners and applicants should curve driveways, to the extent possible, to assist the transitional buffer area in obstructing the view of the site and preserving a natural appearance. Multiple breaks of the transitional buffer

area are not permitted unless required to provide efficient and safe access to the site and an internal circulation pattern on the site.

(2) Accessory structures, storage, or off-street parking or loading shall not be located within the buffer.

(3) Utility easements shall not be located within buffers except for those that cross the buffer at a right angle. If the zoning administrator determines that a certain utility location or configuration is essential, and that this essential location or configuration conflicts with this standard, the administrator will permit different standards that achieve an equivalent buffering effect.

(4) Buffers are not required along zoning lines that follow public road rights-of-way.

(c) *Transitional buffers.* Owners and applicants shall provide buffer screening between dissimilar uses and adjacent to existing uses in compliance with the three different buffer screening requirements described below:

(1) **Buffer screening type A** shall consist of a minimum 35-foot-wide visual buffer that shall average a rate of one large evergreen tree and one medium evergreen tree for every 15 linear feet.

(2) **Buffer screening type B** shall consist of a minimum 50-foot-wide visual buffer that shall average one large evergreen tree plus one medium evergreen tree plus two small evergreen trees or shrubs for every 15 linear feet.

(3) **Buffer screening type C** shall consist of a minimum 75-foot-wide visual buffer that shall average one large evergreen tree plus two medium evergreen trees plus three small deciduous, ornamental, or evergreen trees for every 15 linear feet. Owners and applicants must establish a type C buffer between industrial or commercial development and residential properties.

(4) The zoning administrator may reduce the planting ratios proportionately for the use of larger size nursery stock and for the preservation of healthy mature trees that are protected in accordance with the provisions of this chapter. The zoning administrator may approve other modifications of the layout and design standards contained herein for good cause shown. All modification requests shall be in writing, clearly explaining the reasons therefore.

(5) Transitional buffers shall be placed on the property bearing the higher intensity use to the extent possible. However if other provisions of this chapter require that either the shared buffer or the required buffer be placed on the less intense use; or if the zoning administrator approves that alternative during site plan review; or if subdivision agent approves that alternative during subdivision approval, then that placement can occur.

(6) Transitional buffers shall be provided between dissimilar zoning districts, as depicted in the transitional buffer provision matrix below, provided however, that if the performance standards for a specific use require a greater buffer, that greater buffer shall be provided.

TABLE INSET:

Transitional Buffer Provision Matrix	
	Abutting District

District in which proposed use is located	Conservation	Agriculture	Residential	Business	Economic Opportunity	Industrial
Conservation	None	None	None	B	B	C
Agriculture	None	None	A	B	B	C
Residential	None	A	None	B	B	C
Business	B	B	B	None	A	B
Economic Opportunity	B	B	B	A	None	A
Industrial	C	C	C	B	A	None

(d) *Relationship between transitional buffer and other elements.* Transitional buffers shall relate to other required design elements as follows:

(1) *Yard requirements and setbacks.* Where a transitional buffer is required along a property line, the minimum yard and setback along said property line shall be the greater of the yard and setback required for the particular zoning district or the width of the transitional buffer.

(2) *Landscape yards.* Landscape yards may be incorporated into the transitional buffer and no additional landscaping above and beyond that required for the transitional buffer shall be necessary.

(e) *Maintenance of transitional buffers.* The property owner, and the owner's successors, shall be responsible for the maintenance of all landscaping, fencing, and screening materials that comprise the buffer required by this chapter, or as required under the terms of other development approvals, and shown on an approved landscape plan. Failure to maintain such landscaping, fencing and screening shall be deemed a violation of this chapter.

(1) All plant material and planting areas required by this chapter or other development approval shall be tended and maintained in a healthy growing condition and replaced when necessary.

(2) All fences, walls, and screening required by this chapter shall be maintained in good repair and kept free of refuse, litter, and debris.

(3) In the event that any required landscaping material within the buffer shown on the plan is subsequently replaced, the new material shall generally conform to the original approved landscape plan, or an approved amended plan, with respect to size and characteristics of the plantings.

(Ord. No. O-18-06, 2-5-2007)

Sec. 98-1063. Landscaping of development sites.

(a) No site or development plan required under the terms of this chapter shall receive final approval unless a landscaping plan has been submitted and approved.

(b) No zoning certificate or certificate of occupancy may be issued unless the following criteria are fully satisfied with regard to the approved landscape plan:

- (1) Such plan has been implemented on the site; or
- (2) If such plan cannot be implemented immediately because of seasonal conditions, the future fulfillment of the plan will be memorialized in a postponed improvement agreement between the developer and the county. This postponed improvement agreement shall be secured by a letter of credit, cash escrow, or other instrument acceptable to the zoning administrator in an amount equal to the cost of such installation plus a reasonable allowance for estimated administrative costs, inflation and potential damage to existing vegetation or improvements.

(c) All proposed new developments shall include landscape yards around the perimeter of the site and around the buildings erected on the site to facilitate adequate control and management of stormwater runoff along with non-point source pollution and to enhance the aesthetics of the project.

(d) Unless a specific application or use elsewhere in this chapter requires a different requirement or standard, all landscaping required by this chapter shall meet the following requirements and standards (all fractional calculations of planting ratios shall be rounded up to the next highest whole number):

TABLE INSET:

Landscape Yard and Planting Requirements			
Location	Yard Width (feet)	Planting Ratios 1	
		Trees	Shrubs
Front Yard	20	1 per 500 sq. ft.	1 per 500 sq. ft.
Side Yard	10	1 per 1,000 sq. ft.	1 per 1,000 sq. ft.
Rear Yard	10	0	0
Building Perimeter	10	0	1 per 100 sq. ft.
Parking Lots	N/A	2 per 10 spaces	4 per 10 spaces

TABLE INSET:

Landscape Planting Size Standards			
Plant Material	Minimum Size 2		
	Height	Caliper	Spread
Trees			
Deciduous	10 feet	2.25 inches	4 feet
Evergreen	8 feet	2.0 inches	4 feet
Flowering & Ornamental	8 feet	1.75 inches	4 feet

Shrubs			
Deciduous	N/A	N/A	24 inches
Evergreen	N/A	N/A	18 inches
Flowering & Ornamental	N/A	N/A	18 inches

(e) For purposes of calculating planting requirements based on square footage, use only the open space within landscape yards. The area contained in necessary entrances, pedestrian facilities, and similar impervious areas required for site development shall be excluded. Required plantings may be arranged within specified yards in any manner desired and the growth habits of landscape materials installed shall be considered in such decisions.

(f) In designing the site landscaping the principles of Crime Prevention Through Environmental Design (CPTED) shall be considered. The goal is to provide as much visibility to and from the site as possible and avoid creating spaces that provide opportunities for concealment through the use of the following standards:

(1) *Natural surveillance*. Provide natural surveillance throughout the site, especially to parking areas, buildings, building entrances, walkways, etc. Natural surveillance is the placement of physical features, activities and people in such a way as to maximize visibility.

(2) *Natural access control*. Provide natural access control throughout the site. Natural access control is the physical guidance of people coming and going from a space by the judicious placement of entrances, exits, fencing, landscaping and lighting. The goal is to guide people where you want them to go and how you want them to get there.

(3) *Territorial reinforcement*. Territorial reinforcement is the use of physical attributes that express ownership, such as fences, pavement treatments, art, signage and landscaping. The goal is to promote ownership and pride in where you live and work.

(4) *Maintenance*. Allows for the continued use of space for its intended purpose. It also serves as an additional expression of ownership.

(g) In general, the following CPTED provisions shall be utilized:

(1) Trees located around buildings, walkways and parking areas should have a natural growth habit that is a tree-form, non-pyramidal shape tree or the canopy of the trees shall be kept at least four feet from the ground as they mature.

(2) Shrubs located along rights-of-way should have a natural growth habit of no more than two feet in height.

(3) Fencing shall be decorative in style, strong, while offering visibility to and from the site. Fencing shall be tied into any existing fence lines so that two separate fences do not create an "alleyway effect".

(h) Landscape plant material proposed for installation on the site shall be certified as having been grown in conformance with the American Standard for Nursery Stock (American Nursery and Landscape Association, 1996 or as may be amended from time to time) or the nursery providing the stock has been inspected by the Virginia Department of Agriculture and Consumer Services, and

therefore guaranteed for one year from the date of planting. Healthy landscaping material already growing may be transplanted, provided a performance agreement and surety covering the cost of replanting with nursery stock is provided and maintained through one full growing season.

(i) The landscape material installed on site shall consist of native species as listed by the Virginia Department of Conservation and Recreation (DCR) unless a certified landscape architect or horticulturalist specifies alternative species that have a rated hardiness and growth habit appropriate for the intended location in which case those alternative species may be used. Those species denoted as either "highly invasive" or "moderately invasive" in the DCR publication entitled Invasive Alien Plant Species of Virginia (September 2003 or as it may be amended from time to time) shall not be installed or transplanted on any site.

(j) Impervious surface area should be limited to the minimum amount necessary to accommodate the desired development and ensure appropriate levels of parking, traffic safety, and on-site circulation.

(k) The zoning administrator may reduce the planting ratios proportionately for the use of larger size nursery stock and for the preservation of healthy mature trees that are protected in accordance with the provisions of this chapter. The zoning administrator may approve other modifications of the layout and design standards contained herein for good cause shown. All modification requests shall be in writing, clearly explaining the reasons therefore.

(Ord. No. O-18-06, 2-5-2007)

Sec. 98-1064. Maintenance of landscaping.

The property owner, and the owner's successors, shall be responsible for the maintenance of all landscaping, fencing, and screening materials required by this chapter, or as required under the terms of other development approvals, and shown on an approved landscape plan. Failure to maintain such landscaping, fencing and screening shall be deemed a violation of this chapter.

(1) All plant material and planting areas required by this chapter or other development approval shall be tended and maintained in a healthy growing condition and replaced when necessary.

(2) All fences, walls, and screening required by this chapter shall be maintained in good repair and kept free of refuse, litter, and debris.

(3) In the event that any required landscaping material shown on the plan is subsequently replaced, the new material shall generally conform to the original approved landscape plan, or an approved amended plan, with respect to size and characteristics of the plantings. In applying this provision, the degree and manner in which the existing landscaping on the site has grown and matured shall be considered, specifically the increased space required by larger, mature, existing landscaping.

Sec. 98-1065. Definitions.

The following definitions are adopted for terms used in this article:

Shrub. A relatively low-growing woody plant typified by having several permanent stems instead of a single trunk. For purposes of this chapter, shrubs shall be further defined as follows:

- (1) *Deciduous shrub.* Any shrub which sheds its foliage during a particular season.
- (2) *Evergreen shrub.* Any shrub which retains its foliage throughout the entire year.

Tree. A woody perennial plant generally with one main stem or trunk, but including multiple stemmed plants, which develops many branches, generally at some height above the ground. For the purposes of this chapter, trees shall be further defined as follows:

- (1) *Deciduous tree.* Shade or flowering/ornamental tree which sheds its foliage during a particular season.
 - (2) *Evergreen (or coniferous) tree.* Any tree which retains its green foliage year round.
 - (3) *Heritage tree.* Any tree which has been designated by ordinance of the board as having notable historic or cultural significance to any site or which has been so designated in accordance with an ordinance adopted pursuant to Code of Virginia, § 10.1-1127.1.
 - (4) *Large buffer tree.* Any tree having an expected height upon maturity of at least 40 feet.
 - (5) *Medium buffer tree.* Any tree having an expected height upon maturity of between 20 feet and 40 feet.
 - (6) *Memorial tree.* Any tree which has been designated by ordinance of the board to be a special commemorating memorial.
 - (7) *Significant tree.* Any deciduous or coniferous tree with a minimum diameter (caliper) of 24 inches when measured four and one-half feet above ground level.
 - (8) *Small buffer tree.* Any tree having an expected height at maturity of between ten feet and 20 feet.
 - (9) *Specimen tree.* Any tree which has been designated by ordinance of the board to be notable by virtue of its outstanding size and quality for its particular species.
- (Ord. No. O-18-06, 2-5-2007)"

BE IT FURTHER RESOLVED this the 12th day of January, 2009 by the New Kent County Board of Supervisors that the New Kent County zoning map be amended to rezone the following parcels as follows:

PROPERTIES TO BE REZONED TO A-1, AGRICULTURE

23 15	CEDAR HILL-NEW KENT LC	30 6 D	MARSTON THOMAS L & VICKY R
47 3 8	MOLNAR STEVEN E & WANDA R	23 41 D	STEPHENS GRATTON E JR & GAY G

PROPERTIES TO BE REZONED TO BUSINESS

19 40	HUGHES MARION P TRUST	30 1 D	AHRN INC
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19 41	BAILEY LEONARD R & SANDRA TRSTEE
19 42	ISGETT W O SR & SHIRLEY A
19 42 A	ISGETT W O SR & SHIRLEY A
19 42 B	BAYLANDS FEDERAL CREDIT UNION
19 43	ISGETT W O & SHIRLEY A
19 43 A	ISGETT W O & SHIRLEY A
19 43 B	ISGETT W O & SHIRLEY A
19 43 C	ISGETT W O & SHIRLEY A
19 43 E	DANIEL JOHN F REVOC LIV TRUST
19 44 A	ESSEX PROPERTIES INC
19 44 B	EVELYN C H PILING CO INC
19 44 C	SHELTON'S CARE INC
19 44 D	TIDNECK CORPORATION
19 44 E	GORPT LLC
19 46 A	BRIDGEWATER CROSSING INC
19 46 B	SALMON MICHAEL D
19 46 C	SMITHDEAL JOHN S, ROBERT C,
19 46 D	SALMON MICHAEL D
19 46 F	SMITHDEAL JOHN S, ROBERT C
19 51	DANIEL MARK S & JOANNE F
19 61 C	QUINTON PROPERTY ASSOCIATES
19 62 A	QUINTON PROPERTY ASSOCIATES
19 63	STITZER ALVIN O & STACY C
19 63 A	STITZER ALVIN O & STACY C
19 65 B	CHARLES CITY FOREST PROD INC
19 65 C	CHARLES CITY FOREST PROD INC
19 66	NEW KENT EQUITIES INC
19 66 A	NEW KENT CORPORATION
19 66 B	REBKEE PARTNERS NEW KENT LLC
19 66 C	SOUTHSIDE BANK
19 66 D	COUNTY OF NEW KENT
19 67	HORSLEY DAVID L SR
19 68	HORSLEY DAVID L
19 66 E	REBKEE PARTNERS BOTTOMS BRIDGE
19 11 1	BRIDGEWATER CROSSING INC
19 11 2	BRIDGEWATER CROSSING INC
19 11 3	BRIDGEWATER CROSSING INC
19 11 4	BRIDGEWATER CROSSING INC
19 11 5	BRIDGEWATER CROSSING INC

30 6 O	HITCHCOCK MARY LONG
30 7	LONG ELIZABETH K
30 7 A	HITCHCOCK MARY LONG
30 6 1	BENTON DONALD L
30 6 2	BENTON DONALD L
30 6 3	BENTON DONALD L
30 6 4	BENTON DONALD L
30 6 5	KIRKLAND JAMES D & PATRICIA W
30 6 6	WORTH PATRICIA L
30A 3 580	WOODHAVEN PROPERTY OWNERS ASSN INC
30A 3 580 A	WOODHAVEN PROPERTY OWNERS ASSN INC
30A 3 581	WOODHAVEN PROPERTY OWNERS ASSOCIATE
30A 3 582	WOODHAVEN PROPERTY OWNERS ASSN INC
41 13	LAYFIELD PAUL R JR
41 13 A	MOUNTCASTLE INDUSTRIAL PARK LLC
41 13 B	HORSLEY DAVID L SR
41 14	PROVIDENCE FORGE FIRE DEPT
41 21 A	MANGRUM ANTHONY B
41 22	HARTFIELD ASSOC LLC
41 23	HARTFIELD ASSOC LLC
41 24	WILLIAMS DOROTHY EST
41 25	VOSNICK JOHN T JR & JANE B
41 3	ROSE CARROLL L
41 34	MARSHBURN RONALD J
41A1 1 1	RICHARDSON W W III
41A1 1 2	RICHARDSON W W III
41A1 1 3	RICHARDSON W W III
41A1 1 4	RICHARDSON W W III
41A1 2 1	JONES JOHN C JR & JILL R
41A1 2 12 A	BON SECOURS-STUART CIRCLE
41A1 2 12 B	PROVIDENCE FORGE SHOPPING
41A1 2 12 D	NEWMAN WILLIAM C III & SUE
41A1 2 12 E	BENNETT WILLIAM J & CORYDON B
41A1 2 12 G	THRIFT INSURANCE CORP
41A1 2 12 K	PROVIDENCE FORGE SHOPPING
41A1 2 12 L	CITIZENS & FARMERS BANK
41A1 2 12 N	THRIFT INSURANCE CORP
41A1 2 12 O	PIN-THOM INC
41A1 2 12 U	PIN-THOM INC

19 11 A	BRIDGEWATER CROSSING INC
19 11 B	BRIDGEWATER CROSSING INC
19 2 1	SHELTON'S CARE INC
19 2 2	SHELTON'S CARE INC
19 2 3	SHELTON'S CARE INC
19 2 4	SHELTON'S CARE INC
19 3 A	JOLENE LLC
19 3 B	JOLENE LLC
19 3 G	JOLENE LLC
19 4 1	HORSLEY DAVID L
19 4 2	HORSLEY DAVID L SR
19 4 3	HORSLEY DAVID L SR
19 4 4	HORSLEY DAVID L SR
19 9 1	EAST COAST PROPERTIES LLC
19 9 2	ALLIED FINANCE COMPANY
19 9 3	ALLIED FINANCE CO LTD PTNSHP III
19B3 4 A	SMITHDEAL JOHN S, ROBERT C
20 15 A	GIBRALL PATRICK M & DEBORAH
20 15 E	GIBRALL PATRICK M & DEBORAH P
20 74 B	ENGELKING LESLIE J
20 87	TAYLOR JULIA C
20 87 A	JORDAN MORVITZ ST CLAIR
20 9 C	TERRY JAMES & CONNIE
21 12	CHOICE ONE LLC
21 13	TIBBS VICKI L
21 13 A	CHOICE ONE LLC
21 13 B	CHOICE ONE LLC
21 13 C	QUINTON VOL FIRE & EMERGENCY
21 14 A	BAKER ERIC S
21 5	MINOR JONATHAN W & RASHAUN
21 5 1	ALVIS CHESTER A
21 6 8 B	HORSLEY DAVID L SR
23 15	CEDAR HILL-NEW KENT LC
21A 1 1	MURPHY CORY M
24 10 A	NEW KENT COURTHOUSE VILLAGE
24 15 B	NEW KENT COURTHOUSE VILLAGE
24 4 B 1	NEW KENT COURTHOUSE VILLAGE LLC
24 4 B 2	NEW KENT COURTHOUSE VILLAGE LLC
24 4 B 3	COUNTY OF NEW KENT

41A1 2 12 V	YLONEN CHARLES S
41A1 2 12 W	PIN-THOM INC
41A1 2 12A 1	BON SECOURS-STUART CIRCLE
41A1 2 12E 1	CITIZENS & FARMERS BANK
41A1 2 14	LAYFIELD PAUL R JR
41A1 2 15	MIKABLERE LLC & RINGLEY REBECCA
41A1 2 16	MIKABLERE LLC & RINGLEY REBECCA
41A1 2 17	HILL DOUGLAS W
41A1 2 18 A	ADAMS DAVID L
41A1 2 18 B	KITASTOY LLC
41A1 2 27	OLDE FORGE INC
41A1 2 28	OLDE FORGE INC
41A1 2 28 A	OLD FORGE INC
41A1 2 30	TAYLOR & HARRISON INC
41A1 2 35	CHARLES CITY-NEW KENT HERITAGE
41A1 2 36	HORSLEY DAVID L SR
41A1 2 37	OLD FORGE HALL LLC
41A1 2 38	WALLACE SUMMERFIELD JR
41A1 2 5	THE WHITE HOUSE LLC
41A1 2 5 A	THE WHITE HOUSE LLC
41A2 2 18	CHARLES CITY JAMES CITY & NEW KENT
41A2 2 19	BAILEY WILLIAM EST
41A2 2 20	LUELLEN FAYE M
41A2 2 20 A	HORVATH GABRIELLA
41A2 2 21	FRANCISCO JAMES C JR
41A2 2 21 A	SHARPE DAVID L
41A2 2 21 B	FRANCISCO JAMES C JR
41A2 2 22	JONES NANCY M
41A2 2 22 A	NEWMAR INC
41A2 2 23	HORSLEY DAVID L SR
41A2 2 23 A	POCAHONTAS TRAIL, LLC
41A2 2 24	HORSLEY DAVID L SR
41A2 2 25	HORSLEY DAVID L SR
41A2 2 26	TOLLEY JOHN D & LAURIE L
41A2 2 26 A	TOLLEY JOHN D & LAURIE L
41A2 2 27	FISHER THOMAS E
41A2 2 27 A	FISHER THOMAS E
41A2 2 28	MADDOX MARY LOU
41A2 2 29	CALLAWAY RUSSELL D

28 18	WHITMORE CHEV OLDS PONT CO
28 18 A	AYUBI HOMAYUNSHAH & PARWIN
28 21 A	TJW ENTERPRISES LLC
28 23	SCZUROSKI PETER L SR & WENDY M
28 24	QUINN WILLIAM A & DEBRA K
28 24 A	MEDLIN REAL ESTATE LLC COLONIAL PRODUCTION CREDIT ASSOC
28 25	
28A1 1 5	WHITMORE CHEV OLDS PONT CO
28A1 2 1	BRITT BOYD B
28A1 2 10	CHETAN HOSPITALITY LLC
28A1 2 10 A	CHETAN HOSPITALITY LLC
28A1 2 12 A	CHETAN HOSPITALITY LLC
28A1 2 13	CHETAN HOSPITALITY LLC
28A1 2 15 A	CHETAN HOSPITALITY LLC
28A1 3 1	DANIEL RHETTA M
28A1 3 10	VERLANDER ROBERT L & ALIDIA W
28A1 3 101	ALLEY ROBERT G INC
28A1 3 109	SIEFRING JOSEPH A
28A1 3 11	COXCOM INC
28A1 3 5	JOHNSON DR U H
28A1 3 5 A	JOHNSON HENRY B EST
28A1 3 7	JOHNSON DR U H
28A1 3 9	VERLANDER ROBERT L & ALIDIA W
29 2 A	BRIDGEWATER CROSSING INC
29 2 C	NEW KENT ANIMAL PROPERTIES LLC NEW KENT ANIMAL PROPERTIES2 LLC
29 1 A A	
29 1 A C	CHARTIER DENNIS C & JANET P
30 1 A	DUNCAN GEORGE C & ALICE B
30 1 B	LIPSCOMB W KENDALL JR
30 1 C	HORSLEY DAVID L SR

41A2 2 30	SHANNON & ASSOCIATES LP-11
41A2 2 31	SHANNON & ASSOCIATES LP-11
42 6 B	A & M ENTERPRISES LLC
42 8 C	GAMMON WILLIAM H & JANETTE W
43 61	PATEL M S SUPPLIERS INC
43 62	PATEL M S SUPPLIERS INC
43 63	PATEL M S SUPPLIERS INC
44 44 C	CREATURES ALL CORPORATION
44 68	J & R ENTERPRISES
45 45	K & V INC
45 52	WARE W WALKER IV
45 53 C	PETKE TERESA S
45 6 E	HUBBARD J A III & RUTH D
45 61 E	SMITH BERNARD T III
45 61 K	MID ATLANTIC POSTAL
45 62	MINICK RONALD A & ROYD M
45 63	PETKE TERESA STEWART
45 65	MARTIN MALCOLM F & SUE ANNE
45 65 A	TIMBERLAKE RICHARD H & ELISE W
45 66	BULLOCK JOSEPH S & BETTY P
45 67	BULLOCK JOSEPH S & BETTY P
46 28	WALKER INEZ C
46 29	WALKER INEZ C
19 52	DAVIS J MILTON EST
19 54 A	DANFIELD INC
41 36	MOUNTCASTLE HARRY F
46 29 A	UNITED STATES POSTAL SERVICE
46 4 A	LENOIR ANDREW L JR & ELIZ T

PROPERTIES TO BE REZONED TO ECONOMIC OPPORTUNITY

19 37	WILLIAMS C L EST #34225
19 37 A	HEVERIN ALLISON S TRUSTEE
19 37 B	CITIZENS & FARMERS BANK
19 37 C	WORLEY ARTHUR C
19 37 D	RMS PROPERTIES INC
19 38	WILLIAMS C L EST #34225
19 38 A	DUDAS LINDA R ETAL
19 38 B	DELAWARE REALTY LLC
19 44	WILLIAMS C L EST

33 1 B	SHANNON & ASSOCIATES LP-11
33 27	SUTHANTHIRAN KRISHAM
33 28	SUTHANTHIRAN KRISHAM
33 3	NEW KENT FARMS LLC
33 5	MCCREERY FRANK D JR
34 4 1	STOLZ OTTO G ETAL
34 4 10	STOLZ OTTO G ETAL
34 4 11	STOLZ OTTO G ETAL
34 4 12	STOLZ OTTO G ETAL

19 62	BROWN JAMES J
19 62 B	JOHNSON ANITA B
19 65 A	M G VISIONS LLC
20 15 D	BROCKWELL JANET D
20 69 B	BENNETT WILLIAM J & KAREN A
20 69 C	GLASS WILLIE H & SHIRLEY D
20 70 A	HORSLEY DAVID L SR
21 86	COUNTY OF NEW KENT
21 87	THEATRE SQUARE LC
21 88	THEATRE SQUARE LC
21 88 B	HORSLEY TREOLO HOLDINGS LLC
21 89	HEATH BEVERLY L SR & SHERRY
21 91 A	THEATRE SQUARE LC
22 5 A	SPF INVESTMENTS LLC
22 6	NEW KENT FARMS LLC
22 6 A	SPF INVESTMENTS LLC
22 8	NEW KENT FARMS LLC
23 16	BAKER ERIC S
23 16 B	COX COMMUNICATIONS
23 28	SUTHANTHIRAN KRISHAM
23 28	SUTHANTHIRAN KRISHAM
23 28 A	LAYFIELD T GAYLON III ETAL
23 28 B	LAYFIELD T GAYLON III ETAL
23 28 C	COUNTY OF NEW KENT
23 70	HARRISON GAYLA S
23 70 A	HARRISON E E JR INC
23 70 B	HARRISON E E JR INC
26 98	MILLS ROBERT B & ELIZABETH H
26 105 D	MILLS ROBERT B & ELIZABETH H
27 11	BEATTIE CHARTERS LC
27 13	KINNEY JONATHAN C TRUSTEE
27 14	KINNEY JONATHAN C TRUSTEE
27 15 A	MOSKALSKI KENNETH L & SHARON G
27 15 B	MOSKALSKI KENNETH L & SHARON G
27 16	BRITT JOHN B
27 16 A	BRITT JOHN B
27 16 B	BRITT JOHN B
28 27 A	DAVIS CATHERINE T & CLYDE C
28 43	DAVIS CLYDE C ETAL
31 2	HORSLEY DAVID L SR
31 2 B	ARROW DYNAMIC INC

34 4 13	STOLZ OTTO G ETAL
34 4 2	STOLZ OTTO G ETAL
34 4 3	STOLZ OTTO G ETAL
34 4 4	STOLZ OTTO G ETAL
34 4 5	STOLZ OTTO G ETAL
34 4 6	STOLZ OTTO G ETAL
34 4 7	STOLZ OTTO G ETAL
34 4 8	STOLZ OTTO G ETAL
34 4 9	STOLZ OTTO G ETAL
35 2 13	BURRELL CHARLES K
36 2	ACE HOUSE MOVERS INC
36 2 A	VIRGINIA DEPT OF HIGHWAYS
36 37	HARWOOD SUSAN O
36 39	RENALDS NANCY TAYLOR
36 4	TARJAN GABOR &
36 4 A	DOSWELL VENTURES LLC
36 4 B	DOSWELL VENTURES LLC
36 4 C	DOSWELL VENTURES LLC
36 4 D	KINNEY JONATHAN C TRUSTEE
36 40	RENALDS NANCY TAYLOR
36 40 A	SICKAL RAY B & BRENDA G
36 5 A	MEADOW PETROLEUM INC
36 6	BURRELL LEWIS C ETALS
36 7 A	CITY OF NEWPORT NEWS
36 2D	KINNEY JONATHAN C TRUSTEE
36 2 1	SMO VIRGINIA LLC
36 2 2	BOGESE DAVID R
36 2 W1	BOGESE DAVID R
36 2 W2	BOGESE DAVID R
37 1	SIRLES WILLIAM T & HELENA H
37 2	WASHINGTON BLAND
41 11 A	LAYFIELD PAUL R JR
41 11 B	LAYFIELD T GAYLON III ETAL
41 11 C	EVANS CONSTRUCTION INC
41 17	KINNEY J C & JOHNSON R W TRUSTEES
41 19	KINNEY JONATHAN C TRUSTEE
41 19 A	KINNEY JONATHAN C TRUSTEE
41 19 B	KINNEY JONATHAN C TRUSTEE
41 21	LAYFIELD PAUL R JR
41A1 2 24	CARSWELL ARTHUR D EST

31 2 C	NEW KENT COMMERCIAL CENTER
31 2 D	ALAN BOLEN LLC
31 70	SPF INVESTMENTS LLC
31 70	SPF INVESTMENTS LLC
31 70 A	REALTY INC
31 70 B	COMMONWEALTH OF VIRGINIA
31 70 C	SCHIMPF J S LLC
31 72	PILOT CORPORATION
31 72 A	HORSLEY TREOLO HOLDINGS LLC
31 15 1	HORSLEY TREOLO HOLDINGS INC
32 3	SPF INVESTMENTS LLC
32 4	SPF INVESTMENTS LLC
32 5	SPF INVESTMENTS LLC
32 6	SPF INVESTMENTS LLC
33 1	NEW KENT FARMS LLC
33 1 A	SHANNON & ASSOCIATES LP-11

41A2 2 46	PARKER J R & CO INC
41A2 2 46 A	MILLS MATTHEW M S,BRITTANY A C
42 21	ADKINS STEPHEN R & EUNICE J
42 22	ADKINS STEPHEN R & EUNICE J
42 23	ADKINS STEPHEN R & EUNICE J
42 5 1	HEATH BEVERLY L & SHERRY
42 5 1 A	VINCENT CHRISTOPHER P JR &
42 5 2	HEATH BEVERLY L & SHERRY
45 29 B	NO BEAR CRAWLING LLC
45 29 C	NO BEAR CRAWLING LLC
45 29 D	NO BEAR CRAWLING LLC
45 32 B	NO BEAR CRAWLING LLC
45 37 B	DENTON LEET E
46 26	COMBS JOHN W & JOANN
46 27 A	HEATH BEVERLY L & SHERRY D
8 44 A	RICHARDSON JOHN H & LILLIAN L

PROPERTIES TO BE REZONED TO INDUSTRIAL

19 43 D	COOKE BROTHERS LLC
19 43 F	COOKE BROTHERS LLC
20 67 F	COUNTY OF NEW KENT
20 68 A	COUNTY OF NEW KENT
20 7 A 3	COUNTY OF NEW KENT
20 7 A 4	COUNTY OF NEW KENT
20 7 D	COUNTY OF NEW KENT
21 20 C	COUNTY OF NEW KENT
23 29 C	ALLIED PALLET COMPANY
23 29 D	NEWMAN WILLIAM C
26 106	BRYANT LINDA M & MONTY MILLS
26 87 A	PHILBATES GEORGE A JR
26 87 C	PHILBATES GEORGE A JR
26 87 D	PHILBATES GEO A JR
26 87 E	PHILBATES GEORGE A JR
27 12	RAPPAHANNOCK CONCRETE CORP
27 13 A	RAPPAHANNOCK CONCRETE CORP
27 13 B	ELTHAM ROAD WEST POINT LLC
27 13 C	VIRGINIA COLD STORAGE LLC
27 13 D	VIRGINIA BIODIESEL REFINERY LLC
27 14 A	CARUSO PROPERTIES LLC
27 14 B	COUNTY OF NEW KENT

27 6 N	KINNEY JONATHAN C TRUSTEE
27 6 N	KINNEY JONATHAN C TRUSTEE
27 6 J	WEIR CREEK LLC
27 7	KINNEY JONATHAN C TRUSTEE
27 7 A	CURTIS GROUP INC THE
27 7 B	KINNEY JONATHAN C TRUSTEE
31 12 G	WOOD EDWARD B TRUSTEE
31 13	WOOD EDWARD B TRUSTEE
31 2 A	HORSLEY DAVID L SR
31 57	ROSE JAMES A EST
36 38	CURTIS GROUP INC
40 9	KECK ANDREW G,HANNAH M,ERIC L
40 9 A	KECK ANDREW G,HANNAH M,ERIC L
40 9 B	L- WOOD INC
40 9 C	L-WOOD INC
40 9 D	VIRGINIA RECYCLING CORP
40 9 F	KECK ERIC L
41 15	LAYFIELD PAUL R JR
41 16	MOUNTCASTLE INDUSTRIAL PARK LLC
41 16 A	LAYFIELD PAUL R JR
41 16 B	MOUNTCASTLE G WARREN JR
41 20	LAYFIELD PAUL R JR
41A1 2 23	CHARLES CITY FOREST PROD INC

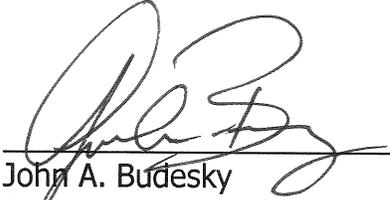
27 14 C	KINNEY JONATHAN C TRUSTEE
27 4	KINNEY JONATHAN C TRUSTEE
27 6	KINNEY JONATHAN C TRUSTEE
27 6 A	TUPPONCE ANTOINETTE
27 6 D	COUNTY OF NEW KENT
27 6 E	COUNTY OF NEW KENT
27 6 F	COUNTY OF NEW KENT
27 6 G	ST LAURENT FOREST PRODUCTS
27 6 H	BASIC CONST CO LLC
27 6 I	COUNTY OF NEW KENT
27 6 K	MEAD HOLDINGS INC
27 6 L	KINNEY JONATHAN C TRUSTEE
27 6 M	KINNEY JONATHAN C TRUSTEE

41A1 2 25	PARKER J R & CO INC
41A1 2 25 A	PARKER J R & CO INC
41A1 2 26	PARKER J R & CO INC
41A1 2 31	PARKER J R & CO INC
41A2 2 35	EVELYN C H PILING CO INC
41A2 2 36	EVELYN C H PILING CO INC
41A2 2 37	EVELYN C H PILING CO INC
41A2 2 37 A	EVELYN C H PILING CO INC
41A2 2 37 B	EVELYN C H PILING CO INC
41A2 2 38 A	EVELYN C H PILING CO INC
41A2 2 38 B	EVELYN C H PILING CO INC
41A2 2 39	MOUNTCASTLE THOMAS H
46 26 A	COMBS JOHN W & JOANN
46 27	HEATH BEVERLY L SR & SHERRY D

PROPERTIES TO BE PARTIALLY REZONED

19 52	DANFIELD INC. – Portion of property rezoned to Business Description: <i>Begins along frontage of property, 500 feet back.</i>
19 54	MILTON DAVIS, EST. – Portion of property rezoned to Business Description: <i>Begins along frontage of property, 500 feet back.</i>
23 15	CEDAR HILL NEW KENT, LC – Portion of property rezoned to Business Description: <i>Southwest Corner of property at the New Kent Highway and Old River Road Intersection. begins 500' back from New Kent Highway.</i>
24 4 B	NEW KENT COURTHOUSE VILLAGE – Portion of property rezoned to Business Description: <i>Begins along frontage of New Kent Highway, 275 feet back.</i>
28 22J	VRANIAN HENRY JR., ETALS – Portion of property rezoned to Business Description: <i>Along eastern boundary of property, starting 400 feet back, 150 feet across, and 200 feet deep in length.</i>
46 4A	LENOIR ANDREWS L & ELIZ T – Portion of property rezoned to Business Description: <i>Begins along frontage of Ropers Church Road, 400 feet back.</i>
8 44A	JOHN RICHARDSON & LILLIAN L. RICHARDSON – Portion of property rezoned to Economic Opportunity Description: <i>Begins 435 feet from Southwest corner of property and runs 300' along Swinging Bridge Road and is 200 feet in depth.</i>

This Ordinance is effective immediately.


John A. Budesky
County Administrator


W. R. Davis, Jr.
Chairman