CODE

OF THE TOWN OF

CHRISTIANSBURG, VIRGINIA

Published in 2013 by Order of the Town Council

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OFFICIALS

of the

TOWN OF

CHRISTIANSBURG, VIRGINIA

AT THE TIME OF THIS RECODIFICATION

_____

Mayor

_____

Town Council

_____

Town Manager

_____

Town Attorney

_____

Town Clerk

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PREFACE

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

Source materials used in the preparation of the Code were the 1992 Code, as supplemented through December 21, 2010, and ordinances subsequently adopted by the Town Council. The source of each section is included in the history note appearing in parentheses at the end thereof. The absence of such a note indicates that the section is new and was adopted for the first time with the adoption of the Code. By use of the comparative tables appearing in the back of this Code, the reader can locate any section of the 1992 Code, as supplemented, and any subsequent ordinance included herein.

The chapters of the Code have been conveniently arranged in alphabetical order, and the various sections within each chapter have been catchlined to facilitate usage. Notes which tie related sections of the Code together and which refer to relevant state law have been included. A table listing the state law citations and setting forth their location within the Code is included at the back of this Code.

Chapter and Section Numbering System

The chapter and section numbering system used in this Code is the same system used in many state and local government codes. Each section number consists of two parts separated by a dash. The figure before the dash refers to the chapter number, and the figure after the dash refers to the position of the section within the chapter. Thus, the second section of chapter 1 is numbered 1-2, and the first section of chapter 6 is 6-1. Under this system, each section is identified with its chapter, and at the same time new sections can be inserted in their proper place by using the decimal system for amendments. For example, if new material consisting of one section that would logically come between sections 6-1 and 6-2 is desired to be added, such new section would be numbered 6-1.5. New articles and new divisions may be included in the same way or, in the case of articles, may be placed at the end of the chapter embracing the subject, and, in the case of divisions, may be placed at the end of the article embracing the subject. The next successive number shall be assigned to the new

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article or division. New chapters may be included by using one of the reserved chapter numbers. Care should be taken that the alphabetical arrangement of chapters is maintained when including new chapters.

Page Numbering System

The page numbering system used in this Code is a prefix system. The letters to the left of the colon are an abbreviation which represents a certain portion of the volume. The number to the right of the colon represents the number of the page in that portion. In the case of a chapter of the Code, the number to the left of the colon indicates the number of the chapter. In the case of an appendix to the Code, the letter immediately to the left of the colon indicates the letter of the appendix. The following are typical parts of codes of ordinances, which may or may not appear in this Code at this time, and their corresponding prefixes:

CHARTER	CHT:1
CHARTER COMPARATIVE TABLE	CHTCT:1
CODE	CD1:1
CODE APPENDIX	CDA:1
CODE COMPARATIVE TABLES	CCT:1
STATE LAW REFERENCE TABLE	SLT:1
CHARTER INDEX	CHTi:1
CODE INDEX	CDi:1

;i Indexes

The indexes have been prepared with the greatest of care. Each particular item has been placed under several headings, some of which are couched in lay phraseology, others in legal terminology, and still others in language generally used by local government officials and employees. There are numerous cross references within the indexes themselves which stand as guideposts to direct the user to the particular item in which the user is interested.

Looseleaf Supplements

A special feature of this publication is the looseleaf system of binding and supplemental servicing of the publication. With this system, the publication will be kept up to date. Subsequent amendatory legislation will be properly

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edited, and the affected page or pages will be reprinted. These new pages will be distributed to holders of copies of the publication, with instructions for the manner of inserting the new pages and deleting the obsolete pages.

Keeping this publication up to date at all times will depend largely upon the holder of the publication. As revised pages are received, it will then become the responsibility of the holder to have the amendments inserted according to the attached instructions. It is strongly recommended by the publisher that all such amendments be inserted immediately upon receipt to avoid misplacing them and, in addition, that all deleted pages be saved and filed for historical reference purposes.

Acknowledgments

This publication was under the direct supervision of Alyce A. Whitson, Senior Code Attorney, and Ramona Connors, Editor, of the Municipal Code Corporation, Tallahassee, Florida. Credit is gratefully given to the other members of the publisher's staff for their sincere interest and able assistance throughout the project.

The publisher is most grateful to Randy Wingfield, Assistant Town Manager, Barry Helms, Town Manager, and the other members of the town staff for their cooperation and assistance during the progress of the work on this publication. It is hoped that their efforts and those of the publisher have resulted in a Code of Ordinances which will make the active law of the Town readily accessible to all citizens and which will be a valuable tool in the day-to-day administration of the Town's affairs.

Copyright

All editorial enhancements of this Code are copyrighted by Municipal Code Corporation and the Town of Christiansburg, Virginia. Editorial enhancements include, but are not limited to: organization; table of contents; section catchlines; prechapter section analyses; editor's notes; cross references; state law references; numbering system; code comparative table; state law reference table; and index. Such material may not be used or reproduced for commercial purposes without the express written consent of Municipal Code Corporation and the Town of Christiansburg, Virginia.

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PART I

CHARTER*

***Editor's note**—Printed herein is the Charter, ~~herein set out is contained in~~ an Act of the General Assembly of Virginia, Acts 1954,[1] ch. 240, ~~p. 286 et seq.,~~ approved March 13, 1954. All Acts amending the Charter are cited in the history note in parentheses following the amended section ~~affected~~. The absence of a history note indicates the section derives unchanged from the original act. Catchlines and subcatchlines have been supplied in certain instances for editorial purposes. Obvious misspellings have been corrected without notation, and words and punctuation added for clarity are indicated in brackets. A uniform system of capitalization has been used.

State constitution reference—Local government, Constitution of Virginia, art. VIII.

State law reference—Local government charters, Code of Virginia, § 15.2-200 et seq.

~~Chapter 1. Incorporation and Boundaries~~

~~Sec. 1.01. Body politic and corporate; powers under Constitution and state laws.~~

~~Sec. 1.02. Boundaries.~~

~~Chapter 2. Administration and Government~~

~~Sec. 2.01. Vesting of administration and government in Council; composition of Council; election and term of Council members; Council to be continuing body; vacancies in Council.~~

~~Sec. 2.02. Qualifications of electors.~~

~~Sec. 2.03. Municipal officers.~~

~~Sec. 2.04. Town Manager.~~

~~Sec. 2.05. Removal of officers and employees.~~

~~Sec. 2.06. Powers of Council as to salaries and duties of employees; Council may employ persons necessary to effectuate powers.~~

~~Sec. 2.07. Officers not to fill more than one office.~~

~~Sec. 2.08. Mayor and Councilmen not eligible for remunerative position.~~

~~Sec. 2.09. Mayor, Councilmen and municipal officers to be sworn in before entering upon duties.~~

~~Sec. 2.10. Certificates of oaths.~~

~~Sec. 2.11. Effect of neglect to take oath or to give bond with security.~~

~~Sec. 2.12. Delivery of Town property, books and papers to successor in office.~~

~~Sec. 2.13. Mayor--Salary.~~

~~Sec. 2.14. Same--Duties.~~

~~Sec. 2.15. Vice Mayor.~~

~~Sec. 2.16. Vacancy in Office of Mayor.~~

~~Sec. 2.17. Salaries of Councilmen.~~

~~Sec. 2.18. Meetings of Council; quorum; adoption of procedural rules.~~

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[1] Is it Acts 1954? Yes.

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~~Sec. 2.19. Special meetings of Council.~~

~~Sec. 2.20. Record of proceedings of Council.~~

~~Sec. 2.21. Duty of Clerk of Council as to record of proceedings.~~

~~Sec. 2.22. Powers of Council to compel attendance, fine members for disorderly behavior and expel members.~~

~~Sec. 2.23. Filling vacancy on Council when member disqualified or expelled.~~

~~Sec. 2.23A. Power of Council when member voluntarily absent from meetings consecutively for three months; irregular elections.~~

~~Sec. 2.24. Omitted in numbering.~~

~~Sec. 2.25. General powers of Council--Management of municipal and fiscal affairs and of Town property.~~

~~Sec. 2.26. Same--Further provisions.~~

~~Sec. 2.27. Same--As to ordinances and bylaws, taxes and licenses, appointment of officers, etc.~~

~~Sec. 2.28. Clerk of Council.~~

~~Sec. 2.29. Town Treasurer.~~

~~Sec. 2.30. Repealed by Acts 1968, ch. 173.~~

~~Sec. 2.31. Chief of Police.~~

~~Sec. 2.32. Police force.~~

~~Sec. 2.33. Powers and jurisdiction of Town police.~~

~~Chapter 3. Taxation, Finances, Etc.~~

~~Sec. 3.01. Council to control taxation and finances; powers generally.~~

~~Sec. 3.02. Annual budget.~~

~~Sec. 3.03. Annual tax levies and property assessments; limitation as to Town bonds.~~

~~Sec. 3.04. Special assessments for local improvements.~~

~~Sec. 3.05. Property assessments.~~

~~Sec. 3.06. Repealed by Acts 1981, ch. 616.~~

~~Sec. 3.07. Licenses.~~

~~Sec. 3.08. Licensing of persons selling goods, etc., to dealers or retailers at other than definite place of business.~~

~~Sec. 3.09. Water and sewer services, garbage collection services, etc.~~

~~Sec. 3.10. Licensing of shows, circuses, carnivals, etc.~~

~~Sec. 3.11. Registration and licensing of motor vehicles.~~

~~Sec. 3.12. Licensing of vehicles for hire.~~

~~Sec. 3.13. Franchises.~~

~~Sec. 3.14. Power of Town as to taxes generally; limitation as to Town bonds.~~

~~Sec. 3.15. Fixing of dates for payment of taxes, penalties, etc.~~

~~Sec. 3.16. Contract of loans, etc., for use of Town.~~

~~Sec. 3.17. Issuance of bonds for public improvements.~~

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~~Sec. 3.18. Negotiation of temporary loans for current expenses of Town.~~

~~Sec. 3.19. Execution of bonds, etc.~~

~~Sec. 3.20. Sinking funds.~~

~~Sec. 3.21. Biannual audit of financial records; fiscal year.~~

~~Chapter 4. Property, Buildings, Utilities and Streets~~

~~Sec. 4.01. Town Plan generally; subdivisions.~~

~~Sec. 4.02. Public grounds, buildings, prison house, etc.~~

~~Sec. 4.03. Cemeteries.~~

~~Sec. 4.04. Adoption of master plan, division of Town into districts, etc.; adoption of building, plumbing, etc., codes.~~

~~Sec. 4.05. Markets.~~

~~Sec. 4.06. Waterworks, sewage disposal facilities, etc.; eminent domain.~~

~~Sec. 4.07. Use of streets and alleys; traffic and parking.~~

~~Sec. 4.08. Opening, grading, etc., streets, avenues and alleys; constructing curbs, gutters and walkways.~~

~~Sec. 4.09. Payments by abutting property owners benefitted by installation of curbs, gutters and sidewalks.~~

~~Sec. 4.10. Grade of streets, sidewalks, etc.; permits for street openings.~~

~~Sec. 4.11. Construction and maintenance of awnings, fire escapes, etc., in, upon or over streets and alleys by abutting property owners.~~

~~Chapter 5. Fire Prevention~~

~~Sec. 5.01. Fire Department; fire protection generally.~~

~~Sec. 5.02. Sale and storage of combustibles; discharge of firearms; bonfires.~~

~~Chapter 6. Health and Sanitation~~

~~Sec. 6.01. Preservation of public health; quarantine; infectious diseases.~~

~~Sec. 6.02. Connection with and use of Town sewer or water pipe lines.~~

~~Sec. 6.03. Collection and disposal of sewage, garbage and refuse.~~

~~Sec. 6.04. Abatement of nuisances; maintenance of lots, sidewalks, etc.; regulation of slaughterhouses, animals, dangerous businesses, smoke and unnecessary noise and billboards, signs, etc.~~

~~Chapter 7. Miscellaneous Provisions~~

~~Sec. 7.01. Contracts for erection of public improvements and buildings; interest of Council members in contracts.~~

~~Sec. 7.02. Inspection, weighing, etc., of commodities for sale in Town; regulation of scales, measures, meters and transportation of commodities through streets.~~

~~Sec. 7.03. Protection of persons and property and preservation of peace and order.~~

~~Sec. 7.04. Prevention of certain persons from coming into Town.~~

~~Sec. 7.05. Reward for information leading to arrest of criminals.~~

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~~Sec. 7.06. County Trial Justice System; judicial authority of Mayor in event of withdrawal from County Trial Justice System.~~

~~Sec. 7.07. Police Justice.~~

~~Sec. 7.08. Justice of the Peace.~~

~~Sec. 7.09. County jail.~~

~~Sec. 7.10. Working of prisoners.~~

~~Sec. 7.11. Continuance of existing ordinances.~~

~~Sec. 7.12. Publication of ordinances; ordinances as evidence.~~

~~Sec. 7.13. Continuation of present officers.~~

~~Sec. 7.14. Title of Charter.~~

CHAPTER 1. INCORPORATION AND BOUNDARIES

Sec. 1.01. Body politic and corporate; powers under Constitution and state laws.

The inhabitants of the territory comprised within the present limits of the Town of Christiansburg, as such limitations are now or may be hereafter altered and established by law, shall constitute and continue a body, politic and corporate, to be known and designated as the Town of Christiansburg, and as such shall have and may exercise all powers which are now or hereafter may be conferred upon or delegated to towns under the Constitution and laws of the Commonwealth of Virginia, as fully and completely as though such powers were specifically enumerated herein, and no enumeration of particular powers by this Charter shall be held to be exclusive, and shall have, exercise and enjoy all the rights, immunities, powers and privileges and be subject to all the duties and obligations now appertaining to and incumbent on the Town as a municipal corporation, and the Town of Christiansburg as such shall have perpetual succession, may sue and be sued, implead and be impleaded, contract and be contracted with and may have a corporate seal which it may alter, renew or amend at its pleasure by proper ordinance.

Sec. 1.02. Boundaries.

The present boundaries of the Town are as set forth in annexation orders entered on the ninth day of October Nineteen Hundred Seventy-four, and of record in Chancery Order Book No. 39, page 442 et seq. of the Clerk's Office of the Circuit Court of Montgomery County, Virginia, and are incorporated herein by reference thereto.

(Acts 1968, ch. 173; Acts 1981, ch. 616, § 1)

Editor's note—-A court order confirming a voluntary settlement of an annexation cause effective at midnight December 31, 1987 was entered by the Circuit Court of Montgomery County, Virginia, on December 7th, 1987, and was recorded in the Clerk's Office of the Circuit Court of Montgomery County, Virginia, in Chancery Order Book 66, page 848 and Deed Book 597, page 651 (Deed Instrument No. 198800000182-01).

A court order confirming a voluntary boundary adjustment effective at midnight August 31, 1995 was entered by the Circuit Court of Montgomery County, Virginia, on August 29, 1995, and was recorded in the Clerk's Office of the Circuit Court of Montgomery County, Virginia, in Chancery Order Book 88, page 844 and Deed Book 1148, page 472 (Deed Instrument No. 200000010030-01).

A court order confirming a voluntary boundary adjustment effective on February 28, 1997 was entered by the Circuit Court of Montgomery County, Virginia, on February 28, 1997, and was recorded in the Clerk's Office of the Circuit Court of Montgomery County, Virginia, in Chancery Order Book 93, page 499 and Deed Book 1073, page 581 (Deed Instrument No. 199900006367-01).

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A court order confirming a voluntary boundary adjustment effective at midnight September 1, 2007 was entered by the Circuit Court of Montgomery County, Virginia, on August 13, 2007, and was recorded in the Clerk's Office of the Circuit Court of Montgomery County, Virginia, as Order Instrument No. 2007009424 and Deed Instrument No. 2007009929.

A court order confirming a voluntary boundary adjustment effective at midnight April 30, 2009 was entered by the Circuit Court of Montgomery County, Virginia, on April 10, 2009, and was recorded in the Clerk's Office of the Circuit Court of Montgomery County, Virginia, as Order Instrument No. 2009023593 and 2009023717 and Deed Instrument No. 2009003478.

CHAPTER 2. ADMINISTRATION AND GOVERNMENT

Sec. 2.01. Vesting of administration and government in Council; composition of Council; election and term of Council members; Council to be continuing body; vacancies in Council.

The administration and government of the Town is vested in the Council composed of a Mayor and six Councilmen, all of whom shall be electors of the Town.

(a) The Council shall be elected in the manner provided by law. ~~The Mayor shall be elected for a term of four years and every four years thereafter. The Councilmen shall serve as members of the Council for staggered terms of four years each.~~ Three council members shall be elected on the November 2011 general election date and every four years thereafter. A mayor and three other council members shall be elected on the November 2013 general election date and every four years thereafter.

~~In the regular municipal election to be held in Nineteen Hundred and Fifty-six, and every two years thereafter, three Councilmen shall be elected for terms of four years each.~~ Terms of office shall begin on the first day of ~~September~~ January next following their election. Each ~~Councilman~~ Council member and the Mayor elected as hereinabove provided shall serve for the term stated or until his successor has been elected and qualified. The Council shall be a continuing body, and no measure pending before such body shall abate or be discontinued by reason of expiration of term of office or removal of any of its members.

(b) Vacancy in the Council or in the Office of Mayor shall be filled within sixty days, for the unexpired term, by a majority vote of the remaining members; provided, that if the term of office to be filled does not expire for two years or more after the next regular election for ~~Councilman~~ Council member, following such vacancy and such vacancy occurs in time to permit it, then the Council shall fill such vacancy only for the period then remaining until such election, and a qualified person shall then be elected by the qualified voters and shall from and after the date of his election and qualification succeed such appointee and serve the unexpired term. The number of candidates for Council equal to the number of vacancies to be filled for full terms receiving the highest number of votes shall be entitled to such full terms and the candidate receiving the next highest number of votes shall be entitled to the unexpired term caused by such vacancy.

(c) Notwithstanding any provisions of law to the contrary, any person shall be qualified to fill a vacancy on Council or as Mayor who is a resident of the Town and is a qualified elector therein, except that a member of Council shall not be qualified to fill a vacancy as Mayor.

(Acts 1981, ch. 616, § 1; Acts 2010, ch. ~~240~~ 848, §1(2.01)) ~~— I believe the ch. 240 would be correct as it was the original chapter (the same as Charter Sec. 2.08)? It should be Acts 2010, ch. 848 which amends Acts. 1954, ch. 240~~.

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Sec. 2.02. Qualifications of electors.

The electors of the Town of Christiansburg shall be the actual residents of the Town who are otherwise qualified to vote for members of the general assembly.

State constitution reference—Qualifications of voters, art. II, § 1.

State law reference—Qualifications of electors, Code of Virginia, § 24.2-400.

Sec. 2.03. Municipal officers.

The municipal officers of said Town shall, in addition to the Mayor, consist of Treasurer, Chief of Police, Clerk of the Town Council, Town Manager and Town Attorney; and the Mayor may appoint such committees of the Council as he may see fit, and the Council may create such boards and departments of Town government and administration with such powers and duties and subject to such regulations as it may see fit, consistent with the provisions of this act and the general laws of this state. The said Treasurer and Clerk may be one and the same person if the Council deems it more expedient.

No employee of the Town or either of the officers of Treasurer, Chief of Police, Clerk of the Town Council, Town Manager or Town Attorney shall be required at the time of their employment or appointment to be a resident of the Town.

(Acts 1968, ch. 173; Acts 1981, ch. 616, § 1)

Sec. 2.04. Town Manager.

The Council of the Town may, in its discretion, appoint a Town Manager who may also serve as Town Engineer. Upon appointment of a Town Manager, he shall be vested with administrative and executive powers of the Town and shall hold office during the pleasure of the Council. He shall receive such compensation as may be fixed by the Council. He shall see that within the Town, the laws, ordinances, resolutions and bylaws of the Council are faithfully executed and that the duties of the various other appointed Town officers, members of the police, fire and public works departments and all other departments of the Town government, are faithfully performed. He shall have power to investigate their acts, have access to all books and documents in their offices and may examine them or their subordinates on oath, but the evidence given by the persons so examined shall not be used against them in any criminal proceedings. He shall attend all meetings of the Council and recommend for adoption such measures as he may deem expedient. He shall make reports to the Council from time to time as to the affairs of the Town and keep the Council fully advised as to the Town's financial condition and its future financial needs. He shall prepare and submit to the Council a tentative budget for each fiscal year. The Town Manager shall perform such other duties as may be prescribed by the Council and shall be bonded in such amount as the Council may deem necessary.

(Acts 1968, ch. 173)

Sec. 2.05. Removal of officers and employees.

All officers and employees appointed may be removed by the Town Council at its pleasure, and where the appointment is by a committee or board, or where such appointment is by the Mayor or Town Manager, such removal may be by order of the Mayor, Town Manager or committee or board.

(Acts 1968, ch. 173)

Sec. 2.06. Powers of Council as to salaries and duties of employees; Council may employ persons necessary to effectuate powers.

The Council shall, by ordinance or resolution, fix the salaries of all officers and employees of the Town elected or appointed by it, or appointed by its authority, and may, so far as is not

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inconsistent with the provisions of the Charter, define the powers and prescribe the duties of all such officers and employees. To effectuate the powers conferred by general laws as well as the powers herein specifically granted, the Council may employ all such persons as may be necessary.

Sec. 2.07. Officers not to fill more than one office.

It shall be unlawful for any officer appointed by the Council, any committee, municipal board or the head of any department to fill two or more of the offices whose incumbents are appointed by the Council or by any appointing power designated by the Council, except as otherwise provided herein.

(Acts 1968, ch. 173)

State constitution reference—Multiple offices, art. VII, § 6.

Sec. 2.08. Mayor and Councilmen not eligible for remunerative position.

Neither the Mayor nor any member of the Town Council during his ~~or her~~ tenure of office as such shall ~~not~~ be eligible [2]~~for~~ to any remunerative office, position or employment with the Town, except that a member of the Council appointed to a board or commission may be compensated as a member of such.

(Acts 1968, ch. 173; Acts 2004, ch. 240, § 2.08)

Sec. 2.09. Mayor, Councilmen and municipal officers to be sworn in before entering upon duties.

The Mayor, Councilmen and all municipal officers of said Town shall, before entering upon the duties of their respective offices, be sworn [in,] in accordance with the laws of the state of Virginia[,] by anyone authorized to administer oaths under the laws of the state.

State law reference—Oath and bond, Code of Virginia, § 15.2-1512; oath, Code of Virginia, § 49-1.

Sec. 2.10. Certificates of oaths.

When the Mayor, Councilmen, Treasurer, Clerk and Sergeant take the oaths required of them, duplicate certificates of the Court or person administering the same, stating the fact of their having been taken, shall be obtained by the person taking the same and be by him delivered for record as follows: One to the Clerk of the Circuit Court of Montgomery County and one to the Clerk of the Town Council. When any other municipal officer takes the oath required of him, a certificate as aforesaid, shall be secured by him and delivered to the Clerk of the Town Council.

Sec. 2.11. Effect of neglect to take oath or to give bond with security.

If any person elected or appointed to any office in said Town shall neglect to take such oath on or before the day on which he is to enter upon the discharge of the duties of his office, or shall, for twenty days after the beginning of his term of office, fail to give such bond with such security as may be required of him by the Council of said Town, he shall be considered as having declined said office, and the same shall be deemed vacant, and such vacancy shall be filled as prescribed in this Act [Charter] or by the general laws of this state.

Sec. 2.12. Delivery of Town property, books and papers to successor in office.

If any person, having been an officer of said Town, shall not within ten days after he shall have vacated or been removed from office, and upon notification of request of the Council within such time as it may allow, deliver to his successor in office all property, books and papers

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[2] Was this section amended by the state legislature. If so, shouldn't this be "for?" I did not find this amendment.

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belonging to the Town or appertaining to such office, in possession or under his control, he shall forfeit and pay to the Town a sum not exceeding five hundred dollars, to be sued for and recovered with costs; and all books, records and documents used in any office by virtue of any provision of this Act [Charter], or of any ordinances or order of the Town Council or any superior officer of said Town, shall be deemed the property of said Town and appertaining to said office, and the chief officer thereof shall be held responsible therefor.

Sec. 2.13. Mayor--Salary.

The salary of the Mayor shall be fixed by the Town Council and shall not be diminished during his term of office.

Sec. 2.14. Same--Duties.

The Mayor shall preside at the meetings of the Council, voting only in case of a tie, and perform such other duties as may be prescribed by this Charter and by general law and such as may be imposed by the Council consistent with his office. He shall perform the duties of the Town Manager during the absence of the Town Manager or while the Office of Town Manager is vacant. He shall have power to investigate the acts of the various Town officers, members of the police, fire and public works departments and all other departments of the Town government, whether elected or appointed. The Mayor shall have and exercise all power and authority conferred by general law on mayors of towns and not inconsistent with this Charter; and shall, from time to time, recommend to the Council such measures which he may deem needful for the welfare of the Town.

(Acts 1968, ch. 173)

Sec. 2.15. Vice-Mayor.

The Council shall choose from its members a Vice-Mayor who in case of the absence or inability of the Mayor to act shall possess the same powers and discharge the duties of the Mayor during such absence or inability; and in case of the absence or inability of both the Mayor and the Vice-Mayor, the Council shall choose another of its members who shall possess the same powers and discharge the duties of the Mayor during the absence or inability of both the Mayor and Vice-Mayor.

(Acts 1968, ch. 173)

Sec. 2.16. Vacancy in Office of Mayor.

In case a vacancy shall occur in the Office of the Mayor, the vacancy shall be filled by the method provided in Section 2.01 for filling vacancies in [the] Council.

(Acts 1981, ch. 616, § 1)

Sec. 2.17. Salaries of Councilmen.

The Town Council is hereby authorized and empowered, by ordinance or resolution passed by the affirmative recorded vote of two-thirds of the full membership thereof, to be determined by yeas and nays, to provide and fix salaries for its members, as it may determine, to be payable in such amounts and at such time or times as it may direct. The Council may provide and fix the salaries for its members, on the basis of stated amounts or sums, for each regular and special meeting of the Council and each committee meeting attended by members, and may prescribe that no member shall receive any compensation for any meeting of said Council or committee not attended by such member.

(Acts 1968, ch. 173)

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Sec. 2.18. Meetings of Council; quorum; adoption of procedural rules.

The Council shall, by ordinance, adopt such rules as it might deem proper for the regulation of its proceedings and shall meet at such times as may be prescribed by ordinance; provided, however, that it shall hold at least one regular meeting each month. The Mayor and four Councilmen shall constitute a quorum for the transaction of business, or, in the absence of the Mayor, four Councilmen shall constitute a quorum. No ordinance, or resolution appropriating money exceeding the sum of five hundred dollars, imposing taxes or authorizing the borrowing of money shall be passed by the Council except by a recorded affirmative vote of a majority of all members elected to the Council. No such ordinance shall be passed by the Council on the same day on which it is introduced, nor shall any such ordinance or resolution be valid until at least three days intervene between its introduction and the date of passage. The meetings of the Council shall be public, unless the Council, by a recorded affirmative vote of two-thirds of its members, shall declare that the public welfare demands an executive session of the Council; and citizens may have access to the minutes and records of the Council at any reasonable time during established office hours of the general offices of the Town.

(Acts 1968, ch. 173; Acts 1969, ex. sess. ch. 23)

State law reference—-The Virginia Freedom of Information Act, Code of Virginia, § ~~2.1-340~~ 2.2-3700 et seq.; closed meetings for certain purposes, Code of Virginia, § 2.2.3711.

Sec. 2.19. Special meetings of Council.

The Mayor, or any other two members of the Council, may call a special meeting of the Council upon at least twelve hours written notice of the time, place and purpose to each member served personally or left at his usual place of business or residence by any police officer, and no business shall be transacted by the Council in such special meeting which has not been stated in the notice; provided, however, that these regulations shall not apply when all members of the Council attend such meeting or waive notice thereof, nor shall it apply to an adjourned session from a regular meeting.

No vote shall be reconsidered or rescinded at any special meeting, unless at such special meeting there be present as large a number of members of Council present as were present when such vote was taken.

(Acts 1968, ch. 173)

State law reference—Meetings to be public, Code of Virginia, § 2.2-3707.

Sec. 2.20. Record of proceedings of Council.

A record shall be kept of the proceedings of the Town Council, and at the request of any member present the yeas and nays shall be recorded on any question. At the next meeting the proceedings shall be read and signed by the person who was presiding when the previous meeting adjourned, or, if he be not then present, by the person presiding when they were read, but reading of minutes may be dispensed with at the pleasure of the Council.

(Acts 1968, ch. 173)

Sec. 2.21. Duty of Clerk of Council as to record of proceedings.

The Clerk of the Council shall keep such record and shall record therein the proceedings of the Council at large thereon, and keep the same properly indexed.

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Sec. 2.22. Powers of Council to compel attendance, fine members for disorderly behavior and expel members.

The Town Council may compel the attendance of absent members, and fine them for disorderly behavior, and with the concurrence of five members expel a member for malfeasance or misfeasance while in office.

Sec. 2.23. Filling vacancy on Council when member disqualified or expelled.

If any member of the Council shall be adjudged by the Council disqualified or be expelled, under the previous Section 2-22, [2.22], a special election shall be held under the general election laws of the Commonwealth to fill such vacancy, for the unexpired term.

Sec. 2.23A. Power of Council when member voluntarily absent from meetings consecutively for three months; irregular elections.

If any member of said Council be voluntarily absent from its meetings consecutively for three months, his seat may be declared vacant by the Council, and the unexpired term filled by appointment as provided in Section 2-01(b) [2.01(b)].

Where not otherwise provided for by the laws of this state the Town Council shall, by ordinance, provide for any irregular elections not herein or by the state laws provided for, and appoint the necessary officers to conduct the same.

Sec. 2.24. Omitted in numbering.

Sec. 2.25. General powers of Council--Management of municipal and fiscal affairs and of Town property.

The Town Council shall have, subject to the provisions of this Act [Charter] and the general laws of this state, the management and control of the fiscal and municipal affairs of the Town and of all property, real and personal, belonging to the Town.

Sec. 2.26. Same--Further provisions.

The Town Council shall have all power and authority that is now or may hereafter be granted to the councils of towns by the Constitution and general laws of this state; and the recital of special powers and authorities herein shall not be taken to exclude the exercise of any power and authority granted by the general laws of the State to town councils, but not herein specified.

Sec. 2.27. Same--As to ordinances and bylaws, taxes and licenses, appointment of officers, etc.

For carrying into effect the powers granted by this Act [Charter] and the general laws of this State, the Town Council may make ordinances and bylaws, and prescribe fines and other punishments for violation thereof, levy taxes and licenses, keep Town guard, appoint a collector of taxes and levies, and such other officers as they may deem proper, define their powers, prescribe their duties and compensation, and take from any of them a bond, with surety, in such penalty as the Council may deem proper, payable to the Town by its corporate name, and with condition for the faithful discharge of the said duties.

Sec. 2.28. Clerk of Council.

The Clerk of the Council shall be appointed by ~~it~~ [the town council], and shall attend the meetings of the Council and shall keep permanent records of its proceedings; and also keep such other papers, documents and records pertaining to the Town as may be determined by the Council; he shall be custodian of the Town seal and shall affix it to all documents and instruments requiring the seal, and shall attest the same; he shall give notice to all parties, presenting petitions or communications; he shall give the proper department or officials ample notice of the

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expiration or termination of any franchise, contract[s] or agreements; he shall publish such records and ordinances as the Council is required to publish and such other records and ordinances as it may direct; he shall upon final passage transmit to the proper departments or officials copies of all ordinances or resolutions of the Council relating in any way to such departments or to the duties of such officials, and he shall perform such other acts and duties as the Council may, from time to time, allow or require.

(Acts 1968, ch. 173)

Sec. 2.29. Town Treasurer.

There shall be appointed by the Council a Town Treasurer who shall hold office during the pleasure of the Council; but the present Treasurer of the Town shall continue to discharge the duties of the office until removed by the Council or until his or her successor shall have qualified. Any vacancy in this office shall be promptly filled by the Council. The said Treasurer shall be the disbursing agent of the Town and have the custody of all money and all evidences of value belonging to the Town or held in trust by the Town. He shall receive all money belonging to and received by the Town and keep correct accounts of all receipts from all sources and of all expenditures of all departments. He shall collect all taxes and assessments and other charges belonging to and payable to the Town, and for that purpose he is hereby vested with powers similar to these which are now or may hereafter be vested in County and Town Treasurers for the collection of county, town and state taxes under the general law; he shall keep, disburse and deposit all money or funds in such manner and in such places as may be determined by ordinance or the provisions of the law applicable thereto; he shall pay no money out of the Treasury, except in the manner prescribed by this Charter or by ordinance or the general law; he shall perform such duties as are usually incident to the Office of Commissioner of Revenue in relation to the assessment of property for Town taxation and Town license taxes and shall have power to administer oaths in performance of his or her official duties. The Treasurer shall not be entitled to any commission for handling the funds of the Town, but shall be paid such salary as may be provided by the Council, and before entering upon the duties of his office shall execute a bond in such amount and with such security as the Council, by ordinance, may prescribe. The Treasurer shall be subject to the administrative supervision of the Town Manager of the Town of Christiansburg. The said Treasurer and Clerk may be one and the same person if the Council may deem it more expedient.

(Acts 1968, ch. 173)

Sec. 2.30. Repealed by Acts 1968, ch. 173.

Sec. 2.31. Chief of Police.

The Town Council shall have the power and authority to appoint a Chief of Police and to provide for the employment of such additional police officers and privates as it may deem necessary or proper, to prescribe rules and regulations for the government thereof, to prescribe their rate of pay; and in addition thereto the Mayor, or in his absence, the Vice-Mayor, or in the absence of both, any Councilman, shall have the power and authority whenever the regular police force of the Town is inadequate to meet the needs of the occasion, to appoint and swear in such additional or special policemen as he may deem requisite for a term of service not to exceed ten days and at such compensation as the Council may fix for special policemen. The duties and powers of such special policemen shall be the same as that of private of the regular police force.

(Acts 1968, ch. 173; Acts 1981, ch. 616, § 1)

Sec. 2.32. Police force.

The police force shall be under the control of the Town Manager, and during any time that the Office of [the] Town Manager is not filled, or in the absence of the Town Manager, under the

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control of the Mayor, for the purpose of enforcing peace and order and executing the laws of the state and ordinances of the Town. They shall perform such other duties as the Council may prescribe. For the purpose of enabling them to execute their duties, each policeman is hereby invested with all the power and authority which belongs to the office of the constable at common law in criminal cases.

(Acts 1968, ch. 173)

Sec. 2.33. Powers and jurisdiction of Town police.

The policemen of the Town shall have no power or authority in civil matters, but they shall in all other cases execute such warrants or summonses as may be placed in their hands by the Mayor or any Councilman of said Town, or any other properly constituted authority, and shall make due return thereof. The criminal jurisdiction of the policemen of the Town shall extend one mile beyond the corporate limits of the Town.

State law reference—Extraterritorial jurisdiction, Code of Virginia, § 15.2-1724.

CHAPTER 3. TAXATION, FINANCES, ETC.*

***State constitution reference**—Vote of majority of elected members required for appropriations, taxation or borrowing money in excess of $500.00, art. VII, § 7; taxation and finance, art. X.

Sec. 3.01. Council to control taxation and finances; powers generally.

The Town Council shall have control of taxation and finances for its municipal purposes. It shall have the powers set forth in the following sections subject to the general laws of the Commonwealth.

Sec. 3.02. Annual budget.

The Town Council shall have the power to prepare, or cause to be prepared, annually a budget showing the estimated receipts and proposed expenditures for Town purposes.

Sec. 3.03. Annual tax levies and property assessments; limitation as to Town bonds.

The Town Council shall have the power to raise annually, by the levying of taxes and assessments in the said Town, on all such property, real and personal, as is now or may be subject to taxation by the general laws of the Commonwealth, such sums of money as the Council thereof shall deem necessary, for the purpose of said Town, in such manner as the Town Council shall deem expedient in accordance with the Constitution of the State; provided, however, that it shall impose no taxes on the bonds of said Town.

Sec. 3.04. Special assessments for local improvements.

The Town Council shall have the power to impose special or local assessments for local improvements and force payment thereof, subject to such limitations prescribed by the laws of the state as may be in force at the time of the imposition of such special and local assessments.

State constitution reference—Assessments, art. X, §§ 2, 3.

Sec. 3.05. Property assessments.

The assessment of real and personal property in the Town, for the purpose of municipal taxation, shall be the same as the assessment for the purpose of County taxation, but where the Commissioner of Revenue for the Town knows of property that has been omitted by the Commissioner of Revenue of the County from his books, the Commissioner of Revenue of the Town, shall advise the Commissioner of Revenue of the County thereof, and thereafter such omitted property, real or personal, shall be assessed for taxation in the manner provided by general law. However, the Council may, by unanimous vote at a meeting at which all members are

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present, provide for another method of assessing real and personal property in the Town for municipal taxation not in conflict with the laws of the Commonwealth of Virginia.

(Acts 1968, ch. 173)

Sec. 3.06. Repealed by Acts 1981, ch. 616.

Sec. 3.07. Licenses.

The Town Council shall have the power to impose licenses by ordinance upon businesses, trades, professions or callings, and upon persons, firms, associations or corporations engaged therein or offering to do business within the boundaries of the Town whose principal offices are or are not located in the Town, except when prohibited by general law, whether or not a license may be required therefor by the State. The fee for such license may exceed the State license fee, if any be required.

State law reference—Business, professional and occupational license taxes, Code of Virginia, § 58.1-3700 et seq.

Sec. 3.08. Licensing of persons selling goods, etc., to dealers or retailers at other than definite place of business.

Licenses may also be imposed upon and a fee therefor collected from persons, firms or corporations selling and delivering at the same time at other than a definite place of business, goods, wares or merchandise, to licensed dealers or retailers in the Town.

Sec. 3.09. Water and sewer services, garbage collection services, etc.

The Town Council shall have the power to establish rates and fees for the following services provided by the Town: (1) water, (2) sewer and garbage collection, (3) other services, products, utilities or conveniences operated, rented or provided by the Town. The Town Council shall have the power and authority to enforce collection of charges for all such services from any applicant for the same, whether it be a tenant, lessee or owner, including interest thereon, penalty, late charges and costs, including the right to require advance deposits in a reasonable amount by any applicant for such services, together with the right to terminate such services after reasonable notice to any person, firm or corporation who is in default in the payment of any sums due for the same.

(Acts 1981, ch. 616, § 1)

Sec. 3.10. Licensing of shows, circuses, carnivals, etc.

The Town Council shall have the power to license and regulate the holding and location of shows, circuses, public exhibitions, carnivals and other similar shows or fairs, or prohibit the holding of same, or any of them, within the Town or within one mile thereof.

Sec. 3.11. Registration and licensing of motor vehicles.

The Town Council shall have the power to require every owner of motor vehicles residing in the said Town on a date to be designated by the Council, to annually register such motor vehicles and to obtain a license to operate the same by making application to the Treasurer of the said Town, or such other person as may be designated by the Council of the said Town, to issue said license, and to require the said owner to pay an annual license fee therefor to be fixed by the Council within the limits permitted by State law.

Editor's note—The ~~for the~~ imposition of local vehicle licensing fees is provided in Code of Virginia, § 46.2-752(A).

Sec. 3.12. Licensing of vehicles for hire.

The Town Council shall have the power to grant or refuse licenses to owners or keepers of wagons, drays, carts, automobiles, motorcycles, trailers and other wheeled vehicles kept, used or

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employed in the Town for hire, or used for the transportation of persons or property for pay, and may require the owners or keepers of wagons, drays and carts, automobiles and other wheeled vehicles using them in the Town, to take out licenses therefor, and may assess and require taxes to be paid thereon, and subject the same to such regulations as they may deem proper, and may prescribe their rates, fees and compensation.

Sec. 3.13. Franchises.

The Town Council shall have the authority to grant franchises to public service corporations, for public transportation facilities and others, and to provide ordinances, rules and rights not contrary to State laws.

State law reference—Franchises, Code of Virginia, § 15.2-2100 et seq.

Sec. 3.14. Power of Town as to taxes generally; limitation as to Town bonds.

The Town is empowered to levy and collect taxes, on all subjects of taxation except as restrained by the Constitution or by the general law heretofore or hereafter adopted, provided that it shall impose no taxes on the bonds of the said Town.

Sec. 3.15. Fixing of dates for payment of taxes, penalties, etc.

The Town Council shall have the right to prescribe the dates on which all taxes and licenses shall be payable and to prescribe penalties and interest rates for nonpayment on such dates, not in conflict with the general laws of this State.

Sec. 3.16. Contract of loans, etc., for use of Town.

The Town Council, within the limits of the Constitution of this State and in accordance with the provisions of the general laws thereof, may, in the name of, and for the use of, the Town, contract loans or cause to be issued certificates of debts, notes or bonds.

Sec. 3.17. Issuance of bonds for public improvements.

The Town Council shall have the authority to issue bonds for public improvements in accordance with the statutes of the Commonwealth of Virginia.

Sec. 3.18. Negotiation of temporary loans for current expenses of Town.

The Council shall have the power to negotiate temporary loans, in anticipation of taxes, for the purpose of paying current expenses of the Town; such loans to be evidenced by bonds or notes bearing interest at not exceeding the then current rate of interest established by state statute; such bonds or notes shall be payable within one year from date of issue out of the current revenue of the year in which the same are issued. No such temporary loan shall, in the aggregate, exceed fifteen percent of the previous year's gross income.

(Acts 1968, ch. 173)

Sec. 3.19. Execution of bonds, etc.

All bonds, and other evidences of indebtedness of the Town[,] shall be signed by the Mayor and countersigned by the Clerk of the Council, who shall affix the corporate seal of the Town and attest the same.

Sec. 3.20. Sinking funds.

(a) There shall be set apart from the revenues of the Town an annual amount to be covered into a sinking fund sufficient to pay, at or before maturities, all outstanding bonded indebtedness of the Town. This does not include so-called short term obligations of the Town. The Council may, in its discretion, annually, from time to time, set aside such additional sinking funds for equipment and capital improvements as it may deem advisable.

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(b) All sinking funds set aside for the payment of the bonded indebtedness of the Town shall be used exclusively in the payment or purchase and redemption of such outstanding bonds. When any sinking funds are not immediately needed for the purpose for which they were provided, they may be invested in securities as provided for by sec. 26-40 of the Code of Virginia under the then existing laws of the Commonwealth of Virginia for public sinking funds, to such extent as the Council shall deem proper or expedient.

(Acts 1968, ch. 173)

Sec. 3.21. Biannual audit of financial records; fiscal year.

The Council shall have the financial records of the Town audited by a Certified Public Accountant biannually, as soon after the close of the fiscal year as is practicable or at any other time deemed necessary by the Council. The fiscal year begins September One of each year and ends August Thirty-one of the following year.

The Town Council may, by resolution, change the fiscal year where it would seem to be to the best interest of the Town.

(Acts 1968, ch. 173)

Editor's note—A uniform fiscal year is provided in Code of Virginia, § ~~15.1-159.8~~ 15.2-2500.

CHAPTER 4. PROPERTY, BUILDINGS, UTILITIES AND STREETS

Sec. 4.01. Town Plan generally; subdivisions.

The Town is empowered to make and adopt a Comprehensive Plan for the Town, and to that end all plats and replats hereafter made subdividing any land within two miles of its corporate limits into streets, alleys, roads and lots or tracts shall be submitted to and approved by the Council within such limitations as they may prescribe before such plats or replats are filed for record or recorded in the Office of the Clerk of the Circuit Court of Montgomery County, Virginia.

The Town Council shall have the authority to require real estate subdividers within the corporate limits of the Town to construct, at the subdivider's expense, water mains, sewer mains, streets, drainage, sidewalks, curbs and gutters. Such construction to [shall] be as prescribed by, and under, the direction of the Town Council.

The Town Council shall have the authority to negotiate with subdividers without the corporate limits as to the construction of water mains, sewer mains, and as to water and sewer service.

Editor's note—Code of Virginia, § 19.2-250 designates how far the jurisdiction of corporate authorities extends for purposes of criminal prosecutions.

Editor's note—A court order confirming a voluntary settlement of an annexation cause effective at midnight December 31, 1987 was entered by the Circuit Court of Montgomery County, Virginia, on December 7th, 1987, and was recorded in the Clerk's Office of the Circuit Court of Montgomery County, Virginia, in Chancery Order Book 66, page 848 and Deed Book 597, Page 651 (Deed Instrument Number 198800000182-01) limiting Town authority over plats and replats to the Town corporate limits.

Sec. 4.02. Public grounds, buildings, prison house, etc.

The Town Council shall have the power and authority to acquire, establish and maintain public grounds, parks, parking lots, playgrounds and boulevards, to equip and beautify same; to erect and maintain public buildings for the proper use of the Town, to provide a prison house, workhouse, and to employ managers, physicians, nurses and servants for the same, and prescribe regulations for their government and discipline, and persons therein.

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Sec. 4.03. Cemeteries.

The Town Council shall have the power to provide, in or near the Town, lands to be used as burial places for the dead; to improve and care for the same and the approaches thereto, and to charge for and regulate the use of the ground therein, to cooperate with any nonprofit corporation in the improvement and care of burial places and approaches thereto; and to provide for the perpetual upkeep and care of any plot or burial lot therein, the Town is authorized to take and receive sums of money by gift, bequest, or otherwise to be kept invested, and the income thereof used in and about the perpetual upkeep and care of the said lot or plat, for which the said donation, gift or bequest shall have been made.

Sec. 4.04. Adoption of master plan, division of Town into districts, etc.; adoption of building, plumbing, etc., codes.

For the promotion of health, safety, morals, comfort, property and general welfare, the Town is empowered to provide, by ordinance, for the adoption of a master plan, divide the area of the Town into one or more districts, establish setback building lines, regulate and restrict the location, construction, reconstruction, alteration and repair or use of buildings and other structures and their height, area and bulk and percentage of lot to be occupied by buildings or other structures and the trade, industry and other specific uses of the premises in such districts and adopt building, plumbing, electrical and other codes to carry these purposes into effect.

State law reference—Comprehensive plan, Code of Virginia, § 15.2-2223.

Sec. 4.05. Markets.

The Town Council shall have the power and authority to establish a market, or markets, in and for said Town, and appoint proper officers therefor; to provide suitable buildings and grounds therefor; to prescribe the time for holding markets and to regulate the same, and to make and enforce such regulations as may be necessary and proper.

Sec. 4.06. Waterworks, sewage disposal facilities, etc.; eminent domain.

(a) The Town Council shall have the power and authority to acquire or otherwise obtain control of, or establish, maintain, operate, extend and enlarge waterworks, sewerage systems and treatment facilities, gasworks, electric plants, airports and other public utilities within or without the limits of the Town; to acquire within or without the limits of the Town by purchase, or otherwise, whatever land may be necessary for acquiring, locating, establishing, maintaining, operating, extending and enlarging said waterworks, electric plants, airports and other utilities, and rights of way, rails, pipes, manholes, poles, conduits and wires connected therewith; establish rates, rules and regulations for all public utilities operated by the Town, any or all of which rates, rules and regulations the Council may alter at any time without notice. The Town Council may, by ordinance, prohibit the waste and unnecessary use of water.

(b) The Town of Christiansburg may exercise the power of eminent domain with respect to land and improvements thereon, machinery and equipment, for any lawful purposes of said Town.

The powers set forth in Sec[s]. [3]15.1-837 through 15.1-915 inclusive of Chapter 18 of Title 15.1 of the Code of Virginia as in force on January One, Nineteen Hundred Sixty-eight are hereby conferred on and vested in the Town of Christiansburg. In addition, the Town of Christiansburg

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[3] These sections have been repealed and/or renumbered? Change as needed.

shall have the powers set forth in sec[s]. [4]~~33-70.1~~ [33.1-119 through ~~33-70.11~~ [33.1-129]. When certificates are issued pursuant to Sec[s]. ~~33-70.1~~ [33.1-119] through ~~33-70.11~~ [33.1-129[5]], inclusive, of the Code of Virginia as amended, and acts amendatory thereof and supplemental thereto, they may be issued by the Town Council, signed by the Town Manager or the Mayor, and countersigned by the Town Treasurer. Such certificate shall have the same effect as a certificate issued by the State Highway Commissioner under the aforesaid laws, and may be issued in any case in which the Town proposes to acquire property of any kind by the exercise of its powers of eminent domain for any lawful public purpose, whether within or without the Town; provided, that the provisions of Sec[s]. 33-70.1 through 33-70.11 [Code of Virginia, § 33.1-119 through 33.1-129], inclusive, shall not be used except for the acquisition of lands or easements necessary for streets, water, sewer or utility pipes or lines or related facilities.

(Acts 1968, ch. 173)

Editor's note—Code of Virginia, §§ 15.1-908 through 15.1-915 have been repealed. Such sections are in part replaced by Code of Virginia, § ~~15.1-833~~ [6]15.2-200. Code of Virginia, §§ 33-70.1 through 33-70.11 are now codified in Code of Virginia, §§ 33.1-119 through 33.1-129. The State Highway Commissioner is now the Commonwealth Transportation Commissioner. (Code of Virginia, § 33.1-1)

Sec. 4.07. Use of streets and alleys; traffic and parking.

The Town Council shall have the power and authority to make and enforce ordinances to secure the safe and expeditious use of the streets and alleys of the Town, and to regulate traffic and parking thereon, and for the protection of persons and property thereon or near thereto.

Sec. 4.08. Opening, grading, etc., streets, avenues and alleys; constructing curbs, gutters and walkways.

The Town Council shall have the authority to open, grade, close, alter, improve, pave, drain, widen or narrow streets, avenues, alleys, construct curbs, gutters, and walkways.

Sec. 4.09. Payments by abutting property owners benefitted by installation of curbs, gutters and sidewalks.

The Town Council shall have the power to require the payment by the abutting property owners benefitted by the installation of curbs, gutters and sidewalks, at half of the cost thereof. Such payments shall be made upon their real estate and collectable in the same manner as is herein provided for the collection of taxes.

State law reference—Assessments for local improvements, Code of Virginia, § ~~15.1-239~~ 15.2-2404 et seq.

Sec. 4.10. Grade of streets, sidewalks, etc.; permits for street openings.

The Town Council shall have the exclusive authority to determine the grades for all streets, sidewalks, curbs, gutters and alleys not in conflict with the State Department of Highways, and shall have the right to require permits for, and control of, any opening in any street under its jurisdiction.

PROOFS

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[4] These sections have been renumbered. Change or leave and insert new numbers in brackets for clarification as stated in the editor's note to the Charter? Yes, insert new numbers in brackets.

[5] Insert correct cites in brackets or change or leave as is and retain editor's note? Yes, insert new numbers in brackets.

[6] This section appears to be incorrect as it is the procedure for amending Charter. Please advise correct number. Change as needed..

Editor's note—The State Department of Highways is now the State Department of Transportation. (Code of Virginia, § 33.1-1)

Sec. 4.11. Construction and maintenance of awnings, fire escapes, etc., in, upon or over streets and alleys by abutting property owners.

The Town Council shall have the power and authority to adopt ordinances authorizing owners or occupants of property abutting upon any street or alley in the Town, within such limitation as they may prescribe, to construct and maintain in, upon and over such street or alley, awnings, fire escapes, sidewalk gratings, basement entrances, shutters, signs, cornices, gutters, down spouts and bay windows and other appendages to buildings; but such permission so granted shall be held and deemed to be a license merely and shall be revocable at the pleasure of the Town, and said permission shall not be construed to relieve the said owners of any negligence on their part.

State law reference—Authority to permit awnings, fire escapes etc., Code of Virginia, § 15.2-2010.

CHAPTER 5. FIRE PREVENTION*

***State law reference**—Virginia Statewide Fire Prevention Code Act, Code of Virginia, § 27-94 et seq.

Sec. 5.01. Fire Department; fire protection generally.

The Town Council shall have the power and authority to establish and maintain a Fire Department for the Town, and all powers necessary for the government, management, maintenance, equipment and direction of such Fire Department and the premises, property and equipment thereof. The Council may make ordinances, as it may deem proper, for the prevention and extinguishment of fires, for the regulation of the conduct of persons in attendance at fires, in relation to the powers and duties of the officers and men of the Fire Department, to require citizens to render assistance to the Fire Department in case of need, and in relation to the acquisition, use, maintenance and preservation of real estate, personal property, fire apparatus and equipment necessary or proper for the use of the Fire Department.

State law reference—Fire/EMS departments, Code of Virginia, § 27-6 et seq.

Sec. 5.02. Sale and storage of combustibles; discharge of firearms; bonfires.

The Town Council shall have the power and authority to regulate the keeping or storage of dynamite, gunpowder or other combustibles within the Town, and to provide magazines for the same, and direct the location of all buildings for the storage thereof; to regulate the sale and use of dynamite, gunpowder and other combustibles, and firecrackers or fireworks manufactured therefrom, gasoline, kerosene oil, nitroglycerine, camphene, fuel oil or other combustible material; to regulate the exhibition of fireworks and the discharge of firearms, and to restrict the making of bonfires in streets, alleys and yards.

Editor's note—Local control of firearms is restricted in Code of Virginia, § ~~15.1-29.15~~ 15.2-915.

State law reference—Permits for fireworks display, Code of Virginia, § ~~§~~ 15.2-974; use of explosives, etc., Code of Virginia, § 18.2-85.

CHAPTER 6. HEALTH AND SANITATION*

***State law reference**—Disease, Code of Virginia, § 32.1-116.

Sec. 6.01. Preservation of public health; quarantine; infectious diseases.

The Town shall have the power to provide for the general preservation of the public health of the inhabitants of the Town and to make regulations and ordinances to secure the same; to establish quarantines within or without the Town; to control infectious diseases; and to enforce the removal of persons afflicted therewith to hospitals for the treatment thereof.

PROOFS

Sec. 6.02. Connection with and use of Town sewer or water pipe lines.

The Town Council shall have the power and authority to require the owners or occupiers of the real estate within the corporate limits of the Town to use such sewer pipes and conduits and water furnished by the Town under such ordinances and regulations as the Council may deem necessary to secure the proper sewerage thereof and to improve and secure good sanitary conditions; and shall have the power to enforce the observance of all such ordinances and regulations by the imposition and collection of fines and penalties, to be collected as other fines and penalties, under the provisions of this Act [Charter].

(Acts 1968, ch. 173)

Sec. 6.03. Collection and disposal of sewage, garbage and refuse.

The Town is empowered to collect and dispose of sewage, offal, ashes, garbage, carcasses of dead animals and other refuse; to make and collect reasonable charges therefor; to acquire and operate reduction or any other plants or land for the utilization or destruction and disposal of such materials, or any of them; to require and regulate the collection and disposal thereof; to contract for and regulate the collection and disposal thereof.

Sec. 6.04. Abatement of nuisances; maintenance of lots, sidewalks, etc.; regulation of slaughterhouses, animals, dangerous businesses, smoke and unnecessary noise and billboards, signs, etc.

The Town Council shall have the power and authority to prevent injury or annoyance from anything dangerous, offensive or unhealthy; to provide by general ordinances what are nuisances, to cause the abatement of any nuisance so declared to be by the general laws of the State or by the general ordinances of the Town and the Town shall have the authority to compel the abatement of nuisances within the Town, or upon property owned by the Town without the corporate limits, at the expense of the person, or persons, causing the same, or of the owner or occupants of the grounds or premises whereon the same may be, and to collect said expenses by suit or motion; to require all lots, lands and other premises within the Town to be kept clean and sanitary, free from all stagnant waters, weeds, filth, fire hazards and unsightly deposits, or to make them so, at the expense of the owners or occupants thereof, and to collect said expenses by suit or motion, or by distress and sale; to regulate or prevent slaughterhouses, or other noisome or offensive businesses within said Town, the keeping of hogs or other animals, poultry or fowl therein, or the exercise of any dangerous or unwholesome business, trade or employment therein; to compel the abatement of smoke or unnecessary noises; to regulate the location, construction, operation, and maintenance of billboards, signs and advertising, and to generally define, prohibit, abate, suppress and prevent all things detrimental to the health, morals or safety, convenience or welfare of the inhabitants of the Town; and to require all owners or occupants of property having sidewalks in front thereof to keep the same clean and sanitary, free from all weeds, snow or other obstructions.

CHAPTER 7. MISCELLANEOUS PROVISIONS

Sec. 7.01. Contracts for erection of public improvements and buildings; interest of Council members in contracts.

All contracts for the erection of public improvements and buildings within the jurisdiction of the Town where the estimated cost thereof exceeds three thousand dollars, and in all cases where practicable, shall be let to the lowest responsible bidder, all things considered, and the party to whom any contract is let shall give bond as the Council may require, but in no event shall any contract be let to any member of the Town Council, nor shall any member have any interest in such contract.

(Acts 1968, ch. 173)

PROOFS

State law reference—Virginia Public Procurement Act, Code of Virginia, § 11-35 et seq.

Sec. 7.02. Inspection, weighing, etc., of commodities for sale in Town; regulation of scales, measures, meters and transportation of commodities through streets.

The Town Council shall have the power to provide for the inspection, testing, measuring and weighing of any commodities or articles for sale, consumption or use within the Town; to establish, regulate, inspect and license scales, measures, meters and similar devices; and to charge a reasonable fee for same, and to regulate the transportation of such commodities through the streets.

Sec. 7.03. Protection of persons and property and preservation of peace and order.

The Town Council shall have the power and authority to protect the persons and property of the inhabitants of the Town and others within the Town; [to] restrain and punish drunkards, vagrants and street beggars; to prevent vice and immorality; to preserve the public peace and good order; to prevent and quell riots, disturbances and disorderly assemblages; to suppress houses of ill fame and gambling houses; to prevent and punish lewd or indecent conduct or exhibitions in the Town; and to expel therefrom persons guilty of such conduct who have not resided therein as much as one year; and for any violation of such ordinances may impose fines and other punishments in addition to those prescribed by the laws of the State.

Editor's note—The penalty for the violation of an ordinance must not exceed the penalty prescribed by general law for a like offense. (Code of Virginia, § 15.1-901)

[7]Sec. 7.04. Prevention of certain persons from coming into Town.

The Town Council shall have the power and authority to prevent the coming into Town of persons having no ostensible means of support, and of persons who may be dangerous to the peace and safety of the Town.

Sec. 7.05. Reward for information leading to arrest of criminals.

The Town Council shall have the power and authority, where any crime has been committed or attempted to be committed in the Town, in their discretion to offer such reward as they think right to any person or persons for information leading to the arrest or conviction of any such criminal.

Sec. 7.06. County Trial Justice System; judicial authority of Mayor in event of withdrawal from County Trial Justice System.

The Town shall operate under the County Trial Justice System for the trial of violations of the ordinances of the Town. However, should the Town Council deem it advisable, to the best interest of the Town, to withdraw such system, then the Mayor shall try such cases and shall be clothed with the authority to inflict such punishment and impose such fines as may be prescribed for the violation of Town ordinances.

The compensation of the Mayor in the trial of such cases shall be as fixed by the Town Council.

Editor's note—The above section is superseded by Code of Virginia, § 16.1-123.1.

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[7] This section is of questionable validity. Town petition General Assembly to amend? Leave as is for now.

PROOFS

Sec. 7.07. Police Justice.

In lieu of the Mayor trying cases involving the violation of Town ordinances, the Council may, in its discretion, create, by ordinance, the Office of Police Justice and may appoint a Police Justice for the Town, to try all violations of Town ordinances.

The term of office and compensation of such Police Justice shall be as fixed by the Town Council.

Editor's note—The above section is superseded by Code of Virginia, § 16.1-123.1.

Sec. 7.08. Justice of the Peace.

The Town Council shall have the power to appoint a Justice of the Peace for such Town, who shall be clothed with all the powers and authority of other Justices of the Peace and upon whom may be conferred, in the manner provided in Section 16-129 of the Code of Virginia the right and authority therein set forth.

Editor's note—The Justice of the Peace system has been abolished. (Code of Virginia, § 19.2-31 et seq.)

Sec. 7.09. County jail.

The Town is authorized to use the jail of Montgomery County for the confinement of persons awaiting trial for, or convicted and sentenced to jail for, violation of Town ordinances, upon such terms and conditions as may be agreed upon between the governing bodies of the Town and County, respectively.

Sec. 7.10. Working of prisoners.

Any person confined in jail, as provided in this Charter, or for violations of Town ordinances may be required to work on the streets and public works of said Town during the time of confinement. [8]Any person refusing so to work may be subjected to solitary confinement with a diet of bread and water for a period not exceeding thirty-six hours.

Sec. 7.11. Continuance of existing ordinances.

All ordinances now in force in the Town of Christiansburg, not inconsistent with this Act [Charter], shall be and remain in force until altered, amended or repealed by the Town Council.

Sec. 7.12. Publication of ordinances; ordinances as evidence.

No ordinance hereafter passed by said Council, as now constituted or hereafter elected, for the violation of which any penalty is imposed, shall take effect until the same shall have been published as the Council may order; and all laws regulating any ordinance of the Council may be read in evidence in all courts of justice, and all proceedings before any officer, body or board, in which it shall be necessary to refer thereto; but after the expiration of six months from the date of such ordinance its publication shall not be questioned or its validity affected by any failure to publish the same; but this section shall not apply to the ordinances of whatever kind now in force in the Town of Christiansburg so as to require republication thereof.

Sec. 7.13. Continuation of present officers.

The present elective officers of the Town shall be, and remain in, office until expiration of their several terms, and until successors have been duly elected and qualified.

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[8] This sentence is of questionable validity. Town petition General Assembly to amend? Leave as is for now.

PROOFS

Sec. 7.14. Title of Charter.

This Act [Charter] may, for all purposes, be referred to or cited as the Christiansburg Charter of Nineteen Hundred and Fifty-four, as amended.

PROOFS

PART II

Subpart A

CODE OF ORDINANCES

Chapter 1

GENERAL PROVISIONS*

~~***Charter reference**—Incorporation and boundaries, ch. 1; miscellaneous provisions, ch. 7.~~

~~Sec. 1-1. How Code designated and cited.~~

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

~~Sec. 1-3. Catchlines of sections.~~

~~Sec. 1-4. Provisions considered as continuations of existing ordinances.~~

~~Sec. 1-5. Severability of parts of Code.~~

~~Sec. 1-6. Classification of and penalties for violations; continuing violations.~~

~~Sec. 1-7. Authority of Court to order payment of fine, costs, forfeitures, penalties or restitution in installments or upon other terms and conditions--Community work in lieu of payment.~~

~~Sec. 1-8. Same--Determination of ability to pay fine.~~

~~Sec. 1-9. Same--Payment of fine or costs as condition of probation or suspension of sentence.~~

~~Sec. 1-10. Same--Behavior of defendant until fine and costs paid.~~

~~Sec. 1-11. Same--Procedure on default in deferred payment or installment payment of fine, costs, forfeiture, restitution or penalty.~~

~~Sec. 1-12. Construction of repealing ordinance with relation to ordinance repealed.~~

~~Sec. 1-13. Corporate seal.~~

~~Sec. 1-14. Miscellaneous ordinances not affected by Code.~~

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

The ordinances embraced in this chapter and the following chapters and sections shall constitute and be designated [9] as the "Code of the Town of Christiansburg, Virginia," and may be so cited. Such ordinances may also be cited as the "Christiansburg Town Code."

(Code 1972, § 1-1; Code 1992, § 1-1)

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

In the construction of this Code and of all ordinances, the following rules shall be observed, unless such construction would be inconsistent with the manifest intent of the Council:

Code. The term "Code" means the Code of the Town of Christiansburg, Virginia, as designated in section 1-1.

Code of Virginia. The term "Code of Virginia" ~~shall~~ means the Code of Virginia of 1950, as amended.

State law reference—Designation of Code of Virginia, Code of Virginia, § 1-1.

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[9] Use "the"? Use "as the"

PROOFS

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

State law reference—Similar provisions, Code of Virginia, § ~~1-13.3~~ 1-210.

Council, town council. The terms "council" and "town council" ~~shall~~ mean the town council of the Town of Christiansburg, Virginia.

County. The terms "county" and "the county" ~~shall~~ mean the County of Montgomery in the State of Virginia.

Delegation of authority. A provision that authorizes or requires a town officer or town employee to perform an act or make a decision authorizes such officer or employee to act or make a decision through subordinates.

[10]*Gender.* A term ~~importing~~ used in the masculine gender ~~only shall extend and be applied to females and to firms, partnerships and corporations as well as to males~~ includes feminine and neuter.

State law reference—Similar provisions, Code of Virginia, § ~~1-13.7~~ 1-216.

[11]*Health department.* The term "health department" ~~shall~~ means the health department of Montgomery County, Virginia.

[12]*Health officer.* The term "health officer" ~~shall~~ means the health officer of Montgomery County, Virginia.

Number. ~~A word importing the singular number only may extend and be applied to several persons or things as well as to one person or thing; a word importing the plural number only may extend and be applied to one person or thing, as well as to several persons or things.~~ [13]A term used in the singular includes the plural and a term used in the plural includes the singular.

State law reference—Similar provisions, Code of Virginia, § ~~1-13.15~~ 1-227.

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

State law reference—Similar provisions, Code of Virginia, § ~~1-13.16~~ 1-228.

Officers, etc. The title of an officer, department, board or commission shall be construed as if the words "of Christiansburg, Virginia" followed it.

[14]*Person.* The term "person" ~~shall~~ includes any individual, corporation, partnership, association, cooperative, limited liability company, business, trust, joint venture or other legal or commercial entity and any successor, representative, agent, agency or instrumentality thereof.

State law reference—Similar provisions, Code of Virginia, § ~~1-13.19~~ 1-230.

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

~~[15]**State law reference—Similar provisions, Code of Virginia, §§ 1-13.6, 1-13.23.**~~

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[10] Conform to Code of Virginia, § 1-216? Yes.
[11] Still correct? Yes.
[12] Still correct? Yes.
[13] Conform to state law? Yes.
[14] Conform to state law? Yes.
[15] This section has been repealed. Okay, delete reference.

PROOFS

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

Sidewalk. The term "sidewalk" ~~shall~~ means any portion of a street between the curbline, or the lateral lines of a roadway where there is no curb, and the abutting property line, intended for the use of pedestrians.

State, Commonwealth. The term "state" or "commonwealth" shall be construed as if the words "of Virginia" followed it.

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

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

State law reference—Similar provisions, Code of Virginia, § ~~1-13.28~~ 1-250.

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

Town. The term "town" shall be construed as if the words "of Christiansburg" followed it.

(Code 1972, § 1-2; Code 1992, § 1-2)

Sec. 1-3. Catchlines of sections.

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

(Code 1972, § 1-3; Code 1992, § 1-3)

State law reference—Similar provisions as to statutes, Code of Virginia, § ~~1-13.9~~ 1-217.

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

All references to chapters, articles, divisions or sections are to the chapters, articles, divisions and sections of this Code unless otherwise specified.

[17]Sec. 1-5. History notes.

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

[18]Sec. 1-6. References and editor's notes.

References and editor's notes following certain sections are inserted as an aid and guide to the reader and are not controlling or meant to have any legal effect.

PROOFS

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[16] Include this section in Code? Yes.
[17] Include this section in Code? Yes.
[18] Include this section in Code? Yes.

Sec. 1-7. Provisions considered as continuations of existing ordinances.

The provisions appearing in this Code, so far as they are the same as those of the ~~1972~~ 1992 Code, and all ordinances adopted subsequent to the ~~1972~~ 1992 Code and included herein shall be considered as continuations thereof and not as new enactments.

(Code 1972, § 1-4; Code 1992, § 1-4)

[19]**Sec. 1-8. Amendments to Code; effect of new ordinances; amendatory language.**

(a) All ordinances passed subsequent to this Code that amend, repeal or in any way affect this Code may be numbered in accordance with the numbering system of this Code and printed for inclusion therein. When subsequent ordinances repeal any chapter, section or subsection or any portion thereof, such repealed portions may be excluded from this Code by omission from reprinted pages. The subsequent ordinances as numbered and printed, or omitted in the case of repeal, shall be prima facie evidence of such subsequent ordinances until such time that this Code and subsequent ordinances numbered or omitted are readopted as a new code by the town council.

~~Amendments to any of the provisions of this Code shall be made by amending such provisions by specific reference to the section number of this Code in the following language: "That section _____ of the Code of the Town of Christiansburg, Virginia, is hereby amended to read as follows: . . . ." The new provisions shall then be set out in full as desired.~~

~~In the event a new section not heretofore existing in the Code is to be added, the following language shall be used: "That the Code of the Town of Christiansburg, Virginia, is hereby amended by adding a section to be numbered _____, which section reads as follows: . . . ." The new section shall then be set out in full as desired.~~

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

[20]**Sec. 1-9. Supplementation of Code.**

(a) By contract or by town personnel, supplements to this Code shall be prepared and printed. A supplement to the Code shall include all substantive permanent and general parts of ordinances adopted during the period covered by the supplement and all changes made thereby in the Code. The pages of a supplement shall be so numbered that they will fit properly into the Code and will, where necessary, replace pages that have become obsolete or partially obsolete; and the new pages shall be so prepared that, when they have been inserted, the Code will be current through the date of the adoption of the latest ordinance included in the supplement.

(b) In preparing a supplement to this Code, all portions of the Code that have been repealed shall be excluded from the Code by the omission thereof from reprinted pages.

(c) When preparing a supplement to this Code, the codifier (meaning the person, agency or organization authorized to prepare the supplement) may make formal, nonsubstantive changes in ordinances and parts of ordinances included in the supplement, insofar as it is necessary to do so to embody them into a unified code. For example, the codifier may:

(1) Organize the ordinance material into appropriate subdivisions;

(2) Provide appropriate catchlines, headings and titles for sections and other subdivisions of the Code printed in the supplement, and make changes in catchlines, headings and titles;

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[19] Include this section in Code? Yes, but (b) and (c) aren't necessary –delete. I think they just set the potential for a legal challenge if the ordinance wording does not match exactly.

[20] Include this section in Code? Yes.

PROOFS

(3) Assign appropriate numbers to sections and other subdivisions to be inserted in the Code and, where necessary to accommodate new material, change existing section or other subdivision numbers;

(4) Change the words "this ordinance" or words of the same meaning to "this chapter," "this article," "this division," etc., as the case may be, or to "sections to " (inserting section numbers to indicate the sections of the Code that embody the substantive sections of the ordinance incorporated into the Code); and

(5) Make other nonsubstantive changes necessary to preserve the original meaning of ordinance sections inserted into the Code;

but in no case shall the codifier make any change in the meaning or effect of ordinance material included in the supplement or already embodied in the Code.

Sec. 1-10. Severability of parts of Code.

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

(Code 1972, § 1-5; Code 1992, § 1-5)

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

Sec. 1-11. Classification of, and penalties for, violations; continuing violations.

(a) Whenever in this Code or any other ordinances of the town or any rule or regulation promulgated by any officer, official or agency of the town under the authority duly vested in such officer, official or agency it is provided that a violation of any provision thereof shall constitute a class 1, 2, 3 or 4 misdemeanor, such violation shall be punishable as follows:

(1) *Class 1 misdemeanor:* By a fine of not more than $2,500.00 or by confinement in jail for not more than 12 months, or by both such fine and confinement.

(2) *Class 2 misdemeanor:* By a fine of not more than $1,000.00 or by confinement in jail for not more than six months, or by both such fine and confinement.

(3) *Class 3 misdemeanor:* By a fine of not more than $500.00.

(4) *Class 4 misdemeanor:* By a fine of not more than $250.00.

(b) Whenever, in any provision of this Code or in any other ordinance of the town or any rule or regulation promulgated by an officer, official or agency of the town, under authority duly vested in such officer, official or agency, any act is prohibited or is made or declared to be unlawful or an offense or misdemeanor, or the doing of any act is required, or the failure to do any act is declared to be unlawful or an offense or a misdemeanor, where no specific penalty is provided for the violation of such provision and such violation is not described as being of a particular class of misdemeanor, such violation shall constitute a Class 1 misdemeanor and be punishable as prescribed in subsection (a)(1) of this section.

(c) On each day any violation of this Code or any other ordinance, rule or regulation referred to in this section shall continue, such shall constitute a separate offense and be punished as a class 1 misdemeanor, except where otherwise provided.

(d) Any provision of this Code or other ordinance, ~~of the town or~~ rule or regulation to the contrary notwithstanding, no penalty, whether by fine or imprisonment, imposed for the violation of any provision of this Code or other ordinance, ~~of the town or~~ rule or regulation shall be in excess of the penalty established by the state for a similar offense under state law.

PROOFS

(e) In this section the term "this Code" shall also mean all provisions incorporated by reference in this Code.

(f) No misdemeanor penalty shall be deemed to restrict, in any way, the right of the town to injunctive relief.

(Code 1972, § 1-6; Code 1992, § 1-6)

Charter reference—Power of Council to prescribe fines and other punishments for violation of ordinances and bylaws, § 2.27.

State law reference—Power of Town Council to prescribe fines or other punishment for violation of ordinances, Code of Virginia, § ~~15.1-13~~ 15.2-1429; maximum penalty, Code of Virginia, § ~~15.1-901~~ 15.2-1429; punishment for conviction of misdemeanor, Code of Virginia, § 18.2-11.

[21]~~Sec. 1-7. Authority of court to order payment of fine, costs, forfeitures, penalties or restitution in installments or upon other terms and conditions; community work in lieu of payment.~~

~~Whenever:~~

~~A defendant, convicted of a traffic infraction or a violation of any criminal law of the Commonwealth or of the Town, or found not innocent in the case of a juvenile, is sentenced to pay a fine, restitution, forfeiture or penalty; and~~

~~The defendant is unable to make immediate payment of the fine, restitution, forfeiture, or penalty and costs;~~

~~the Court, on motion of the defendant, may order the defendant to pay such fine, restitution, forfeiture or penalty and any costs which the defendant may be required to pay in installments or upon such other terms and conditions within such period of time as may enable the defendant to pay such amounts due.~~

~~The Court may establish a program to provide an option to any person upon whom a fine and costs have been imposed to discharge all or part of the fine or costs by earning credits for the performance of community service work before or after imprisonment. The program shall specify the rate at which credits are earned and provide for the manner of applying earned credits against the fine or costs. The Court shall have such other authority as is reasonably necessary for or incidental to carrying out this program.~~

~~When the Court has authorized deferred payment or installment payments, the Clerk shall give notice to the defendant that upon his failure to pay as ordered he may be fined or imprisoned pursuant to Section 1-11 and if convicted of any violation of the motor vehicle laws of this Commonwealth or of the Town his license to operate a motor vehicle will be suspended pursuant to Code of Virginia, § 46.2-395.~~

~~(Code 1972, § 1-8; Code 1992, § 1-7)~~

~~**State law reference**—Similar provisions, Code of Virginia, § 19.2-354.~~

PROOFS

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[21] This section is in state law and is unnecessary for the town to adopt. If it is retained, it must be conformed to the state law amendments up to and including those in 2009. Delete.

[22]Sec. 1-8. Same--determination of ability to pay fine.

In determining whether the defendant is unable to pay a fine forthwith, the Court may require such defendant to file a petition, under oath, with the court, upon a form provided by the court, setting forth the financial condition of the defendant.

Such form shall be a questionnaire and shall include, but shall not be limited to: The name and residence of the defendant; his occupation, if any; his family status and the number of persons dependent upon him; his monthly income; whether or not his dependents are employed and, if so, their approximate monthly income; his banking accounts, if any; real estate owned by the defendant, or any interest he may have in real estate; income produced therefrom; any independent income accruing to the defendant; tangible and intangible personal property owned by the defendant or in which he may have an interest; and a statement listing the approximate indebtedness of the defendant to other persons. Such form shall also include a payment plan of the defendant, if the court should exercise its discretion in permitting the payment of such fine and costs in installments or other conditions to be fixed by the Court. At the end of such form there shall be printed in boldface type, in a distinctive color, the following: "This statement is made under oath. Any false statement of a material fact to any question contained herein shall constitute perjury under the provisions of Code of Virginia, § 18.2-434. The maximum penalty for perjury is confinement in the penitentiary for a period of ten years." A copy of the petition shall be retained by the defendant.

If the defendant is unable to read or write, the Court or the Clerk may assist the defendant in completing the petition and require him to affix his mark thereto. The consequences of the making of a false statement shall be explained to such defendant.

(Code 1972, § 1-9; Code 1992, § 1-8)

State law reference--Similar provisions, Code of Virginia, § 19.2-355.

[23]Sec. 1-9. Same--payment of fine or costs as condition of probation or suspension of sentence.

If a defendant is placed on probation, or imposition or execution of sentence is suspended, or both, the Court may make payment of any fine, or costs, or fine and costs, either on a certain date or on an installment basis, a condition of probation or suspension of sentence.

(Code 1972, § 1-10; Code 1992, § 1-9)

State law reference--Similar provisions, Code of Virginia, § 19.2-356.

[24]Sec. 1-10. Same--behavior of defendant until fine and costs paid.

If a defendant is permitted to pay a fine or fine and costs on an installment basis, or under such other conditions as the Court shall fix under the provisions of Section 1-7, the Court may require as a condition that the defendant be of peace and good behavior until the fine and costs are paid.

(Code 1972, § 1-11; Code 1992, § 1-10)

State law reference--Similar provisions, Code of Virginia, § 19.2-357.

PROOFS

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[22] This section is in state law and is unnecessary for the town to adopt. If it is retained, it must be conformed to the state law. Delete.

[23] This section is in state law and is unnecessary for the town to adopt. Delete.

[24] This section is in state law and is unnecessary for the town to adopt. Delete.

~~**Sec. 1-11. Same—procedure on default in deferred payment or installment payment of fine, costs, forfeiture, restitution or penalty.**~~

~~(a) When an individual obligated to pay a fine, costs, forfeiture, restitution or penalty defaults in the payment or any installment payment, the Court upon the motion of the Town or upon its own motion, may require him to show cause why he should not be imprisoned or fined for nonpayment.~~

~~(b) Following the order to show cause, unless the defendant shows that his default was not attributable to an intentional refusal to obey the sentence of the Court, or not attributable to a failure on his part to make a good faith effort to obtain the necessary funds for payment, the Court may order the defendant imprisoned as for a contempt for a term not to exceed 60 days or impose a fine not to exceed $500.00. The Court may provide in its order that payment or satisfaction of the amounts in default at any time will entitle the defendant to his release from such imprisonment or, after entering the order, may at any time reduce the sentence for good cause shown, including payment or satisfaction of such amounts.~~

~~(c) If it appears that the default is excusable under the standards set forth in subsection (b), the Court may enter an order allowing the defendant additional time for payment, reducing the amount due or of each installment, or remitting the unpaid portion in whole or in part.~~

~~(d) Nothing in this section shall be deemed to alter or interfere with the collection of fines by any means authorized for the enforcement of money judgments rendered in favor of the Town.~~

~~(Code 1972, § 1-12; Code 1992, § 1-11)~~

~~**State law reference**—Similar provisions, Code of Virginia, § 19.2-358.~~

Sec. 1-12. Construction of repealing ordinance with relation to ordinance repealed.

No new ordinance shall be construed to repeal the former ordinance as to any offense committed against such former ordinance or as to any act done, or any penalty or punishment incurred arising before the new ordinance takes effect.

(Code 1972, § 1-14; Code 1992, § 1-12)

Sec. 1-13. Corporate seal.

The corporate seal of the town shall be as shown on the impression as follows:

[Graphic]

(Code 1972, § 1-15; Code 1992, § 1-13)

Charter reference—Corporate seal authorized, § 1.01; Clerk's duties, § 2.28; seal affixed to bonds, § 3.19.

Sec. 1-14. Miscellaneous ordinances not affected by Code.

(a) Nothing in this Code or the ordinance adopting this Code shall affect:

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

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

(3) Any ordinance or resolution promising or guaranteeing the payment of money for the town or authorizing the issue of any bonds of the town or any evidence of the town's indebtedness or any contract or obligation assumed by the town;

(4) Any annual tax levy;

(5) Any right or franchise conferred by ordinance or resolution of the town on any person;

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

PROOFS

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

(8) Any ordinance relating to the salaries of the town officers or employees, personnel policies, retirement plans or other benefits;

(9) Any ordinance annexing territory to the town;

(10) Any ordinance naming, renaming, opening, accepting or vacating streets or alleys in the town;

(11) Any ordinance amending any official zoning map;

(12) Any ordinance consistent with this Code pertaining to motor vehicles or traffic regulations.

~~-- The Building Code;~~

(b) ~~and~~ All such ordinances are hereby recognized as continuing in full force and effect to the same extent as if set out at length in this Code.

(Code 1992, § 1-14; Ord. of 5-16-1972, § 3)

PROOFS

Chapter 2

ADMINISTRATION*

***Charter reference**—Incorporation and boundaries, ch. 1; administration and government, ch. 2; property, buildings, utilities and streets, ch. 4; miscellaneous provisions, ch. 7.

~~**Cross reference**—Enforcement of outdoor advertising article, § 3-37; Armory, ch. 7; Armory Control Board, § 7-1; Building Official, § 9-27; Building Inspector, § 9-28; Building Code Board of Appeals, § 9-30; appeals under Erosion and Sediment Control Ordinance, § 10-10; finance and taxation, ch. 11; fire protection, ch. 12; Volunteer Fire Company, § 12-36 et seq.; enforcement of Fire Prevention Code, § 12-66; Fire Board of Appeals, § 12-68; Police Department, ch. 18; Police Chief generally, § 18-4; procurement, ch. 20; purchasing agent, § 20-26 et seq.; public utilities, ch. 21; recreation center, ch. 22; Recreation Center Board of Control, § 22-1; rescue and lifesaving, ch. 23; solid waste, weeds, tree trimmings, leaves, ch. 24; streets and sidewalks, ch. 25; water and sewers, ch. 29; Administrator of zoning chapter, § 30-4; Board of Zoning Appeals, § 30-165 et seq.~~

State law reference—The Virginia Freedom of Information Act, Code of Virginia, § ~~2.1-340~~ 2.2-3700 et seq.; counties, cities and towns, Code of Virginia, § ~~15.1-1~~ 15.2-100 et seq.; ~~government~~ powers of cities and towns, Code of Virginia, § ~~15.1-792~~ 15.2-1100 et seq.~~; provisions affecting towns only, Code of Virginia, § 15.1-826 et seq~~.

~~Article I. In General~~

~~Sec. 2-1. Proposed ordinances and resolutions to be in writing.~~

~~Sec. 2-2. Style of ordinances and resolutions.~~

~~Sec. 2-3. Record book for ordinances and resolutions--To be kept by Clerk of Council.~~

~~Sec. 2-4. Same--Notation of amendments and repeals.~~

~~Sec. 2-5. Execution and force and effect of deeds, contracts, etc.~~

~~Sec. 2-6. Submission requirements.~~

~~Secs. 2-6-2-7--2-30. Reserved.~~

~~Article II. Town Council~~

~~Division 1. Generally~~

~~Sec. 2-31. When regular meetings held.~~

~~Sec. 2-32. Town Clerk to be Clerk of Town Council.~~

~~Sec. 2-33. Campaign finance disclosure.~~

~~Secs. 2-34--2-45. Reserved.~~

~~Division 2. Rules of Order~~

~~Sec. 2-46. Officers and employees to attend meetings.~~

~~Sec. 2-47. Excusal of member during meeting.~~

~~Sec. 2-48. Applications and petitions.~~

~~Sec. 2-49. Control of meetings.~~

~~Sec. 2-50. Preservation of decorum and order.~~

~~Sec. 2-51. Member's right to floor.~~

~~Sec. 2-52. Personal privilege.~~

~~Sec. 2-53. Conduct in addressing Council.~~

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~~Sec. 2-54. Appeal from ruling of presiding officer.~~
~~Sec. 2-55. When nonmember may speak.~~
~~Sec. 2-56. Speaking to particular member during meeting.~~
~~Sec. 2-57. Second and withdrawal of motions.~~
~~Sec. 2-58. Order of motions upon questions.~~
~~Sec. 2-59. Previous question.~~
~~Sec. 2-60. Questions containing several distinct propositions.~~
~~Sec. 2-61. Consideration of amendments.~~
~~Sec. 2-62. Amending amendments.~~
~~Sec. 2-63. Amendment of ordinances.~~
~~Sec. 2-64. Voting.~~
~~Sec. 2-65. Dissent and protest.~~
~~Sec. 2-66. Reconsideration after decision on question.~~
~~Sec. 2-67. Adjournment.~~
~~Sec. 2-68. Procedure in absence of rule.~~
~~Sec. 2-69. Amending rules of order.~~
~~Secs. 2-70--2-90. Reserved.~~

~~Article III. Officers and Employees~~

~~Division 1. Generally~~

~~Sec. 2-91. Town Manager.~~
~~Sec. 2-92. Bond for Town Treasurer.~~
~~Sec. 2-93. Absences from duty.~~
~~Sec. 2-94. Holidays falling in annual leave period.~~
~~Sec. 2-95. Leave without pay--Voluntary.~~
~~Sec. 2-96. Same--Compulsory.~~
~~Sec. 2-97. Enforcement of ordinances, laws, etc.~~
~~Sec. 2-98. Right of entry for purposes of law enforcement.~~
~~Sec. 2-99. Resisting or obstructing officers, employees, etc.~~
~~Sec. 2-100. Criminal background checks of applicants for Town employment.~~
~~Secs. 2-100 2-101--2-110. Reserved.~~

~~Division 2. Personnel Plan and Grievance Procedure~~

~~Sec. 2-111. Establishment.~~
~~Sec. 2-112. Development; approval by Council; administration.~~
~~Secs. 2-113--2-125. Reserved.~~

~~Division 3. Employee Retirement System~~

~~Sec. 2-126. Established.~~

PROOFS

~~Sec. 2-127. Eligibility.~~

~~Sec. 2-128. Retirement age.~~

~~Secs. 2-129--2-150. Reserved.~~

~~**Article IV. Parks and Recreation**~~

~~Division 1. Generally~~

~~Sec. 2-151. Director of Parks and Recreation--Position established.~~

~~Sec. 2-152. Same--Duties.~~

~~Secs. 2-153--2-165. Reserved.~~

~~Division 2. Advisory Commission~~

~~Sec. 2-166. Establishment; composition; appointment; purpose.~~

~~Sec. 2-167. Term of office of members.~~

~~Sec. 2-168. Organization.~~

~~Secs. 2-169--2-190. Reserved.~~

~~**Article V. Safety Program**~~

~~Sec. 2-191. Establishment; purpose; creation of Safety Commission.~~

~~Sec. 2-192. Composition of Safety Commission; duties.~~

~~Sec. 2-193. Organization.~~

~~Secs. 2-194--2-215. Reserved.~~

~~**Article VI. Planning Commission**~~

~~Sec. 2-216. Creation.~~

~~Sec. 2-217. Composition; appointment and term of members.~~

~~Sec. 2-218. Vacancies.~~

~~Sec. 2-219. Program of work; master plan.~~

~~Sec. 2-220. Functions, powers and duties.~~

~~Sec. 2-221. Compensation of members.~~

~~Sec. 2-222. Removal of appointed members.~~

ARTICLE I. IN GENERAL

Sec. 2-1. Submission ~~requirements~~ of information required prior to certain applications.

Prior to the application for a special exception, conditional use permit, variance, rezoning, zoning ordinance modification, conditional zoning, site plan review, subdivision plat review or a land disturbing permit, including building permits and erosion and sediment control permits, the property owner, the owner's agent, or any entity in which the owner holds an ownership interest greater than 50 percent, will submit satisfactory evidence that any delinquent real estate taxes, nuisance charges, stormwater management utility fees, and any other charges that constitute a lien on the subject property, that are owed to the town and have been properly assessed against the subject property, have been paid.

(Ord. No. 2013-2, § 2-6, 3-5-2013)

PROOFS

Secs. 2-2--2-20. Reserved.

ARTICLE II. TOWN COUNCIL*

***Charter reference**—Council generally, § 2.01 et seq.

~~**Cross reference**—Unsafe buildings, walls and structures, § 9-51 et seq.; disorderly conduct at public meeting of Town Council, etc., § 17-6; water and sewer extensions, § 29-36 et seq.~~

State law reference—Governing bodies of localities, Code of Virginia, § 15.2-1400 et seq.; powers of cities and towns, Code of Virginia, § 15.2-1100 et seq.; filling vacancy on council, Code of Virginia, § 24.2-226.

DIVISION 1. GENERALLY

Sec. 2-21. When regular meetings held.

The regular meetings of the town council shall be held at a time and place to be set at the ~~annual~~ organization meeting of the council.

(Code 1972, § 2-6; Code 1992, § 2-31)

Charter reference—Meetings of Council, § 2.18 et seq.

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

Sec. 2-22. Town clerk to be clerk of town council.

The town clerk shall be the clerk of the town council.

(Code 1972, § 2-32; Code 1992, § 2-32)

Charter reference—Clerk of Council, § 2.28.

Sec. 2-23. Campaign finance disclosure.

Code of Virginia, Chapter 9.3, Campaign Finance Disclosure Act of 2006, of title 24.2, Elections, ~~of the Code of Virginia~~ as amended, shall be applicable to elections for town offices in the town pursuant to Code of Virginia, § 24.2-945, as amended.

(Code 1992, § 2-33; Ord. No. ~~2010-06~~ 2010-5, 11-2-2010)

State law reference—Council of town with a population of less than 25,000 may provide, by ordinance, that the provisions of Code of Virginia, Title 24.2, chapter 9.3 shall be applicable to elections for town offices in the town, Code of Virginia, § 24.2-945.

Secs. 2-24--2-49. Reserved.

[25]DIVISION 2. RULES OF ORDER*

***Charter reference**—Authority of Council to adopt procedural rules, § 2.18.

Sec. 2-50. Officers and employees to attend meetings.

The head of any department or any officer or employee of the town, when requested by the council or the town manager, shall attend any regular, adjourned or special meeting of the council.

(Code 1972, § 2-7; Code 1992, § 2-46)

Sec. 2-51. Excusal of member during meeting.

No member of the council shall leave the council chamber while in a regular meeting of the council without the permission of the presiding officer.

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[25] Are the rules in this division current and correct? Yes, but delete Sec. 2-48. Has the council adopted Robert's Rules of Order, Newly Revised? Not formally adopted, adopt as a guide/reference.

PROOFS

(Code 1972, § 2-8; Code 1992, § 2-47)

~~**Sec. 2-48. Applications and petitions.**~~

~~All applications made to the Council and petitions shall be read and laid on the table subject to any motion which a member may think proper to make. All applications and petitions shall be presented through the Town Manager.~~

~~(Code 1972, § 2-9; Code 1992, § 2-48)~~

Sec. 2-52. Control of meetings.

The clerk of the council and other officers and employees of the council shall be under the control and direction of the [26]~~chair~~ presiding officer during sessions of the council.

(Code 1972, § 2-10; Code 1992, § 2-49)

Sec. 2-53. Preservation of decorum and order.

The presiding officer shall preserve decorum and decide on questions of order, subject to appeal to the council. If a member transgresses the rules of the council, the presiding officer shall call him to order.

(Code 1972, § 2-11; Code 1992, § 2-50)

Charter reference—Authority of Council to fine and expel members, § 2.22.

Sec. 2-54. Member's right to floor.

~~(a)~~ When recognized by the ~~chair~~ presiding officer, a member of the council shall confine himself to the question under debate, avoid personalities and refrain from impugning the motives of any other member's argument or vote.

~~No member of the Council shall speak more than once on the same question until every member choosing to speak shall have done so, nor more than twice nor for a longer time than 15 minutes on any question without the permission of the Council.~~

(Code 1972, § 2-12; Code 1992, § 2-51)

Sec. 2-55. Personal privilege.

The right of a member of the council to address the council on a question of personal privilege shall be limited to cases in which his integrity, character or motives are assailed, questioned or impugned.

(Code 1972, § 2-13; Code 1992, § 2-52)

Sec. 2-56. Conduct in addressing council.

Every member of the council shall confine himself to the question before the council and avoid all personal or indecorous language. No discussion of a sectarian or political nature shall be allowed. No member shall interrupt another while speaking, except to make a point of order, the point to be briefly stated to the presiding officer.

(Code 1972, § 2-14; Code 1992, § 2-53)

Sec. 2-57. Appeal from ruling of presiding officer.

Any member of the council may appeal to the council from the ruling of the presiding officer. If the appeal is seconded, the member making the appeal may briefly state his reason for the same and the presiding officer may briefly explain his ruling; but there shall be no debate on the appeal

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[26] Should this be presiding officer or do you want to use the term chair? Yes, use presiding officer.

PROOFS

and no other member shall participate in the discussion. The presiding officer shall then put the question: "Shall the decision of the chair be sustained?". If the majority of the members present vote "aye," the ruling of the [27]chair is sustained; otherwise, it is overruled.

(Code 1972, § 2-15; Code 1992, § 2-54)

Sec. 2-58. When nonmembers may speak.

No person other than a member of the council shall have the right to discuss any matter in a meeting of the council, unless by consent of a majority of the council.

(Code 1972, § 2-16; Code 1992, § 2-55)

Sec. 2-59. Speaking to particular member during meeting.

If any person other than a town officer desires to speak to a member of the council while the council is in session, the member, if agreeable to the request, shall leave his seat and retire to the rear of the council chamber, or elsewhere, until the conversation is finished.

(Code 1972, § 2-17; Code 1992, § 2-56)

Sec. 2-60. Second and withdrawal of motions.

No motion shall be entertained by the presiding officer until it shall have been seconded, nor shall any motion after being seconded be withdrawn if any member objects to such withdrawal.

(Code 1972, § 2-18; Code 1992, § 2-57)

~~**Sec. 2-58. Order of motions upon questions.**~~

~~When a question is under consideration, no motion shall be received except as follows: to lay on the table, to postpone to a time certain, to postpone indefinitely, to refer to a committee, to amend, to divide and to strike out and insert. Motions for any of these purposes shall have precedence in the order named.~~

~~(Code 1972, § 2-19; Code 1992, § 2-58)~~

~~**Sec. 2-59. Previous question.**~~

~~The previous question may be called at any time by a majority of the members of the Council present.~~

~~(Code 1972, § 2-20; Code 1992, § 2-59)~~

Sec. 2-61. Questions containing several distinct propositions.

If the question under discussion contains several distinct propositions, the same shall be divided at the request of any member and a vote taken separately.

(Code 1972, § 2-21; Code 1992, § 2-60)

Sec. 2-62. Consideration of amendments.

All amendments shall be considered in the order in which they are mentioned. When an amendment is under consideration, a substitute to the whole matter may be received. No proposition on a subject different from the one under consideration shall be received under color of a substitute.

(Code 1972, § 2-22; Code 1992, § 2-61)

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[27] Should this be changed to “presiding officer?”

PROOFS

Sec. 2-63. Amending amendments.

A motion to amend an amendment shall be in order, but one to amend an amendment to an amendment shall not be introduced. An amendment modifying the intention of a motion shall be in order, but an amendment relating to a different matter shall not be in order.

(Code 1972, § 2-23; Code 1992, § 2-62)

Sec. 2-64. Amendment of ordinances.

It shall always be in order to amend an ordinance.

(Code 1972, § 2-24; Code 1992, § 2-63)

Sec. 2-65. Voting.

The vote may be called for by any member of the council. Every member present when a vote is put shall vote either "aye" or "no," unless the council shall for special reason excuse him from voting. Application to be excused from voting must be made before the votes are called for. The member having previously stated the reason for his request, the decision thereon shall be made without debate. Except as otherwise provided in the State and Local Government Conflict of Interests Act (Code of Virginia, § ~~2.1-639.1~~ 2.2-3100 et seq.), no member who has any personal or pecuniary interest in the result of any question before the council shall vote thereon. The vote shall be entered in full on the records.

(Code 1972, § 2-25; Code 1992, § 2-64)

State law reference—Prohibited conduct regarding personal interest in a transaction, exceptions, Code of Virginia, § 2.2-3112.

Sec. 2-66. Dissent and protest.

Any member of the council shall have the right to express dissent from or protest against any ordinance or resolution of the council and shall have the reason therefor entered upon the minutes. Such dissent or protest must be filed in writing, couched in respectful language and presented to the council not later than the next meeting following the date of passage of the ordinance or resolution objected to.

(Code 1972, § 2-26; Code 1992, § 2-65)

Sec. 2-67. Reconsideration after decision on question.

Any member of the council who voted with the majority may move a reconsideration of any action on the same for the next succeeding meeting; provided, that a resolution authorizing or relating to any contract may be reconsidered at any time before the final execution thereof. A motion to reconsider shall require the same number of votes as is required to adopt an ordinance or resolution, after a motion for reconsideration thereof shall have been made without unanimous consent.

(Code 1972, § 2-27; Code 1992, § 2-66)

Sec. 2-68. Adjournment.

The council shall be automatically adjourned at 11:00 p.m. at each regular or called meeting, unless by the unanimous consent of all members present, recorded by an affirmative vote, the meeting shall be further continued. A motion to adjourn shall always be in order and shall be decided without debate.

(Code 1972, § 2-28; Code 1992, § 2-67)

PROOFS

~~**Sec. 2-68. Procedure in absence of rule.**~~

~~In the absence of a rule to govern a point of procedure, reference shall be had to the approved practice in the Virginia House of Delegates.~~

~~(Code 1972, § 2-29; Code 1992, § 2-68)~~

Sec. 2-69. Amending rules of order.

The rules set out in this division may be amended or new rules may be adopted by a majority vote of all members elected to the council. Any such amendments shall be submitted in writing at the preceding regular meeting and shall be placed on the agenda under the order of new business. This requirement shall be waived only by the unanimous consent of all members elected to the council with a recorded vote of all members.

(Code 1972, § 2-30; Code 1992, § 2-69)

Secs. 2-70—2-85. Reserved.

[28]DIVISION 3. ORDINANCES AND RESOLUTIONS AND CERTAIN OTHER DOCUMENTS*

***Charter reference**—Council to adopt ordinances, § 2.27.

State law reference—Ordinances, Code of Virginia, § 15.2-1425.

Sec. 2-86. Proposed ordinances and resolutions to be in writing.

No proposed ordinance or proposed resolution shall be considered or passed by the town council unless it shall be submitted in writing.

(Code 1972, § 2-1; Code 1992, § 2-1)

Charter reference—Authority of Town Council to enact ordinances, § 2.27.

State law reference—Form of the ordinance, Code of Virginia, § 152-1426.

Sec. 2-87. Style of ordinances and resolutions.

The style in which ordinances shall be enacted by the council shall be as follows: "Be it ordained by the Council of the Town of Christiansburg, Virginia: . . ." The style of any resolution so passed shall be: "Be it resolved by the Council of the Town of Christiansburg, Virginia: . . .".

(Code 1972, § 2-2; Code 1992, § 2-2)

State law reference—Form of ordinances, Code of Virginia, § 15.2-1426.

Sec. 2-88. Record book for ordinances and resolutions to be kept by clerk of council.

The clerk of the council shall enter in a well-bound book copies of all ordinances and resolutions passed by the council. The book in which such ordinances and resolutions are thus entered shall be known as the "Ordinances and Resolutions of the Town of Christiansburg." The clerk of the council shall index such book.

(Code 1972, § 2-3; Code 1992, § 2-3)

Sec. 2-89. Notation of amendments and repeals.

When any ordinance or resolution entered in the book referred to in section 2-88 is repealed or amended, the clerk of the council shall write on the first page thereof the words "amended" or "repealed" with a reference to the page of the book where the amending or repealing ordinance or resolution can be found.

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[28] These sections were moved to this new division from Article I. This is acceptable.

PROOFS

(Code 1972, § 2-4; Code 1992, § 2-4)

Sec. 2-90. Execution and force and effect of deeds, contracts, etc.

All deeds, leases, contracts, conveyances and agreements of any description authorized to be made or entered into by the town shall, unless otherwise provided by the council, be signed by the mayor and attested by the clerk of the council. Whenever the seal of the town is required to any writing, the clerk of the council shall have the authority to affix the same to such writing. Any duly authorized writing executed, as provided by this section, shall be the true and binding act and instrument of the town. Nothing herein contained shall apply to conveyances of land sold for delinquent taxes.

(Code 1972, § 2-5; Code 1992, § 2-5)

Charter reference—Execution of bonds, § 3.19.

Secs. 2-91--2-105. Reserved.

ARTICLE III. OFFICERS AND EMPLOYEES*

***Charter reference**—Municipal officers, § 2.03 et seq.; town manager, § 2.04; clerk of the council, § 2.28; town treasurer, § 2.29; chief of police, 2.31; police officers, §§ 2.32, 2.33.

State law reference—Local government personnel, Code of Virginia, § 15.2-1500 et seq.

DIVISION 1. GENERALLY

Sec. 2-106. Town manager.

There shall be a town manager, whose duties shall be as provided by the Charter and the town council. The assistant town manager shall serve as town manager in the absence of the town manager.

(Code 1972, § 2-31; Code 1992, § 2-91)

Charter reference—Town Manager, § 2.04.

[29]Sec. 2-107. Bond for town treasurer.

The town treasurer shall, before entering upon the duties of his office, execute a bond in an amount specified by the town council, with corporate security conditioned according to law. The premium on such bond shall be paid by the town.

(Code 1972, § 2-35; Code 1992, § 2-92)

Charter reference—Town Treasurer, § 2.29.

~~**[30]Sec. 2-93. Absences from duty.**~~

~~The head of such departments as require the regular employment or working of a force of employees shall not be absent from duty without the consent of the Town Manager.~~

~~No employee shall absent himself from duty without permission from the head of his department. All absences shall be reported to the Town Manager at regular daily intervals. All unexcused absences shall be charged against the annual vacation allowance.~~

~~(Code 1972, § 2-36; Code 1992, § 2-93)~~

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[29] The town treasurer is required to execute a bond in the Charter § 2-29 and state law. Delete this section as unnecessary and redundant? Does not hurt, so I would leave as a reminder.

[30] This section and the following three sections appear to be obsolete and superseded by personnel policies. Should they be deleted? Yes.

PROOFS

~~**Sec. 2-94. Holidays falling in annual leave period.**~~

~~Where a legal holiday observed by the Town falls within a period of annual leave, such holiday shall not be counted in computing such leave.~~

~~(Code 1972, § 2-37; Code 1992, § 2-94)~~

~~**Sec. 2-95. Leave without pay—voluntary.**~~

~~Leave without pay may be taken by an employee by special arrangement with the Town Manager or the Council through the head of such employee's department, where such employee desires an extended leave in order to engage in study or training which may equip him for more valuable service to the Town, or where for reasons satisfactory to the Town Manager or the Council it is necessary for such employee to leave the service of the Town temporarily or where the illness of such employee extends beyond the allowable period of such leave.~~

~~(Code 1972, § 2-38; Code 1992, § 2-95)~~

~~**Sec. 2-96. Same—compulsory.**~~

~~Leave without pay may be ordered by the Town Manager or Council as a layoff because of reduced volume of work or as a disciplinary measure.~~

~~(Code 1972, § 2-39; Code 1992, § 2-96)~~

Sec. 2-108. Enforcement of ordinances, laws, etc.

All officers and employees of the town shall enforce obedience to such statutes, provisions of this Code, ordinances, resolutions, rules and regulations, or orders issued thereunder, as may relate to their regular duties and any other statutes, provisions of this Code, ordinances, resolutions, rules, regulations or orders with whose enforcement they are properly chargeable, by any measures provided therein, by the proper report of any violation thereof and by instituting such proceedings as may be necessary to such enforcement.

(Code 1972, § 2-40; Code 1992, § 2-97)

[31]Sec. 2-109. Right of entry for purposes of law enforcement.

~~Whenever any officer or employee of the Town is required or authorized by statute, the provisions of this Code or any ordinance or resolution, or rules and regulations or orders issued thereunder, in order to carry out his duties thereunder, to enter any premises or vehicle for the purpose of making an inspection thereof or of anything therein contained, such officer or employee shall have the right to enter any such premises or vehicle at any reasonable time in pursuance of such duties.~~

(a) For the purpose of enforcing provisions of local, state and federal laws and regulations, duly authorized officers and employees of the town shall have the right to inspect any premises or vehicle or anything contained therein at any reasonable time. No inspection shall be conducted without the consent of the tenant, occupant, property owner or managing agent (if the property owner or managing agent have reserved a right of re-entry in order to inspect the premises) or pursuant to a duly issued administrative inspection or search warrant, or as authorized by other lawful means.

(b) In the event duly authorized officers or employees shall be denied access to a premises or vehicle, he ~~or she~~ may apply for an administrative inspection or search warrant in order to gain access to the premises or vehicle.

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[31] Except for emergencies and law enforcement, etc., if permission to enter is requested and denied an inspection warrant may be required. Change as indicated.

PROOFS

(c) It shall be a violation punishable as a Class 4 misdemeanor for any owner, managing agent, tenant or other person to deny a duly authorized officer or employee of the town access to any premises or vehicles after the duly authorized officer or employee has obtained an administrative inspection or search warrant for such premises or vehicle.

(Code 1972, § 2-41; Code 1992, § 2-98)

~~**Cross reference**—Police Department, ch. 18.~~

State law reference—Inspection warrants, Code of Virginia, § 19.2-393 et seq.

Sec. 2-110. Resisting or obstructing officers, employees, etc.

It shall be unlawful for any person to resist, abuse, obstruct or hinder any officer or employee of the town in the discharge of his duty or any contractor or other person in the execution of any work for the town. Any person who violates this section shall be guilty of a Class 4 misdemeanor.

(Code 1972, § 2-4; Code 1992, § 2-99)

State law reference—Obstructing justice by threats or force, Code of Virginia, § 18.2-460.

Sec. 2-111. Criminal background checks of applicants for town employment.

(a) In order to determine whether, in the interest of public welfare and safety, an applicant for public employment or a volunteer position may be disqualified from such position by reason of a criminal record, the applicant, either upon identification as a finalist in the personnel selection and placement process or upon offer of employment with the town, as determined by the town manager or his~~/her~~ designee, shall be required to provide personal descriptive information and to submit to a criminal background check. The applicant will not be required to pay the cost of the criminal background check.

(b) The criminal history record information regarding such applicant may be obtained through the central criminal records exchange or other appropriate qualified private source.

(c) Town employees are required to promptly notify the human resource department upon notice that the employee is the subject of a criminal investigation by law enforcement or a child protective services investigation by any department of social services.

(d) The criminal history record information, provided in accordance with this section, shall be used solely to assess eligibility for public employment or service, and shall not be disseminated to any person not involved in the assessment process. If an applicant is denied employment because of information appearing in his ~~or her~~ criminal record history, the town manager or his~~/her~~ designee shall notify the applicant in writing that information from the Virginia Central Criminal Records Exchange or other appropriate qualified private source contributed to such denial. Additionally, the applicant shall be provided a copy of the criminal history record, a copy of his ~~or her~~ rights under the Fair Credit Reporting Act, as well as the name, address and phone number for the agency that provided the information, should the applicant desire to contest the contents of his ~~or her~~ criminal history record information.

(Ord. No. 2012-8, § 2-100, 9-8-2012)

Secs. 2-112--2-130. Reserved.

DIVISION 2. PERSONNEL PLAN AND GRIEVANCE PROCEDURE

Sec. 2-131. Establishment.

There is hereby established, pursuant to Code of Virginia, § ~~15.1-7.1~~ 15.2-1506, a personnel plan or system, including a classification plan for service, a uniform pay plan for all employees and a grievance procedure for town employees to afford an immediate and fair method for the resolution of disputes which may arise between the town and its employees. The personnel plan or

PROOFS

system is on file in the town offices. The term "grievance," as used herein, shall not be interpreted to mean negotiations of wages, salaries or fringe benefits.

(Code 1972, § 2-59; Code 1992, § 2-111)

State law reference—Establishment of grievance procedure, personnel system for employees required, Code of Virginia, § 15.2-1506.

[32]~~Sec. 2-112. Development; approval by council; administration.~~

~~The Town Manager will develop the plans and procedures established by Section 2-111 and submit them to the Town Council for consideration and approval.~~

~~Upon approval by the Town Council, the Town Manager will implement and administer the plans and procedures.~~

~~(Code 1972, § 2-60; Code 1992, § 2-112)~~

Secs. 2-132--2-144. Reserved.

~~DIVISION 3. EMPLOYEE RETIREMENT SYSTEM[33]~~

~~Sec. 2-126. Established.~~

~~In accordance with a resolution passed by the Town Council on February 7, 1963, all employees of the Town who are otherwise eligible under the provisions of this division and the laws of the State are eligible to participate in the State supplemental retirement system as mentioned in such resolution.~~

~~(Code 1972, § 2-43; Code 1992, § 2-126)~~

~~Sec. 2-127. Eligibility.~~

~~All employees who are in the employ of the Town on March 1, 1963, the effective date of participation, have the option to participate in the retirement system or not to participate in the system in accordance with the rules and regulations of the supplemental retirement system.~~

~~However, all employees employed after March 1, 1963, who meet all other eligibility requirements of the supplemental retirement system must participate in the retirement system.~~

~~(Code 1972, § 2-44; Code 1992, § 2-127)~~

~~Sec. 2-128. Retirement age.~~

~~The retirement age for all employees will be 65 years of age with the exception that in cases where an individual, because of exceptional skill or long experience is especially fitted for a job, may, upon the recommendation of the Town Manager and with the approval of the Town Council, continue to serve.~~

~~(Code 1972, § 2-45; Code 1992, § 2-128)~~

~~Secs. 2-129--2-150. Reserved.~~

~~ARTICLE IV. DEPARTMENTS~~

~~Charter reference~~~~—Council may create departments, § 2.03; fire department, § 5.01.~~

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[32] If the personnel policies, etc. have been adopted, delete this division and place it on file in the clerk of the council's (town clerk) office? Okay.

[33] If this division is obsolete, delete it as personnel policies including retirement are generally not contained in the Code and are saved from repeal in section 1-14. Okay.

PROOFS

~~Division 1 Generally~~

~~[34]Division 2. PARKS AND RECREATION~~

~~*SubdIVISION 1. In GENERALLY*~~

~~[35]*Subdivision 2. Director of Parks and Recreation*~~

~~Sec. 2-151. Position established.~~

~~There is hereby established the position of Director of Parks and Recreation, who shall serve under the direct supervision of the Town Manager.~~

~~(Code 1972, § 2-33; Code 1992, § 2-151)~~

~~Sec. 2-152. Same--duties.~~

~~The Director's duties shall include, but not be limited to the following:~~

- ~~To coordinate all of the existing recreation programs which desire to become a part of a formal Town recreation program.~~
- ~~To maximize the operating ability of existing facilities aimed at increasing their utilization.~~
- ~~To establish new programs directed toward recreational needs that currently are not included in any existing programs.~~
- ~~To work with the Recreation Commission in creating a complete long range plan that will best serve the Town.~~
- ~~To evaluate and determine the financial requirements of all future recreational efforts recommending whenever possible methods of raising the required monies.~~
- ~~To be responsible for supervision of persons working in all recreation programs as well as regulation of any facilities included in such Town programs.~~

~~(Code 1972, § 2-34; Code 1992, § 2-152)~~

PROOFS

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[34] Were there any other departments created by ordinance? If not, place this division in a Parks and recreation chapter 22 with the recreation center if it is still in effect? The voluntary rescue and lifesaving crew was by ordinance; not sure about the Volunteer Fire Department but it does not appear so. Delete Sec. 2-151 and 2-152 and move Sec. 2-166, 2-167, and 2-168 to Chapter 22.

[35] Is this section and section 2-152 still current and correct? Delete.

~~**Secs. 2-153--2-165. Reserved.**~~

ARTICLE IV. BOARDS, COMMITTEES, COMMISSIONS

DIVISION 1. GENERALLY

Secs. 2-145--2-171. Reserved.

[36]DIVISION 2. RECREATION ADVISORY COMMISSION

Sec. 2-172. Establishment; composition; appointment; purpose.

(a) There is hereby established an advisory commission on recreation which shall be known as the Christiansburg Recreation Advisory Commission. This commission, to be appointed by the mayor, shall consist of one member of the town council and [37]six to nine citizen members, all of whom shall be actual residents and qualified voters of the town. An additional member, to be known as the junior citizen member, may be appointed to serve on this commission. The junior citizen member need not be a qualified voter in the town, but must be a resident of the town.

(b) The commission shall serve to advise the town council on the immediate and long range plans and programs necessary to ultimately care for the active and passive recreational needs of the citizens of the town of all ages and shall assist the director of parks and recreation in the continuing development of such plans and programs.

(Code 1972, § 2-53; Code 1992, § 2-166; Ord. No. ~~2010-8~~ 2010-7, 11-16-2010)

Sec. 2-173. Term of office of members.

The term of office of the councilmember of the recreation advisory commission shall run concurrently with his tenure of office as a councilmember, and the citizen members shall serve for staggered terms of four years. The term of office of the junior citizen member, if appointed, shall be for one year.

(Code 1972, § 2-54; Code 1992, § 2-167)

Sec. 2-174. Organization.

The recreation advisory commission shall elect from its own membership a chairperson, vice-chairperson and secretary, and formulate such bylaws and operating procedures as it may deem necessary for the conduct of its business.

(Code 1972, § 2-55; Code 1992, § 2-168)

Secs. 2-175--2-201. Reserved.

~~[38]ARTICLE V. SAFETY PROGRAM*~~

~~***Cross reference**— Fire protection, ch. 12; Police Department, ch. 18.~~

~~**Sec. 2-191. Establishment; purpose; creation of safety commission.**~~

~~There is hereby established an official safety program which shall be known as the Safety Program for the Town of Christiansburg. The purpose of this program is to promote all facets of~~

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[36] Is this the correct title of the commission and is it still in effect? Yes and Yes, move to Chapter 22. Chapter 22 was deleted by town. Leave in chapter 2?

[37] Leave six to nine or insert number of members? Leave as is.

[38] Is this program still in effect? Yes, but delele article.

PROOFS

~~public safety within the Town and to this end there is hereby created a safety commission to be known as the Safety Commission of the Town of Christiansburg.~~

~~(Code 1972, § 2-56; Code 1992, § 2-191)~~

~~Sec. 2-192. Composition of safety commission; duties.~~

~~The Safety Commission shall consist of one member of the Town Council, the Town Manager, and a representative of each of the following: the Police Department, the Fire Department, the Rescue Squad, and the Public Works Department. The Town Manager shall have the authority to appoint a Coordinator of the Safety Program.~~

~~The Safety Commission shall advise the Town Council on the development of the safety program and on all matters pertaining to public safety.~~

~~(Code 1972, § 2-57; Code 1992, § 2-192)~~

~~Sec. 2-193. Organization.~~

~~The safety program shall be organized around, but not be limited to, the law enforcement agency and emergency service organizations of the Town and, to that end, the following organizations are hereby made an integral part of the safety program of the Town:~~

~~The Town Police Department.~~

~~The Town Volunteer Fire Department.~~

~~The Town Lifesaving and First Aid Crew.~~

~~(Code 1972, § 2-58; Code 1992, § 2-193)~~

~~Secs. 2-194–2-215. Reserved.~~

~~ARTICLE VI.~~ DIVISION 3. PLANNING COMMISSION*

~~***Cross reference**— Subdivisions, ch. 26; zoning, ch. 30.~~

***State law reference**—Creation of local planning commissions, Code of Virginia, § ~~15.1-427.1~~ 15.2-2210.

Sec. 2-202. Creation.

A town planning commission is hereby created for the town, in accordance with the provisions of Code of Virginia, §§ ~~15.1-437 through 15.1-445~~ 15.2-2212 through 15.2-2222.

(Code 1972, § 2-46; Code 1992, § 2-216)

Sec. 2-203. Composition; appointment and term of members.

(a) The town planning commission shall consist of not fewer than [39]five members nor more than 15 members, appointed by the ~~governing body~~ town council, all of whom shall be residents of the town, qualified by knowledge and experience to make decisions on questions of community growth and development; provided that at least one-half of the members so appointed shall be owners of real property.

(b) One member of the commission may be a member of the ~~governing body~~ town council of the town. The term of this member shall be coextensive with the term of office to which he has been elected, unless the town council, at the first regular meeting each year, appoints another to

[39] This is the requirement in Code of Virginia, § 15.2-2212. How many members does the town planning commission have? Eleven now, but it has varied over the years from 5, 7, 9, and 10. Leave as is for flexibility.

PROOFS

serve as its representative. The town manager or town manager's designee shall attend the meetings of the planning commission. Members shall be appointed for terms of four years each.

(Code 1972, § 2-47; Code 1992, § 2-217; Ord. of 9-3-1996)

Sec. 2-204. Vacancies.

Any vacancy in the membership of the town planning commission shall be filled by appointment by the town council and such appointment in the case of an appointed member shall be for the unexpired term.

(Code 1972, § 2-48; Code 1992, § 2-218)

[40]Sec. 2-205. Program of work; master plan.

~~As soon as practicable after the appointment of the members thereof~~ The town planning commission ~~shall~~ prepared a program of work and ~~shall adopt~~ may amend the same after the consultation with the town council. Such program of work shall outline the activities which the commission expects to engage in as follows:

(1) Assembling such data regarding the town and adjacent territory as the commission may deem to be necessary in exercising its functions, powers and duties.

(2) Preparing a comprehensive plan as a general guide for the development of the town and as a basis for the preparation of zoning and other regulations.

(3) Recommending to the council appropriate procedures for effectuating such comprehensive plan.

(Code 1972, § 2-49; Code 1992, § 2-219)

Charter reference—Town Plan, § 4.01; master plan, § 4.04.

Sec. 2-206. Functions, powers and duties.

The town planning commission shall have the functions, powers and duties which are prescribed by law.

(Code 1972, § 2-50; Code 1992, § 2-220)

State law reference—Duties of planning commission, Code of Virginia, § 15.2-2221; powers or planning commission, Code of Virginia, § 15.2-2210.

Sec. 2-207. Compensation of members.

All members of the town planning commission may be compensated for their services at the discretion of the town council.

(Code 1972, § 2-51; Code 1992, § 2-221)

State law reference—Compensation, Code of Virginia, § 15.2-2212.

Sec. 2-208. Removal of appointed members.

Any appointed member of the town planning commission may be removed by the town council for [41]~~inefficiency,~~ neglect of duty or malfeasance in office; provided, that such removal may be made only after a public hearing at which such member shall be given an opportunity to appear and be heard on the charges against him.

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[40] This section is obsolete the comprehensive plan having been adopted. Reword and change to amendments? Yes, reword for amendments.

[41] Conform to Code of Virginia, § 15.2-2212? Yes.

PROOFS

(Code 1972, § 2-52; Code 1992, § 2-222)

State law reference—Removal of members, Code of Virginia, § 15.2-2212.

Secs. 2-209--2-239. Reserved.

~~Chapter 18-2~~

ARTICLE V~~II~~. DEPARTMENTS

DIVISION 1. GENERALLY

Secs. 2-240—2-265. Reserved.

DIVISION 2. POLICE DEPARTMENT*

***Charter reference**—Town police, § 2.31 et seq.

~~**Cross reference**—Administration, ch. 2; right of entry for purposes of law enforcement, § 2-98; Town Safety Program, § 2-191 et seq.; fire protection, ch. 12; duties of police at fires, § 12-1; rescue and lifesaving, ch. 23; police powers of Captain of voluntary rescue and lifesaving crew, § 23-4.~~

State law reference—Police and public order, Code of Virginia, § ~~15.1-131~~ 15.2-1701 et seq.; Line of Duty Act, Code of Virginia, § ~~15.1-136.1~~ 15.2-1511; general municipal law enforcement powers, Code of Virginia, § ~~15.1-137~~ 15.2-110 et seq.; auxiliary police forces, Code of Virginia, § 15.1-159.2 et seq.; power of Governor to summon law enforcement agencies to execute process or preserve the peace, Code of Virginia, § 18.2-410; appointment of police officers for certain places, bond required, Code of Virginia, § 19.2-17.

~~**Sec. 18-1. Appointment of members.**~~

~~**Sec. 18-2. Powers and duties; oath of office; control by town manager.**~~

~~**Sec. 18-3. Issuance of orders of town manager.**~~

~~**Sec. 18-4. Direction of police chief; rules and regulations.**~~

~~**Sec. 18-5. Impersonating officer.**~~

~~**Sec. 18-6. Unlawful wearing of officer's uniform or insignia; unlawful use of vehicle with word "police" shown thereon.**~~

~~**Sec. 18-7. Unclaimed personal property.**~~

Sec. 2-266. Appointment of members.

[42]Pursuant to Charter, § 2.31, the town council shall appoint the chief of police and provide for the employment of such other subordinate departmental officers of police and, in addition, such other police officers as it may deem necessary. All salaries shall be fixed by the council. This shall not be construed to apply to special police officers appointed under section 2.31 of the Charter.

(Code 1972, § 23-1; Code 1992, § 18-1)

Sec. 2-267. Powers and duties; oath of office; control by town manager.

The powers and duties of police officers shall be such as may be prescribed by the Charter, this Code, other ordinances of the town and the general laws of the state. Before entering upon the discharge of their duties, police officers shall take and subscribe the oath of office required by law. The town manager shall have control of such police officers.

(Code 1972, § 23-2; Code 1992, § 18-2)

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[42] The appointment is in the Charter. Yes, amend.

PROOFS

Sec. 2-268. Issuance of orders of town manager.

All orders issued to the police department by the town manager shall be through the chief of police or, in the absence of the chief of police, the senior officer on duty.

(Code 1972, § 23-3; Code 1992, § 18-3)

Sec. 2-269. Direction of police chief; rules and regulations.

The police department shall be detailed for duty under the direction of the chief of police and shall be subject to such rules, bylaws, regulations and orders as may be prescribed by the town manager and the chief of police, either or both, not in conflict with any provision of this Code, other ordinances of the town or the provisions of the Charter and the laws of the state or of the United States.

(Code 1972, § 23-4; Code 1992, § 18-4)

~~**Cross reference**—Administration, ch. 2.~~

Sec. 2-270. Impersonating officer.

Any person who shall falsely assume or exercise the functions, powers, duties and privileges incident to the office of sheriff, police officer, marshal or other peace officer, or who shall falsely assume or pretend to be any such officer, shall be deemed guilty of a Class 1 misdemeanor.

(Code 1972, § 23-6; Code 1992, § 18-5)

~~**Cross reference**—Offenses—Miscellaneous, ch. 17.~~

State law reference—Similar provisions, Code of Virginia, § 18.2-174.

Sec. 2-271. Unlawful wearing of officer's uniform or insignia; unlawful use of vehicle with word "police" shown thereon.

No person, not such an officer as is referred to in Code of Virginia, § 19.2-78, shall wear any such uniform as is designated pursuant to the provisions of such section or wear an insignia or markings containing the seal of the commonwealth or the insignia of any such officer's uniform, nor shall any person not such an officer, or not authorized by such officer, or not authorized by the military police of the armed forces or of the National Guard, or not authorized by the military police of other governmental agencies, use or cause to be used on the public roads or highways of this commonwealth, any motor vehicle bearing markings with the word "police" shown thereon. However, the prohibition against wearing an insignia or markings containing the seal of the commonwealth shall not apply to any certified firefighter or to any certified or licensed emergency medical personnel. Any violation of this section shall be a Class 1 misdemeanor.

(Code 1972, § 23-6; Code 1992, § 18-6)

State law reference—Similar provisions, Code of Virginia, § 18.2-175.

[43]Sec. 2-272. Unclaimed personal property.

(a) Public sale in accordance with the provisions of this section or the retention for use by the police department shall be made of any unclaimed personal property which has been in the possession of the ~~law enforcement agencies of the town~~ police department and unclaimed for more than 60 days, after payment of a reasonable storage fee to the police department. No storage fee shall be charged or accounted for if such property has been stored by and is to be retained by the police department. As used in this section, the term "unclaimed personal property" means any personal property belonging to another which has been acquired by a law enforcement officer

[43] Conform to the amendments to Code of Virginia, § 15.2-1719? Yes, amend.

PROOFS

pursuant to his duties, which is not needed in any criminal prosecution, which has not been claimed by its rightful owner, and which the state treasurer has indicated will be declined if remitted under the Uniform Disposition of Unclaimed Property Act (Code of Virginia, § 55-210.1 et seq.). Unclaimed bicycles and mopeds may also be disposed of in accordance with Code of Virginia, § 15.2-1720. Unclaimed firearms may also be disposed of in accordance with Code of Virginia, § 15.2-1721.

(b) Prior to the sale or retention of any unclaimed item, the chief of police, or his duly authorized agents, shall make reasonable attempts to notify the rightful owner of the property, obtain from the commonwealth's attorney in writing a statement advising that the item is not needed in any criminal prosecution, and cause to be published in a newspaper of general circulation in the county, once a week for two successive weeks, notice that there will be a public display and sale of unclaimed personal property. Such property, including property selected for retention by the police department, shall be described generally in the notice, together with the date, time and place of the sale and shall be made available for public viewing at the sale. The chief of police or his duly authorized agents shall pay from the proceeds of the sale the costs of advertisement, removal, storage, investigation as to ownership and liens, and notice of sale. The balance of the funds shall be held by such officer for the owner and paid to the owner upon satisfactory proof of ownership. Any unclaimed item retained for use by the police department shall become the property of the town and shall be retained only if, in the opinion of the chief of police, there is a legitimate use for the property by the police department and that retention of the item is a more economical alternative than purchase of a similar or equivalent item.

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

(Code 1992, § 18-8; Ord. of 10-18-1988, § 23-8)

State law reference—Authority for above section, Code of Virginia, § ~~15.1-133.01~~ 15.2-1719.

PROOFS

Chapter 3

RESERVED

PROOFS

Chapter ~~3~~ 4

ADVERTISING*

***Charter reference**—Regulation of billboards, signs and advertising, § 6.04.

~~**Cross reference**—Alcoholic beverages, ch. 4; barbershops and cosmetology salons, ch. 8; buildings, ch. 9; finance and taxation, ch. 11; licenses generally, ch. 15; precious metals dealers, ch. 19; procurement, ch. 20; subdivisions, ch. 26; zoning, ch. 30.~~

~~Article I. In General~~

~~Sec. 3-1. Policy; definitions.~~

~~Article II. Handbills and Banners~~

~~Sec. 3-2. Posting advertisements, etc.~~

~~Sec. 3-3. Tearing down authorized advertisements or posters.~~

~~Sec. 3-4. Painting signs on sidewalks.~~

~~Sec. 3-5. Placing advertising sign or banner across street or alley.~~

~~Sec. 3-6. Handbills--Permit prerequisite to distribution.~~

~~Sec. 3-7. Same--Deposit on private residences.~~

~~Sec. 3-8. Same--Deposit in or upon motor vehicles.~~

~~Secs. 3-9--3-36. Reserved.~~

~~Article III. Outdoor Advertising in Sight of Public Streets~~

~~Division 1. Generally~~

~~Sec. 3-37. Enforcement of provisions by Town Manager.~~

~~Sec. 3-38. Territory to which article applies.~~

~~Sec. 3-39. Construction of article.~~

~~Sec. 3-40. Excepted signs, advertisements and advertising structures.~~

~~Sec. 3-41. Removal of construction signs.~~

~~Sec. 3-42. Area of advertising structure or sign.~~

~~Sec. 3-43. Identification of advertising structure or advertisement.~~

~~Sec. 3-44. Certain advertisements or structures prohibited.~~

~~Sec. 3-45. Pasting advertisements prohibited in certain instances.~~

~~Sec. 3-46. Advertising on rocks, poles, etc., within limits of street.~~

~~Sec. 3-47. Harmony of regulations.~~

~~Sec. 3-48. Nonconforming signs.~~

~~Sec. 3-49. Disposition of fees.~~

~~Sec. 3-50. Violation a nuisance; abatement.~~

~~Sec. 3-51. Penalty for violation.~~

~~Secs. 3-52--3-60. Reserved.~~

~~Division 2. Permits~~

~~Sec. 3-61. Required.~~

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~~Sec. 3-62. Applications; fees.~~

~~Sec. 3-63. Temporary permits.~~

~~Sec. 3-64. Unusual displays.~~

~~Sec. 3-65. Revocation.~~

~~Sec. 3-66. Appeal from refusal or revocation of permit.~~

~~Sec. 3-67. Transfer of licensee and permits to successor concerns.~~

~~Secs. 3-68--3-80. Reserved.~~

~~Division 3. False and Misleading Signs~~

~~Sec. 3-81. Prohibited.~~

~~Sec. 3-82. Penalty; existing signs.~~

~~Sec. 3-83. Removal by Town Manager.~~

~~Secs. 3-84--3-95. Reserved.~~

~~Division 4. Permitted Size, Number, Height, and Location of Signs~~

~~Sec. 3-96. Generally.~~

~~Sec. 3-97. Table of permitted size, number, height and location of signs.~~

~~Sec. 3-98. Electronic messaging signs.~~

ARTICLE I. IN GENERAL

[44]Sec. 4-1. Policy~~; definitions~~.

~~(a)~~ In order to promote the safety, convenience and enjoyment of travel on and protection of the public investment in streets within the town, to attract tourists and promote the prosperity, economic well-being and general welfare of the town and to preserve and enhance the natural scenic beauty or aesthetic features of the streets and adjacent areas, the town council declares it to be the policy of this town that the erection and maintenance of outdoor advertising in areas adjacent to the rights-of-way of the streets and otherwise visible within this town shall be regulated in accordance with the terms of this chapter.

(Code 1992, § 3-1(a); Ord. of 11-20-1987, art. I, § 1; Ord. of 5-2-1989; Ord. of 4-3-90; Ord. of 1-19-1999; Ord. No. 2006-4, 11-7-2006; Ord. No. 2008-7, 12-16-2008; Ord. No. 2009-8, 9-15-2009)

Sec. 4-2. Definitions.

~~(b) The following terms, wherever used or referred to in this chapter shall have the following meanings unless a different meaning clearly appears from the context:~~

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:

Advertisement means any writing, printing, picture, painting, display, emblem, flag, pennant, drawing, sign or similar device which is posted or displayed outdoors on real property and is intended to invite or to draw the attention or to solicit the patronage or support of the public to

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[44] Much of this section derives from Code of Virginia, § 33.1-351 ~~and the policy statement and all applicable definitions which have been highlighted in bold should be included with Article III Outdoor advertising in sight of public streets. The remaining definitions should be placed in the respective article.~~ Okay.

PROOFS

any goods, merchandise, property, real or personal, business, services, entertainment or amusement manufactured, produced, bought, sold, conducted, furnished or dealt in by any person or for any political party or for the candidacy of any individual for any nomination or office. The term "advertisement" shall also include any part of an advertisement recognizable as such.

Advertising structure means any rigid or semirigid material, with or without any advertisement displayed thereon, situated upon or attached to real property outdoors, primarily or principally for the purpose of furnishing a background or base or support upon which an advertisement may be posted or displayed.

[45]*Business of outdoor advertising* means the erection, use or maintenance of advertising structures or the posting or display of outdoor advertisements by any person who receives profit gained from rentals or any other compensation from any other person for the use or maintenance of such advertising structures or the posting or display of such advertisements, except reasonable compensation for materials and labor used or furnished in the actual erection of advertising structures or the actual posting of advertisements. The business of outdoor advertising shall not include the leasing or rental of advertising structures or advertisements used to advertise products, services or entertainment sold or provided on the premises where the advertising structures or advertisement is located.

Centerline of the street means a line equidistant from the edges of the median separating the main-traveled ways of a divided street, or the centerline of the main-traveled way of a nondivided street.

Distance from edge of a right-of-way means the horizontal distance measured along a line normal or perpendicular to the [46]right-of-way line.

Handbill means any leaflet, flier, handout or other such advertisement or informational sheet posted or otherwise intended for distribution to the general public.

Legible means capable of being read without visual aid by a person of normal visual acuity.

Maintain means to allow to exist.

Main-traveled way means the traveled way of a street on which through traffic is carried. In the case of a divided street, the traveled way of each of the separated roadways for traffic in opposite directions is a main-traveled way. ~~It~~ The term "main-traveled way" does not include such facilities as frontage roads, turning roadways or parking areas.

Post means to post, display, print, paint, burn, nail, paste or otherwise attach.

Primary roof means a roof which is erected or constructed to cover an enclosed main or primary portion of a building.

Real property means any property physically attached or annexed to real property in any manner whatsoever.

Road frontage means the width of a lot or parcel of land along the street upon which it abuts.

Secondary roof means a roof which is erected or constructed to cover an enclosed portion of a building which is at a lower elevation than the highest point of the primary building roof (such as may cover an entranceway, addition or annex) and does not exceed 20 feet in height.

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[45] Conform to Code of Virginia, § 33.1-351 Yes.

[46] Should this be centerline of the street as in Code of Virginia, § 33.1-351? No, we use edge of right-of-way (leave as is).

PROOFS

Sign means any outdoor sign, display, device, figure, flag, pennant, painting, drawing, message, placard, poster, billboard or other thing which is designed, intended or used to advertise or inform, any part of the advertising or informative contents of which is visible from any street or from any nearby or adjacent property.

Sign, accessory, means a sign relating only to uses of the premises on which the sign is located, or products sold on the premises on which the sign is located, or indicating the name or address of a building or the occupants or management of a building on the premises where the sign is located; a business sign.

Sign, business, means a sign which directs attention to a product, commodity or service which is available on the premises upon which the sign is erected; an accessory sign.

Sign, changeable copy, means a sign, exclusive of flags, designed so that characters or letters can be changed or rearranged without altering the face or size of the sign as with 'reader or menu boards.'

Sign, combined area, means a sign advertising the products, commodities or services of three on more businesses located on the same premises on which the sign is erected.

Sign, construction, means a sign intended to be maintained for a short duration located on a construction site and which sign is intended to explain the nature of the construction project.

Sign, development, means a sign located within a subdivision or housing development, farm or estate which displays the name of the development, farm or estate.

Sign, directional, means a traffic directional sign, including regulatory, warning and street name signs.

Sign, double-faced, means a sign with two parallel, or nearly parallel, faces, back to back, and located not more than 24 inches from each other.

Sign, electronic changeable copy, means a sign, or portion thereof, that displays electronic, non-pictorial, text information in which each alphanumeric character, graphic or symbol is defined by a small number of matrix elements using different combinations of light emitting diodes (LEDs), fiber optics, light bulbs or other illumination devices within the display area. Electronic changeable copy signs include computer programmable, microprocessor controlled electronic displays.

Sign, electronic graphic display, means a sign, or portion thereof, that displays electronic, static images, static graphics or static pictures, with or without information, defined by a small number of matrix elements using different combinations of light emitting diodes (LEDs), fiber optics, light bulbs or other illumination devices within the display area where the message change sequence is accomplished immediately or by means of fade, [47]pixelation, repixelation or dissolve modes. Electronic graphic display signs include computer programmable, microprocessor controlled electronic or digital displays. Electronic graphic display signs include projected images or messages with these characteristics onto buildings or other objects.

Sign, electronic messaging means an electronic changeable copy sign, an electronic graphic display sign or video display sign.

Sign, freestanding, means a sign supported by uprights or braces in or upon the ground surface and the term "freestanding sign" shall include and have the same meaning as a 'ground sign'; a portable sign on its own support or a sign attached to a flat surface such as a fence or wall which fence or wall is not a part of a building shall be considered as a freestanding sign.

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[47] Should this word be pixelization? I did not find repixalization. Added pixilation and changed.

PROOFS

Sign, general advertising, means a sign which is not an accessory sign or which directs attention to a product, commodity or service not necessarily available on the premises upon which the sign is erected; a billboard not related to a use conducted on the premises is a general advertising sign.

Sign, ground, means a sign supported by uprights or braces in or upon the ground surface and the term "ground sign" shall include and have the same meaning as a 'freestanding sign'; a portable sign on its own support or a sign attached to a flat surface such as a fence or wall which fence or wall is not a part of a building shall be considered as a ground sign.

Sign height means the vertical distance from the street grade or the average lot grade at the front setback line, whichever produces the greater vertical distance, to the highest point of the sign.

Sign, home occupation, means a sign either single-faced or double-faced directing attention to products, commodities or services available on the premises upon which the sign is located, but the provision or sale of such products, commodities or services is a secondary use of the premises upon which the sign is erected.

Sign, location, means an off-premises sign which directs attention to the approximate location of an establishment on other premises from which an advertised product, or products, may be obtained.

Sign, marquee, means a sign attached to, hung from or part of a marquee, awning, canopy or other such structure, projecting from and supported by the building and extending beyond the building wall, building line or street line (but not covering an enclosed structure) or a freestanding covering structure such as a gas station, drive-thru or carwash canopy.

Sign, multiple, means a ground/freestanding sign structure on which more than one single-faced or more than one double-faced sign may be mounted within an overall frame.

Sign, nonconforming, nonconforming advertisement or *nonconforming advertising structure* means one which was lawfully erected, but which does not comply with the provisions of this chapter or which later fails to comply with an ordinance or ordinances adopted by the council.

Sign, off-premises, means a sign which is not an accessory sign or which directs attention to a product, commodity or service not available on the premises upon which the sign is erected; any sign not related to a use conducted on the premises is an off-premises sign.

Sign, on-premises, means a sign which is an accessory sign or which directs attention to a product, commodity or service available on the premises upon which the sign is erected.

Sign, portable, means a sign not permanently anchored to the ground or to a building or structure and which is constructed in such a manner as to permit its easy removal, as for example a sign mounted upon a carriage or fixed supports or on an axle and wheels.

Sign, projecting, means a sign which is attached directly to a building wall and extends more than 18 inches outward from such wall.

Sign, roof, means a sign which is erected or constructed and maintained from the roof of a building, but shall not include secondary roof signs.

Sign, secondary roof, means a sign which is erected or constructed and maintained from a roof of a building which is at a lower elevation than the highest point of the primary roof and which secondary roof does not exceed 20 feet in height.

Sign, single-faced, means a sign on which a message is displayed on one side thereof only.

Sign, temporary, means a sign constructed of light material, with or without a frame, the use of which sign is intended for a limited period of display and the term "temporary sign" shall apply

PROOFS

to a sign advertising a seasonal or activity such as holiday displays, special sales events and auction sales.

Sign, video display, means a sign that changes it message or background in a manner or method of display characterized by motion or pictorial imagery, which may or may not include text, and depicts action or a special effect to imitate movement, the presentation of pictorials or graphics displayed in a progression of frames which give the illusion of motion, including, but not limited to, the illusion of moving objects, moving patterns or bands of light, or expanding or contracting shapes, not including electronic changeable copy signs. Video display signs include projected images or messages with these characteristics onto buildings or other objects.

Sign, wall, means a sign which is painted on or attached directly to an outside building wall, the face of which is parallel to and extends not more than 18 inches from the wall.

Street means every way or place of whatever nature open to the use of the public for purposes of vehicular travel in this town.

Tourist attraction means a business or activity destination with specific cultural, recreational, or other potential draw due to unique appeal for travelers from other localities such as museums, art galleries, antique malls and wineries. Such destinations shall have a substantial portion of its products or services being of substantial interest to tourists and derive its major portion of income or visitors during the normal business season from road users not residing in the area of the facility defined as within 15 miles.

Traveled way means the portion of a roadway for the movement of vehicles, exclusive of shoulders.

Turning roadway means a connecting roadway for traffic turning between two intersection legs of an interchange.

Visible means capable of being seen (whether or not legible) without visual aid by a person of normal visual acuity.

(Code 1992, § 3-1(b); Ord. of 11-20-1987, art. I, § 1; Ord. of 5-2-1989; Ord. of 4-3-1990; Ord. of 1-19-1999; Ord. No. 2006-4, 11-7-2006; Ord. No. 2008-7, 12-16-2008; Ord. No. 2009-8, 9-15-2009)

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

State law reference—Similar definitions regarding highways of the Commonwealth, Code of Virginia, § 33.1-351.

Secs. 4-3--4-22. Reserved.

[48]ARTICLE II. HANDBILLS, POSTERS AND BANNERS

Sec. 4-23. Posting advertisements, etc.

It shall be unlawful for any person to post, stick or fasten any card, poster or advertisement upon any building, premises, wall, fence, post or pole without having first secured the permission of the owner of such building, premises, wall, fence, post or pole.

(Code 1972, § 3-1; Code 1992, § 3-2; Ord. of 1-19-1999)

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[48] Is this article current and correct? Yes.

PROOFS

[49]Sec. 4-24. Tearing down authorized advertisements or posters.

It shall be unlawful for any person to tear down any advertisement or poster put up without the consent of the owner of the property whereupon the same is posted or to alter or mutilate the same.

(Code 1972, § 3-2; Code 1992, § 3-3; Ord. of 1-19-1999)

Sec. 4-25. Painting signs on sidewalks.

It shall be unlawful for any person to paint signs on sidewalks.

(Code 1972, § 3-3; Code 1992, § 3-4; Ord. of 1-19-1999)

~~**Cross reference**— Streets and sidewalks, ch. 25.~~

Sec. 4-26. Placing advertising sign or banner across street or alley.

It shall be unlawful for any person to place any advertising sign or banner across any street or alley of the town; provided, however, that the town manager may grant temporary permission to so place any such banner advertising an event for charitable purposes or county or town affairs or occurrences of a similar nature. ~~Any advertising sign or banner (whether or not it is to be placed across streets or alleys of the Town) requires sign permits.~~

(Code 1972, § 3-4; Code 1992, § 3-5; Ord. of 1-19-1999)

Charter reference—Construction and maintenance of awnings, fire escapes, etc. on streets, etc., § 4.11.

~~**Cross reference**— Streets and sidewalks, ch. 25.~~

State law reference—Signs over streets, etc., Code of Virginia, § 15.2-2010 et seq.

[50]Sec. 4-27. Handbills--Permit prerequisite to distribution.

It shall be unlawful for any person to distribute or hand out any handbills, circulars or other advertising matter in the town without first having secured a permit therefor from the town manager. This section shall not be construed to apply to handbills, circulars or other advertising matter relative to judicial sales or religious or political expression.

(Code 1972, § 3-6; Code 1992, § 3-6; Ord. of 1-19-1999)

Sec. 4-28. Same--Deposit on private residences.

It shall be unlawful for any person to distribute, or cause to be distributed, handbills, dodgers, circulars, cards or other advertising matter by depositing or casting the same on the porches, in the vestibules or in the yards of private residences in the town.

(Code 1972, § 3-7; Code 1992, § 3-7; Ord. of 1-19-1999)

State law reference—Litter control, Code of Virginia, § 15.2-901.

Sec. 4-29. Same--Deposit in or upon motor vehicles.

It shall be unlawful for any person to place any handbill, dodger, circular, card or other advertising material in or upon any automobile or other motor vehicle.

(Code 1972, § 3-8; Code 1992, § 3-8; Ord. of 1-19-1999)

State law reference—Distribution of handbills, etc. to occupants of vehicles, Code of Virginia, § 46.2-931.

~~**Cross reference**— Traffic and motor vehicles, ch. 28.~~

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[49] Unless otherwise indicated, under the general penalty this is a class 1 misdemeanor? Yes, leave as is.

[50] Does the town still require and issue permits? Yes, we do.

PROOFS

Secs. 4-30--4-46. Reserved.

[51]ARTICLE III. OUTDOOR ADVERTISING IN SIGHT OF PUBLIC STREETS*

~~***Cross reference**— Streets and sidewalks, ch. 25; signs at street intersections, § 25-18; projections over public property, § 25-106 et seq.~~

***State law reference**—Outdoor advertising in sight of public highways, Code of Virginia, § 33.1-351 et seq.

DIVISION 1. GENERALLY

Sec. 4-47. Enforcement of provisions by town manager.

The town manager shall administer and enforce the provisions of this article. He may, in the performance of his duties, hereunder assign to other town employees such duties other than discretionary powers as he may think appropriate.

(Code 1992, § 3-37; Ord. of 11-20-1987, art. I, § 2)

~~**Cross reference**— Administration, ch. 2.~~

State law reference—Similar provision regarding enforcement for highways of the Commonwealth, Code of Virginia, § 33.1-352.

Sec. 4-48. Territory to which article applies.

(a) The territory under the jurisdiction of the town manager for the purposes of this article shall include all areas within the corporate limits of the town.

(b) The town manager and all employees under his direction may enter upon such lands as may be necessary in the performance of their functions and duties, as prescribed by this article. Any person who shall hinder or obstruct the town manager or any assistant or agent of the town manager in carrying out such functions and duties shall be guilty of a Class 4 misdemeanor.

(Code 1992, § 3-38; Ord. of 11-20-1987, art. I, § 3)

State law reference—Similar provision regarding highways of the Commonwealth, Code of Virginia, §§ 33.1-353, 33.1-354.

Sec. 4-49. Construction of article.

This article shall be liberally construed with a view to the effective accomplishment of its purposes.

(Code 1992, § 3-39; Ord. of 11-20-1987, art. I, § 23)

State law reference—Similar provision regarding highways of the Commonwealth, Code of Virginia, § 33.1-378.

[52]Sec. 4-50. Excepted signs, advertisements and advertising structures.

The following signs and advertisements, if securely attached to real property or advertising structures, and the advertising structures, or parts thereof, upon which they are posted or

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[51] This article is similar to the provision regarding highways of the Commonwealth, Code of Virginia, § 33.1-351 et seq. except for division 4 which regulates signs in the respective zoning districts which should be in a separate article and both articles placed in a chapter entitled signs. We view outdoor advertising as much broader than signs – it could be inflatable advertisements, spotlights, streamers, etc.

[52] Conform this section to Code of Virginia, § 33.1-355? Yes, but leave in all Town specific exemptions.

PROOFS

displayed, are excepted from all the provisions of this article, except those enumerated in sections 4-54 and 4-60:

(1) Signs limited in area to 32 square feet erected or maintained, or caused to be erected or maintained, on any farm by the owner or lessee of such farm and relating solely to farm products, merchandise, services or entertainment sold, produced, manufactured or furnished on such farm.

(2) Signs of 25 square feet or less upon real property posted or displayed by the owner or by the authority of the owner stating that the property upon which the sign is located, or a part of such property, is for sale or rent or stating any data pertaining to such property and its appurtenances, and the name and address of the owner and the agent of such owner. This provision shall not be applicable to real property upon which are situated miniwarehouses, bed and breakfast inns, guest homes, hotels and motels for the purpose of advertising the accommodations of such in an ordinary course of business.

(3) Official notices or advertisements posted or displayed by or under the direction of any public or court official in the performance of his official or directed duties or by trustees under deeds of trust, deeds of assignment or other similar instruments.

(4) Danger or precautionary signs relating to the premises or signs warning of the condition of or dangers of travel on a street, erected or authorized by the town manager; or forest fire warning signs erected under authority of the United States forestry service.

(5) Notices of any telephone company, electric power company, telegraph company, gas company, railroad or other transportation company necessary in the discretion of the town manager for the safety of the public or for the direction of the public to such utility or to any place to be reached by it.

(6) Historical markers erected by duly constituted and authorized public authorities.

(7) Highway markers and signs erected, or caused to be erected, by the state department of transportation or other authorities in accordance with law.

(8) Signs erected upon property warning the public against hunting, fishing or trespassing thereon.

(9) Signs erected by Red Cross authorities relating to Red Cross emergency stations. Authority is hereby expressly given for the erection and maintenance of such signs upon the right-of-way of all streets in this town at such locations as may be approved by the town manager.

(10) A sign of six square feet or less or one sign structure containing more than one sign with aggregate area of six square feet or less which denotes only the name of the civic services club or church, location and directions for reaching same and time of meeting of such organization.

(11) A sign for identification purposes giving the name of the owner or occupant and/or the address of the property on which it is placed and not exceeding two square feet in area.

(12) Changing of the copy on a bulletin board, poster board, display encasement or marquee.

(13) Temporary nonilluminated paper signs in show windows in a business district.

(14) Temporary nonilluminated election campaign signs not exceeding six square feet in area, provided such signs are removed within seven days after the election.

(15) All portable signs existing on May 15, 1989 shall be included in the measurement of permitted sign area.

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(16) Sign on a truck, bus or other vehicle, while in use in the normal course of business. This ~~paragraph~~ subsection should not be interpreted to permit parking for display purposes of a vehicle to which signs are attached in a district where such signs are not permitted.

(17) Church bulletin boards, located on church property, not exceeding 32 square feet and located ten feet from street right-of-way.

(18) Governmental flags.

(19) Garage and/or yard sale signs in accordance with chapter ~~13 "Flea Markets and Garage and/or Yard Sales"~~ 26, Sales, provided that such signage is limited to a maximum of six square feet in area and one sign per parcel.

(20) Tourist attraction signs in accordance with the state logos participation criteria. When doubt arises as to whether a business or activity destination meets the definition of tourist attraction, the town manager may refer the decision to town council.

(21) Community-base curbside recycling collection service signage limited to a maximum of 14 days at initiation of service on properties utilizing the service at a maximum area of six square feet.

(22) Signage erected by the town under the direction of the town manager or town council.

(Code 1992, § 3-40; Ord. of 11-20-1987, art. I, § 5; Ord. of 5-2-1989; Ord. of 4-3-1990; Ord. No. 2004-4, 9-7-2004; Ord. No. 2006-4, 11-7-2006; Ord. No. 2010-1, 4-20-2010)

State law reference—Similar provision regarding highways of the Commonwealth, Code of Virginia, § 33.1-369.

Sec. 4-51. Removal of construction signs.

Construction signs shall be removed within 30 days after construction of the project advertised thereby has been completed.

(Code 1992, § 3-41; Ord. of 11-20-1987, art. I, § 4)

~~**Cross reference**— Buildings, ch. 9.~~

Sec. 4-52. Area of advertising structure or sign.

(a) The area of an advertising structure or sign shall include that area within a line including the outer extremities of all letters, figures, characters and delineations, or within a line including the outer extremities of the framework or background of the sign, whichever line includes the larger area. The support for the sign background, whether it is columns, a pylon or a building, or part thereof, shall not be included in the sign area. Only one side of a double-faced sign shall be included in a computation of sign area; for other signs with more than one face, each side shall be included in a computation of sign area. The area of a cylindrical or spherical sign shall be computed by multiplying one-half of the circumference by the height of the sign. For an awning sign, only the area of the message shall be used in sign area computation.

(b) Signs shall conform to the size, number, height and location, as provided for in division 4.

(Code 1992, § 3-42; Ord. of 11-20-87, art. I, § 10)

Sec. 4-53. Identification of advertising structure or advertisement.

The town manager may require that each advertising structure and each advertisement not posted or displayed on an advertising structure shall bear an identification number, furnished by the town manager, and if erected, maintained or displayed by a licensed outdoor advertiser shall also bear his name. The town manager may make suitable provisions for the details thereof.

(Code 1992, § 3-43; Ord. of 11-20-87, art. I, § 14)

PROOFS

State law reference—Similar provision regarding highways of the Commonwealth, Code of Virginia, § 33.1-368.

Sec. 4-54. Certain advertisements or structures prohibited.

No advertisement or advertising structure shall be erected, maintained or operated:

(1) Which involves motion or rotation of any part of the structure, moving reflective disks, running animation or displays an intermittent light, or lights, visible from any roadway; provided, however, that the prohibition of this ~~paragraph~~ subsection shall not apply to moving or rotating parts of structures, or to the displays of intermittent lights, when such structures or displays are located along streets in this town when the moving or rotating parts of such structures or such displays convey solely public information. Public information shall include all or any of the following information: date, time, temperature, weather, community events and other similar information.

(2) Which uses the word "stop" or "danger" prominently displayed or presents or implies the need or requirement of stopping or the existence of danger on any highway, or which is a copy or imitation of official highway signs.

(3) Which, within visible distance of any street, advertises any county, city, town, village, historical place or shrine without the consent, in writing, of such county, city, town or village or of the owner of such historical place or shrine.

(4) Which is mobile and is designed to, and effectively does, distract the attention of passing motorists on any street by flashing lights, loud and blatant noises or movable objects.

(5) Which involves red, green or amber lights or reflective material and which resembles traffic signal lights or traffic control signs and is within the visible distance of any street.

(6) At any public street intersection in such manner as would obstruct the clear vision in either direction between a point on the centerline of the side street 20 feet from the nearest edge of the pavement of the main street and points on the main street 400 feet distant, measured along the nearest edge of the pavement of the main street.

(7) At any grade intersection of a public street and a railroad in such manner as would obstruct the clear vision in either direction within triangular areas formed by:

a. A point at the center of the railroad-public street intersections;

b. A point on the public street ~~200~~ 400 feet from the center of the railroad-public street intersection, as measured along the center of the public street; and

c. A point on the railroad ~~200~~ 500 feet from the center of the railroad-public street intersection, as measured along the center of the railroad.

(8) At or near any curve in a street in such a manner as to obstruct the clear vision of traffic from any one point on such curve to any other point on such curve or to any other point not more than 400 feet apart, as measured between each point from the nearest edge of the pavement.

(9) Which advertises activities which are illegal under state or federal laws or regulations in effect at the location of such sign or advertisement or at the location of such activities.

(10) Which is obsolete or inconsistent with this article or regulations adopted by the state ~~Department of~~ transportation board pursuant to Code of Virginia, § 33.1-351 et seq.

(11) Which is designed to be mobile or portable in nature, except permitted temporary portable signs 32 square feet or less owned or leased by civic, governmental or public organizations and located within a business or industrial district.

PROOFS

(12) Illuminated signs positioned and unshielded so as to impair the vision of any motor vehicle operator.

(13) Alley signs projecting beyond the alley lot line.

(14) Signs in violation of the [53]~~Town Fire Ordinance~~ Statewide Fire Code or State Building Codes.

(15) Any sign greater than 200 square feet in total area.

(16) Off-premises signs greater than 50 square feet in total area.

(17) On-premises ground/freestanding signs, other than combined area signs, greater than 50 square feet, excluding changeable copy area. See section 4-116 for combined area sign provisions.

(Code 1992, § 3-44; Ord. of 11-20-1987, art. I, § 15; Ord. of 5-2-1989; Ord. of 4-17-90; Ord. of 1-19-1999)

~~**Cross reference**— Buildings, ch. 9; fire protection, ch. 12.~~

State law reference—Advertisements or structures prohibited on highways of the Commonwealth, Code of Virginia, § 33.1-369.

Sec. 4-55. Pasting advertisements prohibited in certain instances.

No advertisement shall be pasted or glued on any building, fence, wall, tree, rock or other similar structure or object, unless the same is an advertising structure for which a permit has been issued and is in effect.

(Code 1992, § 3-45; Ord. of 11-20-1987, art. I, § 16)

State law reference—Similar provision regarding highways of the Commonwealth, Code of Virginia, § 33.1-372.

Sec. 4-56. Advertising on rocks, poles, etc., within limits of street.

Any person who in any manner paints, prints, places, puts or affixes any sign or advertisement upon or to any rock, stone, tree, fence, stump, pole, mile-board, milestone, danger-sign, guide-sign, guidepost, highway sign, historical marker, building or other object lawfully within the limits of any street ~~shall be~~ [54]~~guilty of a misdemeanor and shall be punished accordingly~~ shall be assessed a civil penalty of $100.00. Each occurrence shall be subject to a separate penalty.

(Code 1992, § 3-46; Ord. of 11-20-1987, art. I, § 17)

State law reference—Similar provision regarding highways of the Commonwealth, Code of Virginia, § 33.1-373.

Sec. 4-57. Harmony of regulations.

No zoning board or commission or any other public officer or agency shall permit any sign, advertisement or advertising structure which is prohibited under the provisions of this article, nor shall the town manager permit any sign, advertisement or advertising structure which is prohibited by any other public board, officer or agency in the lawful exercise of its or his powers.

(Code 1992, § 3-47; Ord. of 11-20-1987, art. I, § 18)

~~**Cross reference**— Zoning, ch. 30.~~

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[53] Change to Statewide Fire Prevention Code as adopted in Code of Virginia, § 27-97? Yes.

[54] Conform to state law which permits assessment of a civil penalty of $100? Yes.

PROOFS

State law reference—Similar provision regarding highways of the Commonwealth, Code of Virginia, § 33.1-374.

Sec. 4-58. Nonconforming signs.

A nonconforming sign, advertisement or advertising structure, as defined in this article, and any supporting structures may be maintained in their then structural condition, but shall not be replaced, reconstructed, moved, structurally altered, lighted or relighted, except in compliance with the provisions of this article and may continue in use unless subject to removal under other provisions of this article. Removal, replacement, reconstruction, moving or structural alteration for any cause whatsoever shall be considered as loss of nonconforming status. Change of message or change of ownership shall not affect nonconforming status. Supporting structures for nonconforming signs may continue in use for a conforming sign, if the supporting structures comply in all respects to the applicable requirements of these regulations and other codes and ordinances. No permits for additional signs shall be issued for any premises on which there are any nonconforming signs.

(Code 1992, § 3-48; Ord. of 11-20-1987, art. I, § 19; Ord. of 5-2-1989)

State law reference—Similar provision regarding highways of the Commonwealth, Code of Virginia, § 33.1-370.2.

Sec. 4-59. Disposition of fees.

All monies received by the town manager under the provisions of this article shall be paid by him into the town treasury.

(Code 1992, § 3-49; Ord. of 11-20-1987, art. I, § 21)

Sec. 4-60. Violation a nuisance; abatement.

Any sign, advertisement or advertising structure which is erected, used, maintained, operated, posted or displayed in violation of this article, or for which no permit has been obtained where such is required, or after revocation or more than 30 days after expiration of a permit, or which, whether or not excepted under the provisions of this article, is not kept in a good general condition and in a reasonably good state of repair and is not, after 30 days' written notice to the person erecting, using, maintaining, posting or displaying the same, put into good general condition and in a reasonably good state of repair, is hereby declared to be a public and private nuisance and may be forthwith removed, obliterated or abated by the town manager or his representatives. The town manager may collect the cost of such removal, obliteration or abatement from the person erecting, using, maintaining, operating, posting or displaying such sign, advertisement or advertising structure.

(Code 1992, § 3-50; Ord. of 11-20-1987, art. I, § 20)

~~**Cross reference**— Nuisances, ch. 16.~~

State law reference—Similar provision regarding highways of the Commonwealth, Code of Virginia, § 33.1-375.

Sec. 4-61. Penalty for violation.

Any person violating any provision of this article for which violation no other penalty is prescribed by this article shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than $10.00 nor more than $50.00. Each day during which such violation is continued after conviction may be treated for all purposes as a separate offense.

(Code 1992, § 3-51; Ord. of 11-20-1987, art. I, § 22)

State law reference—Similar provision regarding highways of the Commonwealth, Code of Virginia, § 33.1-377.

PROOFS

Secs. 4-62--4-80. Reserved.

[55]DIVISION 2. PERMITS*

~~***Cross reference**— Licenses, ch. 15.~~

***State law reference**—Permits and licenses regarding highways of the Commonwealth, Code of Virginia, § 33.1-3.

Sec. 4-81. Required.

(a) Except as in this article otherwise provided, no person, whether engaged in the business of outdoor advertising or not, shall erect, use, maintain, post or display any advertisement or advertising structure in this town without first obtaining a permit therefor from the town manager and paying the fee therefor as herein provided.

(b) No permit shall be required for the posting or display of any advertisement posted or displayed on any advertising structure or space for which a permit has been issued unless such permit has been revoked.

(Code 1992, § 3-61; Ord. of 11-20-1987, art. I, § 6)

Sec. 4-82. Applications; fees.

(a) A separate application for a permit shall be made for each separate advertisement or advertising structure on a form furnished by the town manager, which application shall be filed by the applicant or his representative duly authorized in writing to act for him and shall describe and set forth the size, shape and the nature of the advertisement or advertising structure it is proposed to post, display, erect or maintain and its actual or proposed location with sufficient accuracy to enable the town manager to identify such advertisement or advertising structure and to find its actual or proposed location.

(b) Each application shall be accompanied by an application and inspection fee in the amount as ~~required by the Town for building permits~~ established in the latest edition of the town development fee schedule which may be amended from time to time by the town council. Churches, nonprofit or not-for-profit organizations, and election campaigns shall be exempt from inspection fees and shall be eligible for blanket permits for multiple locations.

(c) Each application shall be accompanied by the written consent, or in lieu thereof a copy certified by an official authorized to take acknowledgments to deeds in this state, of the owner of the real property upon which such advertisement or advertising structure is to be erected, used, maintained, posted or displayed, or of such other persons having the legal right to grant such consent, or of the duly authorized agent of such owner, or other person.

(Code 1992, § 3-62; Ord. of 11-20-1987, art. I, § 7; Ord. No. 2004-4, 9-7-2004)

Sec. 4-83. Temporary permits.

The town manager, upon application as required in section 4-82, may issue temporary permits for signs and displays when, in his opinion, the use of such signs and displays would be in the public interest and would not result in damage to private property. Temporary sign permits are valid for a period of 30 calendar days unless otherwise specified by the town manager and include the following:

(1) Signs advertising a special civic or cultural event such as a fair or exposition, play, concert or meeting, sponsored by a governmental, civic or charitable organization.

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[55] Is this division correct? Yes.

PROOFS

(2) Special decorative displays used for holidays, public demonstrations or promotion for nonpartisan civic purposes.

(3) Special sales promotion displays in a district where such sales are permitted, including displays incidental to the opening of a new business.

(Code 1992, § 3-63; Ord. of 11-20-1987, art. I, § 8; Ord. of 5-2-1989; Ord. of 1-19-1999)

Sec. 4-84. Unusual displays.

Applications for unusual signs or displays which give rise to questions of interpretation of this article may be referred by the town manager to the town council for the purpose of interpretation by the council and recommendation for action on the application by the town manager. If, in the opinion of the council, the application is not adequately covered by this article, the council may make recommendations for amendment of this article.

(Code 1992, § 3-64; Ord. of 11-20-1987, art. I, § 9)

Sec. 4-85. Revocation.

(a) The town manager may, after 30 days' notice in writing to the permittee, revoke any permit under this article in any case in which it shall appear to the town manager that the application for the permit contains knowingly false or misleading information, that the permittee has failed to keep in a good general condition and in a reasonable state of repair the advertisement or advertising structure for which such permit was issued or that the permittee has violated any of the provisions of this article, unless such permittee shall before the expiration of such 30 days correct all false or misleading information, or make the necessary repairs or improvements in the general condition of such advertisement or advertising structure or comply with the provisions of this article, as the case may be.

(b) [56]If the permittee does not correct the false or misleading information or make the necessary repairs or improvements in the general condition of such advertisement or advertising structure or otherwise comply with the provisions of this article, the application fee for such advertisement or advertising structure shall be returned by the town manager and the permit revoked. [57]~~But~~ However, one-half of the application fee shall be retained by the town if, ~~deemed to have accrued~~ upon the erection of an advertising structure or the display of an advertisement, ~~followed by~~ an inspection by the town manager or his representative was performed.

(c) If the permit ~~fee~~ has been ~~paid~~ revoked, as above provided, for the erection, maintenance and display of any advertisement or advertising structure for which a permit is issued by the town manager, ~~and~~ issuance of a permit by any zoning board, commission or other public agency which also has jurisdiction over the proposed advertisement or advertising structure or its site shall be [58]~~prevented~~ prohibited~~,~~.

(Code 1992, § 3-65; Ord. of 11-20-1987, art. I, § 11)

State law reference—Similar provision regarding highways of the Commonwealth, Code of Virginia, § 33.1-364.

PROOFS

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[56] This and the following paragraph have been revised and reworded. Please review and verify this is the intent of the section.

[57] Reworded this sentence? Yes, it is okay now.

[58] Should this be prohibited? Yes.

Sec. 4-86. Appeal from refusal or revocation of permit.

Any person aggrieved by any action by the town manager in [59]refusing to grant or revoking a sign permit may, within 30 days from the date of such refusal or revocation appeal from the decision of the town manager to the circuit court of the county by presenting to the court or the judge thereof in vacation, after five days' notice in writing to the town manager, an affidavit made by such person or his duly authorized agent or attorney, setting forth the fact of such refusal or revocation as the case may be and that the action of the town manager was without just or lawful cause.

(Code 1992, § 3-66; Ord. of 11-20-1987, art. I, § 12)

Sec. 4-87. Transfer of ~~licensee and~~ permits to successor concerns.

Any ~~license or~~ permit issued pursuant to this article may be transferred to any person who acquires as a successor the business of the person for whom such ~~license or~~ permit was issued.

(Code 1992, § 3-67; Ord. of 11-20-1987, art. I, § 13)

State law reference—Similar provision regarding highways of the Commonwealth, Code of Virginia, § 33.1-367.

Secs. 4-88—4-100. Reserved.

DIVISION 3. FALSE AND MISLEADING SIGNS*

~~***Cross reference**— Offenses, Miscellaneous, ch. 17.~~

***State law reference**—False and misleading signs regarding highways of the Commonwealth, Code of Virginia, § 33.1-379.

Sec. 4-101. Prohibited.

It shall be unlawful for any person to erect or maintain alongside, or in plain view of, any public street any false or misleading sign of any kind or character purporting to furnish travel information relating to place or direction.

(Code 1992, § 3-81; Ord. of 11-20-1987, art. II, § 1)

State law reference—Similar provision regarding highways of the Commonwealth, Code of Virginia, § 33.1-379.

Sec. 4-102. Penalty; existing signs.

Any person who shall violate any of the provisions of section 4-88 shall, upon conviction thereof, be guilty of a Class 4 misdemeanor, and it shall be deemed a separate offense for the same person to erect, or permit to be erected, a similar sign at each of two or more places.

(Code 1992, § 3-82; Ord. of 11-20-1987, art. II, § 2)

State law reference—Similar provision regarding highways of the Commonwealth, Code of Virginia, § 33.1-380.

Sec. 4-103. Removal by town manager.

The town manager, whenever he shall ascertain that any sign gives incorrect information in violation of this division, shall notify the person who erected the same, and the person on whose property it is located, in writing, to remove it forthwith, and if it is not removed within ten days after receipt of such notice, the town manager shall remove and destroy the same, or cause it to be

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[59] There is no section on grounds for refusal to grant a permit. Please include a section or statement on grounds for refusal to grant a permit.

PROOFS

removed and destroyed, without liability for damages therefor, and, if any person convicted of erecting or maintaining any such sign, or of permitting the same to be erected or maintained, as hereinabove provided, shall fail or refuse to remove the same within ten days after such judgment of conviction, the town manager shall remove and destroy such sign, or cause the same to be removed and destroyed, without liability for damages therefor.

(Code 1992, § 3-83; Ord. of 11-20-1987, art. II, § 3)

State law reference—Similar provision regarding highways of the Commonwealth, Code of Virginia, § 33.1-381.

Secs. 4-104--4-115. Reserved.

[60]DIVISION 4. PERMITTED SIZE, NUMBER, HEIGHT AND LOCATION OF SIGNS*

~~***Cross reference**— Buildings, ch. 9; subdivisions, ch. 26; zoning, ch. 30.~~

***State law reference**—Regulations regarding political signs, Code of Virginia, § 15.2-109.

Sec. 4-116. Generally.

Section 4-117 contains regulations for the size, number, height and location of permitted signs. In addition, the following regulations shall apply:

(1) Reference in the table to zoning districts means zoning districts as established in chapter 42, Zoning.

(2) Structural and safety features and electrical systems shall be in accordance with the requirements of the applicable codes and ordinances. No sign shall be approved for use unless it has been inspected by the [61]building inspections department and is found to be in compliance with all the requirements of this article and applicable technical codes.

(3) A group of three or more contiguous businesses or uses may combine permitted ground/freestanding sign area to provide a single ground/freestanding sign advertising the group if there are no other ground/freestanding signs and if total ground/freestanding sign area does not exceed 150 square feet. In mixed use districts, combined area signs shall not exceed 100 square feet. It shall be the responsibility of the property owner to allocate sign areas to the businesses. Should any sign created under this provision cease to advertise three or more contiguous businesses for a period of 90 days then such sign shall be made to conform to the provisions of this article or be removed.

(4) A shopping center or cluster of businesses on one tract of land, as identified on a current subdivision plat of record, having enough street frontage to allow more than one ground/freestanding sign may combine ground/freestanding sign areas and number of faces to create one permanent multifaced freestanding business sign having no more than four faces, joined at the corners at 90 degree or less angles, with no face exceeding the area normally allocated a single ground/freestanding sign face provided as follows:

a. There shall be no ground/freestanding signs upon the premises other than the one multifaced ground/freestanding sign.

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[60] This division appears to regulate signs in the respective zoning districts and should be included in a separate article in a chapter entitled Signs. It apparently has no relationship to the requirements in state law for outdoor advertising adjacent to highways. What provisions in Divisions 1 – 3 are applicable to division 4? Definitions, fees, penalties, permit requirement, exemptions and prohibitions – all of it besides the handbill regulations.

[61] Is this title correct? Yes, but we do the electrical inspection upon installation after a permit has been issued. The inspection is considered part of the approval.

PROOFS

b. The multifaced ground/freestanding sign shall not advertise any off-premises activity or use.

c. Should future subdivisions reduce the amount of frontage required for the multifaced ground/freestanding sign, then the sign shall be removed at the owner's expense.

(Code 1992, § 3-96; Ord. of 11-20-1987, art. III, § 1; Ord. of 5-2-1989; Ord. of 4-27-1990; Ord. of 1-19-1999; Ord. No. 2004-4, 9-7-2004)

Sec. 4-117. Permitted size, number, height and location of signs.

The setbacks for advertisements shall be as follows:

(1) Advertisements in all zoning districts other than B-2 shall be subject to the following provisions:

a. The first ground/freestanding, location, and/or general advertising sign on any premises must remain a minimum of ten feet from any street right-of-way.

b. The second and all additional ground/freestanding, location, and/or general advertising signs on any premises must meet the front yard setback requirements of the zoning district in which they are located. See chapter 42, Zoning', for front yard setback requirements.

c. Advertisement must remain a minimum of three feet from all other property lines.

d. On all corner lots, a sight triangle formed by a 20-foot measurement down both rights-of-way shall be maintained.[62]

e. Side and rear wall signs facing and within 100 feet of a residential district are prohibited.

f. Marquee signs for buildings with zero front yard setbacks and fronting on a public sidewalk shall meet the setback requirements of the B-2 Central Business district.

(2) In the B-2 Central Business district, advertisements have no setbacks other than following provisions:

a. Sign may project a maximum of 42 inches over public property.

b. Sign must remain a minimum of two feet from the back of the street curb.

c. On all corner lots a sight triangle formed by a 20-foot measurement down both rights-of-way shall be maintained.[63]

d. Side and rear wall signs facing and within 100 feet of a residential district are prohibited.

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[62] Section 25-18 on sight triangle includes this statement "… when such fence, sign or vegetation is more than three feet higher than the centerline of either street opposite the above mentioned area." Is that compatible with the requirement in this section? Yes, but this section restricts it further.

[63] Section 25-18 on sight triangle is more explicit and includes this statement "… when such fence, sign or vegetation is more than three feet higher than the centerline of either street opposite the above mentioned area." Is that section compatible with the requirement in this section? Yes, but this section restricts it further for advertising.

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(3) The type, number, size and height of signs allowed in each zoning district shall be as follows:

Zoning District	*Sign Type*	*Maximum Number of Signs Permitted*	*Maximum Area of Signs*	*Max./Min. Height*
All districts	Construction (off-premises)	1 for each principal participant.	32 sq. ft. per face.	10 ft. max.
All districts	Development (on-premises)	1 per entrance.	32 sq. ft. per face.	10 ft. max.
All districts	Directional (on-premises)	2 per entrance or exit.	6 sq. ft. per face.	7 ft. max.
A, Agricultural	Home occupation (on-premises)	1 wall-mounted in close proximity to the front door.	2 sq. ft. per face.	5 ft. max.
R-1A, Rural Residential	None other than those allowed in all districts (Construction, Development or Directional). See beginning of table.			
R-1, Single-Family Residential	None other than those allowed in all districts (Construction, Development or Directional). See beginning of table.			
R-2, Two-Family Residential	Home occupation (on-premises)	1 wall-mounted in close proximity to the front door.	2 sq. ft. per face.	5 ft. max.
R-3, Multiple-Family Residential	Home occupation (on-premises)	1 wall-mounted in close proximity to the front door.	2 sq. ft. per face.	5 ft. max.
R-MS, Residential Manufactured Home Subdivision	Home occupation (on-premises)	1 wall-mounted in close proximity to the front door.	2 sq. ft. per face.	5 ft. max.
MU-1, Mixed Use: Residential/ Limited Business	Ground/ Freestanding (on-premises)	1 single-faced or 1 double-faced per lot with less than 200' frontage. Lots having in excess of 200' frontage shall be permitted 1 such sign on each 200' of frontage, but no fractional distance shall increase the number of signs permitted. Not allowed if a location sign exists.	50 sq. ft. per face.	20 ft. max.
MU-1, Mixed Use:	Changeable copy (on-	1, as part of a permitted ground/freestanding sign	18 sq. ft. per face.	20 ft. max.

PROOFS

Zoning District	*Sign Type*	*Maximum Number of Signs Permitted*	*Maximum Area of Signs*	*Max./Min. Height*
Residential/ Limited Business	premises)	or as a substitute for 1 permitted ground/ freestanding sign.		
MU-1, Mixed Use: Residential/ Limited Business	Marquee (on-premises)	1 per side, if there are no roof or projecting signs.	Length of marquee times one foot, up to a maximum of 200 sq. ft.	May not project above marquee or below 8 ft.
MU-1, Mixed Use: Residential/ Limited Business	Secondary roof (on-premises)	1 per secondary roof to occupy no more than half the width of the secondary roof, if there are no roof or projecting signs.	Length of secondary roof times one foot, up to a maximum of 200 sq. ft.	May not project above primary roof; more than 4 feet above the lowest point of the secondary roof; or below 8 ft.
MU-1, Mixed Use: Residential/ Limited Business	Wall (on-premises or off-premises)	Not limited other than side and rear wall signs facing and within 100 feet of a residential district are prohibited.	Total signage area may not exceed 10% of wall area on which placed up to a maximum of 200 sq. ft.	May not project above roof line, parapet wall or top of other supporting structure.
MU-1, Mixed Use: Residential/ Limited Business	Temporary (on-premises or off-premises)	Same as for permanent signs depending on type and subject to approval by town manager for structure and placement.		
MU-2, Mixed Use: Residential/ Limited Business/ Limited Industrial	Ground/ Freestanding (on-premises)	1 single-faced or 1 double-faced per lot with less than 200' frontage. Lots having in excess of 200' frontage shall be permitted 1 such sign on each 200' of frontage, but no fractional distance shall increase the number of signs permitted. Not allowed if a location sign exists.	50 sq. ft. per face.	20 ft. max.

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Zoning District	*Sign Type*	*Maximum Number of Signs Permitted*	*Maximum Area of Signs*	*Max./Min. Height*
MU-2, Mixed Use: Residential/ Limited Business/ Limited Industrial	Changeable copy (on-premises)	1, as part of a permitted ground/freestanding sign or as a substitute for 1 permitted ground/ freestanding sign.	18 sq. ft. per face.	20 ft. max.
MU-2, Mixed Use: Residential/ Limited Business/ Limited Industrial	Marquee (on-premises)	1 per side, if there are no roof or projecting signs.	Length of marquee times one foot, up to a maximum of 200 sq. ft.	May not project above marquee or below 8 ft.
MU-2, Mixed Use: Residential/ Limited Business/ Limited Industrial	Secondary roof (on-premises)	1 per secondary roof to occupy no more than half the width of the secondary roof, if there are no roof or projecting signs.	Length of secondary roof times one foot, up to a maximum of 200 sq. ft.	May not project above primary roof; more than 4 feet above the lowest point of the secondary roof; or below 8 ft.
MU-2, Mixed Use: Residential/ Limited Business/ Limited Industrial	Wall (on-premises or off-premises)	Not limited other than side and rear wall signs facing and within 100 feet of a residential district are prohibited.	Total signage area may not exceed 10% of wall area on which placed up to a maximum of 200 sq. ft.	May not project above roof line, parapet wall or top of other supporting structure.
MU-2, Mixed Use: Residential/ Limited Business/ Limited Industrial	Temporary (on-premises or off-premises)	Same as for permanent signs depending on type and subject to approval by town manager for structure and placement.		
B-1, Limited Business	Ground/ Freestanding (on-premises)	1 single-faced or 1 double-faced per lot with less than 200' frontage. Lots having in excess of	50 sq. ft. per face.	35 ft. max.

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Zoning District	*Sign Type*	*Maximum Number of Signs Permitted*	*Maximum Area of Signs*	*Max./Min. Height*
		200' frontage shall be permitted 1 such sign on each 200' of frontage, but no fractional distance shall increase the number of signs permitted. Not allowed if a location sign exists.		
B-1, Limited Business	Changeable copy (on-premises)	1, as part of a permitted ground/freestanding sign or as a substitute for 1 permitted ground/ freestanding sign.	18 sq. ft. per face.	35 ft. max.
B-1, Limited Business	Location (off-premises)	1 single-faced or 1 double-faced per lot with not less than 200' of public street frontage provided there is no ground/freestanding sign.	50 sq. ft. per face.	35 ft. max.
B-1, Limited Business	Marquee (on-premises)	1 per side, if there are no roof or projecting signs.	Length of marquee times one foot, up to a maximum of 200 sq. ft.	May not project above marquee or below 8 ft.
B-1, Limited Business	Secondary roof (on-premises)	1 per secondary roof to occupy no more than half the width of the secondary roof, if there are no roof or projecting signs.	Length of secondary roof times one foot, up to a maximum of 200 sq. ft.	May not project above primary roof; more than 4 feet above the lowest point of the secondary roof; or below 8 ft.
B-1, Limited Business	Roof (on-premises)	1 per side, if there are no marquee, secondary roof, projecting or wall signs.	50 sq. ft. per face if erected within 75' from street right-of-way. 75 sq. ft. per face if erected in excess of 75' from street right-of-way. 100 sq. ft. if erected in excess of 150' from street right-of-way. 200 sq. ft. per face if erected	May not project above peak of a sloping roof or parapet wall of a flat roof.

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Zoning District	*Sign Type*	*Maximum Number of Signs Permitted*	*Maximum Area of Signs*	*Max./Min. Height*
			in excess of 300' from street right-of-way.	
B-1, Limited Business	Wall (on-premises or off-premises)	Not limited other than side and rear wall signs facing and within 100 feet of a residential district are prohibited.	Total signage area may not exceed 10% of wall area on which placed up to a maximum of 200 sq. ft.	May not project above roof line, parapet wall or top of other supporting structure.
B-1, Limited Business	Temporary (on-premises or off-premises)	Same as for permanent signs depending on type and subject to approval by town manager for structure and placement.		
B-2, Central Business	Ground/ Freestanding (on-premises)	1 single-faced or 1 double-faced per lot with less than 200' frontage. Lots having in excess of 200' frontage shall be permitted 1 such sign on each 200' of frontage, but no fractional distance shall increase the number of signs permitted. Not allowed if a location sign exists.	50 sq. ft. per face.	35 ft. max.
B-2, Central Business	Changeable copy (on-premises)	1, as part of a permitted ground/freestanding sign or as a substitute for a permitted ground/ freestanding sign.	18 sq. ft. per face.	35 ft. max.
B-2, Central Business	Location (off-premises)	1 single-faced or 1 double-faced per lot with not less than 200' of public street frontage, provided there is no ground/freestanding sign.	50 sq. ft. per face.	35 ft. max.
B-2, Central Business	Marquee (on-premises)	1, if there are no roof or projecting signs.	Length of marquee times one foot, up to a maximum of 200 sq. ft.	May not project above marquee or below 8 ft.
B-2, Central	Secondary	1 per secondary roof to	Length of secondary	May not

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Zoning District	*Sign Type*	*Maximum Number of Signs Permitted*	*Maximum Area of Signs*	*Max./Min. Height*
Business	roof (on-premises)	occupy no more than half the width of the secondary roof, if there are no roof or projecting signs.	roof times one foot up to a maximum of 200 sq. ft.	project above primary roof; more than 4 feet above the lowest point of the secondary roof; or below 8 ft.
B-2, Central Business	Roof (on-premises)	1 per side, if there are no marquee, secondary roof, projecting or wall signs.	50 sq. ft. per face if erected within 75' from street right-of-way. 75 sq. ft. per face if erected in excess of 75' from street right-of-way. 100 sq. ft. if erected in excess of 150' from street right-of-way. 200 sq. ft. per face if erected in excess of 300' from street right-of-way.	May not project above peak of a sloping roof or parapet wall of a flat roof.
B-2, Central Business	Projecting (on-premises)	1, if there are no marquee or roof signs.	50 sq. ft. per face.	Minimum height to bottom of sign shall be 9 ft.
B-2, Central Business	Wall (on-premises or off-premises)	Not limited other than not permitted if there is a roof sign and that side and rear wall signs facing and within 100 feet of a residential district are prohibited.	Total signage area may not exceed 10% of wall area on which placed up to a maximum of 200 sq. ft.	May not project above roof line, parapet wall or top of other supporting structure.
B-2, Central Business	Temporary (on-premises or off-premises)	Same as for permanent signs depending on type and subject to approval by town manager for structure and placement.		
B-3m General Business	Ground/ Freestanding (on-premises)*	1 single-faced or 1 double-faced per lot with less than 200' of public street frontage. Lots	50 sq. ft. per face.	35 ft. max.

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Zoning District	*Sign Type*	*Maximum Number of Signs Permitted*	*Maximum Area of Signs*	*Max./Min. Height*
		having in excess of 200' of public street frontage shall be permitted 1 such sign on each 200' of frontage, but no fractional distance shall increase the number of signs permitted. Not allowed if a general advertising sign exists.		
B-3, General Business	Changeable copy (on-premises)*	1, as part of a permitted ground/freestanding sign or as a substitute for 1 permitted ground/ freestanding sign.	32 sq. ft. per face.	35 ft. max.
B-3, General Business	General Advertising (on-premises or off-premises)*	1 single-faced or 1 double-faced per lot with not less than 200' of public street frontage, provided there is no ground/freestanding sign.	50 sq. ft. per face.	35 ft. max.
B-3, General Business	Marquee (on-premises)	1 per side, if there are no roof or projecting signs.	Length of marquee times 1 foot, up to a maximum of 200 sq. ft.	May not project above marquee or below 8 ft.
B-3, General Business	Secondary roof (on-premises)	1 per secondary roof to occupy no more than half the width of the secondary roof, if there are no roof or projecting signs.	Length of secondary roof times 1 foot, up to a maximum of 200 sq. ft.	May not project above primary roof; more than 4 feet above the lowest point of the secondary roof; or below 8 ft.
B-3, General Business	Roof (on-premises)	1 per side, if there are no marquee, secondary roof, projecting or wall signs.	90 sq. ft. per face if erected within 75' from street right-of-way. 140 sq. ft. per face if erected in excess of 75' from street right-of-way. 170 sq. ft. if erected in excess of 150' from	May not project more than 4 ft. above peak of a sloping roof or parapet wall of a

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Zoning District	*Sign Type*	*Maximum Number of Signs Permitted*	*Maximum Area of Signs*	*Max./Min. Height*
			street right-of-way. 200 sq. ft. if erected in excess of 300' from street right-of-way.	flat roof.
B-3, General Business	Wall (on-premises or off-premises)	Not limited other than not permitted if there is a roof sign and that side and rear wall signs facing and within 100 feet of a residential district are prohibited.	Total signage area may not exceed 10% of wall area on which placed up to a maximum of 200 sq. ft.	May not project above roof line, parapet wall or top of other supporting structure.
B-3, General Business	Temporary (on-premises or off-premises)	Same as for permanent signs depending on type and subject to approval by town manager for structure and placement.		
I-1, Limited Industrial	Ground/ Freestanding (on-premises)	1, provided there is no location sign.	50 sq. ft. per face.	15 ft. max.
I-1, Limited Industrial	Location (off-premises)	1 single-faced or 1 double-faced per lot with not less than 200' of public street frontage, provided there is no ground/freestanding sign.	50 sq. ft. per face.	15 ft. max.
I-1, Limited Industrial	Marquee (on-premises)	1 per side, if there are no roof or projecting signs.	Length of marquee times 1 foot, up to a maximum of 200 sq. ft.	May not project above marquee or below 8 ft.
I-1, Limited Industrial	Secondary roof (on-premises)	1 per secondary roof to occupy no more than half the width of the secondary roof, if there are no roof or projecting signs.	Length of secondary roof times 1 foot, up to a maximum of 200 sq. ft.	May not project above primary roof; more than 4 feet above the lowest point of the secondary roof; or below 8 ft.

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Zoning District	*Sign Type*	*Maximum Number of Signs Permitted*	*Maximum Area of Signs*	*Max./Min. Height*
I-1 Limited Industrial	Roof (on-premises)	1 per side, if there are no marquee, secondary roof, projecting or wall signs.	90 sq. ft. per face if erected within 75' from street right-of-way. 140 sq. ft. per face if erected in excess of 75' from street right-of-way. 170 sq. ft. if erected in excess of 150' from street right-of-way. 200 sq. ft. if erected in excess of 300' from street right-of-way.	May not project more than 4 ft. above peak of a sloping roof or parapet wall of a flat roof.
I-1 Limited Industrial	Wall (on-premises or off-premises)	1, provided there is no roof sign. Side and rear wall signs facing and within 100 feet of a residential district are prohibited.	Total signage area may not exceed 10% of wall area on which placed up to a maximum of 200 sq. ft.	May not project above roof line, parapet wall or top of other supporting structure.
I-1 Limited Industrial	Temporary (on-premises or off-premises)	Same as for permanent signs depending on type and subject to approval by town manager for structure and placement.		
I-2, General Industrial	Ground/ Freestanding (on-premises)*	1 single-faced or 1 double-faced per lot with less than 200' of public street frontage. Lots having in excess of 200' of public street frontage shall be permitted 1 such sign on each 200' of frontage, but no fractional distance shall increase the number of signs permitted. Not allowed if a general advertising sign exists.	50 sq. ft. per face.	35 ft. max.
I-2, General Industrial	Changeable copy (on-premises)*	1, as part of a permitted ground/freestanding sign or as a substitute for 1 permitted ground/ freestanding sign.	32 sq. ft. per face.	35 ft. max.
I-2, General	General	1 single-faced or 1	50 sq. ft. per face.	35 ft. max.

PROOFS

Zoning District	*Sign Type*	*Maximum Number of Signs Permitted*	*Maximum Area of Signs*	*Max./Min. Height*
Industrial	Advertising (on-premises or off-premises)*	double-faced per lot with not less than 200' of public street frontage provided there is no ground/freestanding sign.		
I-2, General Industrial	Marquee (on-premises)	1 per side, if there are no roof or projecting signs.	Length of marquee times 1 foot, up to a maximum of 200 sq. ft.	May not project above marquee or below 8 ft.
I-2, General Industrial	Secondary roof (on-premises)	1 per secondary roof to occupy no more than half the width of the secondary roof, if there are no roof or projecting signs.	Length of secondary roof times 1 foot, up to a maximum of 200 sq. ft.	May not project above primary roof; more than 4 feet above the lowest point of the secondary roof; or below 8 ft.
I-2, General Industrial	Roof (on-premises)	1 per side, if there are no marquee, secondary roof, projecting or wall signs.	90 sq. ft. per face if erected within 75' from street right-of-way. 140 sq. ft. per face if erected in excess of 75' from street right-of-way. 170 sq. ft. if erected in excess of 150' from street right-of-way. 200 sq. ft. if erected in excess of 300' from street right-of-way.	May not project more than 4 ft. above peak of a sloping roof or parapet wall of a flat roof.
I-2, General Industrial	Wall (on-premises or off-premises)	Not limited other than not permitted if there is a roof sign and that side and rear wall signs facing and within 100 feet of a residential district are prohibited.	Total signage area may not exceed 10% of wall area on which placed up to a maximum of 200 sq. ft.	May not project above roof line, parapet wall or top of other supporting structure.

PROOFS

Zoning District	*Sign Type*	*Maximum Number of Signs Permitted*	*Maximum Area of Signs*	*Max./Min. Height*
I-2, General Industrial	Temporary (on-premises or off-premises)	Same as for permanent signs depending on type and subject to approval by town manager for structure and placement.		

(4) Common private access subdivisions in B-3 General Business and I-2 General Industrial shall be limited to one combined area sign (up to 150 square feet total, subject to the provisions of section 4-116) or one general advertising sign (subject to the property having at least 200 feet of street frontage) for the entirety of the subdivision. This provision shall not restrict marquee, roof, wall and temporary signs.

(5) Common private access subdivisions in MU-1 Mixed Use: Residential – Limited Business and MU-2 Mixed Use: Residential – Limited Business – Limited Industrial shall be limited to one combined area sign (up to 100 square feet total, subject to the provisions of section 4-109) for the entirety of the subdivision. This provision shall not restrict marquee, wall and temporary signs.

(Code 1992, § 3-97; Ord. of 11-20-1987, art. III, § 1; Ord. of 5-2-1989; Ord. of 2-18-1992; Ord. of 8-5-1997; Ord. of 1-19-1999; Ord. No. 2002-3, 4-2-2002; Ord. No. 2004-4, 9-7-2004; Ord. No. 2008-7, 12-16-2008)

Sec. 4-118. Electronic messaging signs.

(a) Electronic messaging signage (including the primary message and any and all secondary messages, backgrounds, etc.) is required to remain static for at least four seconds and may not flash or change intensity by pulsing or pulsating with the exception that such displays conveying solely public information such as date, time, temperature, weather, community events and other similar information may scroll but may not flash or change intensity by pulsing or pulsating.

(b) Electronic messaging signs shall require conditional use permit approval per section 42-8 ~~of chapter 42, Zoning,~~ for all signs that are located in areas that are within historic districts as designated by the state landmarks register or within the central business district, except those signs that display only public information such as date, time, temperature, weather, community events and other similar information and signs that display drive-through menus of four square feet or less.

(Code 1992, § 3-98; Ord. No. 2009-8, 9-15-2009)

PROOFS

Chapter 5

RESERVED

PROOFS

Chapter ~~4~~ 6

ALCOHOLIC BEVERAGES*

~~***Cross reference**— Advertising, ch. 3; finance and taxation, ch. 11; food establishments, § 14-31 et seq.; licenses generally, ch. 15; licensing of persons selling alcoholic beverages, § 15-62; public intoxication, § 17-19; zoning, ch. 30.~~

***State law reference**—Alcoholic beverages, Code of Virginia, § 4-1 et seq.; driving motor vehicle while intoxicated, Code of Virginia, § 18.2-266 et seq.

~~Sec. 4-1. Playing pool where beer or wine dispensed.~~

~~Sec. 4-2. Alcoholic beverages in public places.~~

Sec. 6-1. Playing pool where beer or wine dispensed.

(a) No license to operate or maintain a poolroom in the town shall be issued for the operation or maintenance thereof in any room where beer or wine of any kind is sold or dispensed.

(b) No person shall operate or maintain, or permit to be operated or maintained, a poolroom in any room of which he is proprietor or tenant in which beer or wine of any kind is sold or dispensed in the town.

(c) No person shall engage in any game of pool or billiards, whether for compensation or not, in any room in the town in which beer or wine is dispensed.

(Code 1972, § 8-3; Code 1992, § 4-1)

Sec. 6-2. Alcoholic beverages in public places.

(a) If any person in or upon the grounds of any town park shall drink any alcoholic beverage or have in his possession any alcoholic beverage or any beverage in any container labeled as an alcoholic beverage, he shall be guilty of a Class 4 misdemeanor. As used in this section, the term "alcoholic beverage" shall have the meaning as provided in the Code of Virginia.

(b) This section shall not prevent any person from drinking alcoholic beverages or offering a drink thereof to another in any area approved by the state alcoholic beverage control board in any town park or facility, at an event or occasion for which licensed, mixed beverage, special events license has been issued, or prevent, upon authorization of the licensee, any person from drinking his own lawfully acquired alcoholic beverage or tendering a drink thereof to another in approved areas and locations at events for which a facility, coliseum or stadium license has been issued.

(Code 1992, § 4-2; Ord. No. 2003-1, 4-1-2003)

State law reference—Authority to prohibit the possession of opened alcoholic beverage containers in public, parks, playgrounds, public streets and any sidewalk adjoining any public street, Code of Virginia, § 4.1-128.

PROOFS

Chapter 7

RESERVED

PROOFS

Chapter ~~5~~ 8

ANIMALS*

***Charter reference**—Regulation of keeping of animals, § 6.04.

~~**Cross reference**—Health and sanitation, ch. 14; vermin and rodent control in food establishments, § 14-74; licenses generally, ch. 15; licensing of repair, personnel, business and other services, § 15-61; nuisances, ch. 16; solid waste, weeds, tree trimmings, leaves, ch. 24; keeping animals out of garbage containers, § 24-32; unlawful disposal of manure from animals, § 24-53 et seq.; traffic and motor vehicles, ch. 28; zoning, ch. 30; permitted uses in agricultural district A zoning district, § 30-15.~~

State law reference—Livestock and poultry, Code of Virginia, § ~~3.1-723~~ 3.2-5901 et seq.; comprehensive animal laws, Code of Virginia, § ~~3.1-796.66~~ 3.2-6500 et seq.; cruelty to animals, Code of Virginia, §§ ~~3.1-796.122 et seq~~ 3.2-6570, 3.2-6570.1; dogs and cats deemed personal property, rights relating thereto, Code of Virginia, § ~~3.1-796.127~~ 3.2-6585; penalties for offenses involving animals, Code of Virginia, §§ ~~3.1-796.128~~ 3.2-6587, 18.2-403.1 et seq.; ordinances prohibiting cruelty to animals, Code of Virginia, § ~~15.1-29.1:1~~ 3.2-6543; municipal regulation of animals and fowl generally, Code of Virginia, § ~~15.1-870~~ 3.2-6544; offenses relating to disabled or dead animals, Code of Virginia, § 18.2-323; game, inland fisheries and boating, Code of Virginia, tit. 29.1; estrays, Code of Virginia, § 55-202 et seq.

~~Article I. In General~~

~~Sec. 5-1. Livestock running at large, etc.~~

~~Sec. 5-2. Impoundment, redemption and sale of livestock.~~

~~Sec. 5-3. Fowl straying on streets or sidewalks.~~

~~Sec. 5-4. Fowl, horses, etc., on lands of another.~~

~~Sec. 5-5. Keeping goats and swine.~~

~~Sec. 5-6. Vicious and wild animals.~~

~~Sec. 5-7. Diseased animals.~~

~~Sec. 5-8. Stables, cow barns, chicken houses, etc.~~

~~Sec. 5-9. Cruelty to animals; penalty.~~

~~Sec. 5-10. Butchering and skinning.~~

~~Sec. 5-11. Slaughterhouses.~~

~~Sec. 5-12. Slaughter of poultry.~~

~~Sec. 5-13. Disposition of dead animals.~~

~~Sec. 5-14. Transportation of dead animals.~~

~~Secs. 5-15--5-35. Reserved.~~

~~Article II. Dogs~~

~~Sec. 5-36. Running at large.~~

~~Sec. 5-37. Bitches in heat.~~

~~Sec. 5-38. Impounding.~~

~~Sec. 5-39. Disturbance of persons.~~

~~Sec. 5-40. Penalty.~~

PROOFS

ARTICLE I. IN GENERAL

[64]Sec. 8-1. Vicious and wild animals.

It shall be unlawful for any person in the town to keep any vicious animal, or any wild nondomestic animal, unless such vicious or wild nondomestic animal is confined.

(Code 1972, § 4-6; Code 1992, § 5-6)

[65]Sec. 8-2. Diseased animals.

It shall be unlawful for any person to own, keep or harbor in the town any animal suffering or afflicted with any infectious or contagious disease, after knowledge of the condition of such animal, without proper medical attention.

(Code 1972, § 4-7; Code 1992, § 5-7)

~~**Cross reference**—Health and sanitation, ch. 14.~~

Sec. 8-3. Disposition of dead animals.

(a) If any animal dies in the town, the owner or person in charge of such animal shall, at once, dispose of the same in a manner satisfactory to the[66] health officer.

(b) When the owner of any animal or grown fowl which has died knows of such death, such owner shall forthwith have its body cremated or buried or request such service from an officer or other person designated for the purpose. If the owner fails to do so, any judge of a general district court, after notice to the owner if he can be ascertained, shall cause any such dead animal or fowl to be cremated or buried by an officer or other person designated for the purpose. Such officer or other person shall be entitled to recover of the owner of every such animal or fowl that is cremated or buried the actual cost of the cremation or burial and a reasonable fee to be recovered in the same manner as officers' fees are recovered, free from all exemptions in favor of such owner.

(c) Nothing in this section shall be deemed to require the burial or cremation of the whole or portions of any animal or fowl which is to be used for food or in any commercial manner.

(d) It shall be unlawful for the owner or person in charge of a dead animal to fail to dispose of the same within five hours after notice to do so. When the owner or person in charge of a dead animal is unknown, the dead animal shall be disposed of at the expense of the town by the town.

(e) Any person who violates this section shall be guilty of a Class 4 misdemeanor.

(Code 1972, § 4-13; Code 1992, § 5-13)

~~**Cross reference**—Solid waste, weeds, tree trimmings, leaves, ch. 24.~~

State law reference—Burial or cremation of dead animals or fowl, Code of Virginia, § 18.2-510.

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[64] Vicious animal should be defined. Dangerous dogs and vicious dogs are regulated in Code of Virginia, § 3.2-6540. Conform and adopt? Yes.

[65] This section is extremely vague and infectious and contagious disease should be defined. It may be better if it is vague? We have never used this provision as far as I know (reworded).

[66] Does the town have a health officer? Conform to Code of Virginia, § 18.2-510? The Health Department (Director) is the Health Officer. Yes.

PROOFS

[67]Sec. 8-4. Transportation of dead animals.

It shall be unlawful for any person engaged in the business of using or disposing of or rendering dead animals, to transport, or cause to be transported, any dead animal, regardless of whether the same has been cut or ground into small pieces or particles, along any public street within the town without the same being fully covered. For the purposes of this section, the term "fully covered" means completely obscured from view, hauled in a closed-type vehicle, or if hauled in an open-type vehicle, fully covered with heavy canvas. Should any portion of the animal extend beyond the tailgate or outside the rear portion of a vehicle, the canvas shall be wrapped around the extended portion so as to completely hide the same from view.

(Code 1972, § 4-14; Code 1992, § 5-14)

~~**Cross reference**— Traffic and motor vehicles, ch. 28.~~

Secs. 8-5--8-26. Reserved.

ARTICLE II. LIVESTOCK AND OTHER FARM ANIMALS

State law reference—Livestock and poultry, Code of Virginia, § ~~3.1-723~~ 3.2-5901 et seq.; estrays, Code of Virginia, § 55-202 et seq.

Sec. 8-27. Livestock running at large, etc.

It shall be unlawful for any person to permit any livestock to run at large in the town or to graze in the streets or to obstruct the streets in any manner.

(Code 1972, § 4-1; Code 1992, § 5-1)

State law reference—Estrays, Code of Virginia, § 55-202 et seq.

Sec. 8-28. Impoundment, redemption and sale of livestock.

Any livestock found at large in the town, grazing in the streets or obstructing the streets in violation of section 8-27 may be impounded until redeemed, and, if not redeemed within five days, may be advertised and sold, and the proceeds, after deducting the fine and costs for capturing and keeping, shall be held by the treasurer for the benefit of the owner.

(Code 1972, § 4-2; Code 1992, § 5-2)

[68]Sec. 8-29. Fowl straying on streets or sidewalks.

It shall be unlawful for any person in the town to permit fowl kept by him or under his control to stray on the streets or sidewalks of the town.

(Code 1972, § 4-3; Code 1992, § 5-3)

Sec. 8-30. Fowl, horses, etc., on lands of another.

It shall be unlawful for the owner of chickens or other fowl, horses or cows to permit or allow them to range or run on the lands or property of another person, without such person's consent or permission. The owner of such fowl or animals shall be liable for any damage done by such fowl or animals while on the property of another.

(Code 1972, § 4-4; Code 1992, § 5-4)

State law reference—Trespass by animals in crossing lawful fence, Code of Virginia, § 55-306 et seq.

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[67] Is this still effective and enforced? It is not really used, but I don't see that it hurts.

[68] The zoning appears to permit certain fowl in the town in agricultural areas. Keep? Yes, we still have Agricultural Zoning District that allows fowl and some grandfathered locations.

PROOFS

[69]Sec. 8-31. Keeping goats and swine.

(a) No person shall keep or maintain goats or swine within the corporate limits of the town, except this prohibition shall not be applicable ~~where any person has conducted agricultural operations or any of its appurtenances within the corporate limits of the Town for a period of one year prior to April 19, 1988~~ to agricultural operations in agricultural districts provided the operations are in accordance with the Right to Farm Act (Code of Virginia, § 3.2-300 et seq.). Pygmy goats as domestic pets are allowed with a conditional use permit.

(b) ~~For the purposes of this section, unless the context requires a different meaning: "agricultural operation" means any operation devoted to the bona fide production for sale of crops, animals, or fowl, including but not limited to the production for sale of fruits and vegetables of all kinds; meat, dairy, and poultry products; nuts, tobacco, nursery and floral products; and trees in such quantity and so spaced and maintained as to constitute a forest area.;~~ The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Agricultural operation means any operation devoted to the bona fide production of crops, animals or fowl, including the production of fruits and vegetables of all kinds; meat, dairy and poultry products; nuts, tobacco, nursery and floral products; and the production and harvest of products from silviculture activity.

Production agriculture and silviculture means the bona fide production or harvesting of agricultural or silvicultural products, but shall not include the processing of agricultural or silvicultural products or the above ground application or storage of sewage sludge.

(c) The provisions of subsection (a) of this section shall not affect or defeat the right of any person to recover damages for any injuries or damages sustained by ~~him~~ them on account of any pollution of, or change in condition of, the waters of any stream or on the account of any overflow of lands of any such person.

(d) The exception provided for in subsection (a) of this section shall not apply whenever a nuisance results from the negligent or improper operation of any such agricultural operation or any of its appurtenances ~~or when there has been a significant change in the operation itself~~.

(Code 1992, § 5-5; Ord. of 4-19-1988, § 4-5; Ord. No. 2003-6, 8-5-2003)

~~**Cross reference**—Zoning, ch. 30.~~

Sec. 8-32. Stables, cow barns, chicken houses, etc.

All stables, cow barns, chicken houses, doghouses, kennels or other facilities for keeping horses, cows, dogs, rabbits, fowl, poultry, birds and all other animals or fowl kept or maintained within the town, where permitted by the underlying zoning regulations, shall be expressly under the supervision and regulations of the [70]health department. Stables, cow barns, chicken houses, doghouses, kennels or other facilities for housing animals or fowl shall be kept in a clean and sanitary condition for the protection of health and shall be so kept as not to give rise to objectionable odors upon any public highway or upon any premises owned or occupied by any person other than the person maintaining such stables, cow barns, chicken houses, doghouses or kennels.

(Code 1992, § 5-8; Ord. of 8-1-1989, § 4-8)

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[69] Section 30-15 appears to prohibit the keeping of swine and goats in the town. Delete? I amended this section and Section 30-15.

[70] Does the town have a health department? We use the Montgomery County Health Department.

PROOFS

~~**Cross reference**—Zoning, ch. 30.~~

~~[71]**Sec. 5-9. Cruelty to animals; penalty.**~~

~~Any person who:~~

~~Overrides, overdrives, overloads, tortures, ill-treats, abandons, willfully inflicts inhumane injury or pain not connected with bona fide scientific or medical experimentation, or cruelly or unnecessarily beats, maims, mutilates, or kills any animal, whether belonging to himself or another;~~

~~Deprives any animal of necessary sustenance, food, drink or shelter;~~

~~Willfully sets on foot, instigates, engages in, or in any way furthers any act of cruelty to any animal;~~

~~Carries or causes to be carried in or upon any vehicle, vessel or otherwise any animal in a cruel, brutal, or inhumane manner, so as to produce torture or unnecessary suffering; or~~

~~Causes any of the above things, or being the owner of such animal permits such acts to be done by another;~~

~~shall be guilty of a class 1 misdemeanor.~~

~~Any person who abandons any dog, cat or other domesticated animal in any public place including the right-of-way of any public highway, road or street or on the property of another shall be guilty of a class 3 misdemeanor.~~

~~Nothing in this section shall be construed to prohibit the dehorning of cattle.~~

~~For the purposes of this section the word "animal" shall be construed to include birds and fowl.~~

~~(Code 1972, § 4-9; Code 1992, § 5-9)~~

~~**Cross reference**—Offenses--Miscellaneous, ch. 17.~~

~~**State law reference**—Similar provisions, Code of Virginia, § 3.1-796.122 3.2-6570.~~

Sec. 8-33. Butchering and skinning.

It shall be unlawful for any person to butcher, or cause to be butchered, or skin, or cause to be skinned, any animal within the town, except as otherwise authorized under provisions of the zoning regulations of the town.

(Code 1972, § 4-10; Code 1992, § 5-10)

~~**Cross reference**—Zoning, ch. 30.~~

Sec. 8-34. Slaughterhouses.

Except as provided in section 8-35 and in the zoning regulations, it shall be unlawful for any person to erect, operate or maintain any slaughterhouse within the town.

(Code 1972, § 4-11; Code 1992, § 5-11)

Charter reference—Powers of Council as to slaughterhouses, § 6.04.

~~**Cross reference**—Zoning, ch. 30.~~

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[71] Conform to Code of Virginia, § 3.2-6570 A. Yes, but delete (rely on state law).

PROOFS

Sec. 8-35. Slaughter of poultry.

(a) Except as otherwise provided in the zoning regulations, it shall be unlawful for any person to kill or dress poultry within the town without complying with the following regulations:

(1) All slaughtering shall be done in a building or room provided for the purpose, and such building or room shall be provided with a concrete or metal floor, the floor and walls of which shall be kept clean at all times.

(2) Buildings or rooms used for the purpose of slaughtering fowl or poultry shall be screened for protection against flies.

(3) All blood, feathers and offal shall be deposited in ~~metal~~ appropriate containers with a suitable top, and such containers shall be kept closed at all times, except when being filled or discharged.

(b) All places coming under this section shall be subject to inspection by the health department at all reasonable hours.

(c) This section shall not apply to those who kill or dress poultry for their own or family use, and not for sale or resale, either cooked or uncooked, in stores or public eating places, restaurants or hotels.

(Code 1972, § 4-12; Code 1992, § 5-12)

~~**Cross reference**—Zoning, ch. 30.~~

State law reference—Livestock and poultry, Code of Virginia, § ~~3.1-723~~ 3.2-6000 et seq.

Secs. 8-36--8-60. Reserved.

ARTICLE III. DOGS*

***State law reference**—Comprehensive animal laws, Code of Virginia, § ~~3.1-796.66~~ 3.2-6500 et seq.

Sec. 8-61. Running at large.

(a) No person shall cause or permit any dog owned or kept by him to run at large on any street, alley or other public place or in any public hall, store, restaurant or theatre during the time that such place is open for public business, unless such dog is in the presence of and under the control of the owner, keeper or custodian of such dog.

(b) For the purpose of this section, a dog shall be deemed to run at large while roaming, running or self-hunting off the property of its owner or custodian and not under its owner's or custodian's immediate control.

(c) Any person who permits his dog to run at large, or remain unconfined, unrestricted or not penned up shall be deemed to have violated the provisions of this section.

(Code 1972, § 4-15; Code 1992, § 5-36)

State law reference—Governing body may prohibit dogs from running at large, Code of Virginia, § ~~3.1-796.93~~ 3.2-6538.

Sec. 8-62. ~~Bitches~~ Female dogs in heat.

No person shall permit any ~~bitch~~ female dog in heat to go at large in the street, or allow her to remain on his premises to the annoyance of the neighborhood.

(Code 1972, § 4-16; Code 1992, § 5-37)

PROOFS

Sec. 8-63. Impounding.

The [72]county animal ~~Warden~~ control officer is hereby authorized and it shall be the duty of any police officer to seize and impound for five days, as provided in Code of Virginia, § ~~3.1-796.96,~~ 3.2-6546, any and every dog found running at large in the town in violation of any provision of this article or of any state law relating to dogs. If any dog impounded is not claimed within such five-day period, the county animal warden is authorized to dispose of the dog according to law. The required license fee and the costs of feeding and caring for such dog while impounded shall be charged against the owner and the collection of such fee and costs shall be enforced against the owner in the same manner as fines are collected according to law.

(Code 1972, § 4-17; Code 1992, § 5-38)

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

Sec. 8-64. Disturbance of persons.

It shall be unlawful for any person to allow any dog of which he is the owner or custodian to disturb the quiet of any person by barking, biting, howling or in any other manner.

(Code 1972, § 4-18; Code 1992, § 5-39)

~~**Cross reference**—Offenses, Miscellaneous, ch. 17.~~

Sec. 8-65. Penalty.

Except where otherwise provided herein, any person who violates this article shall be guilty of a Class 4 misdemeanor.

PROOFS

[72] Is this section current and correct and is this a correct title? Changed.

Chapter 9

RESERVED

PROOFS

Chapter ~~9~~ 10

BUILDINGS AND BUILDING REGULATIONS*

***Charter reference**—Public buildings, § 4.02; building regulations, § 4.04.

~~**Cross reference**—Advertising, ch. 3; removal of construction signs, § 3-41; certain advertisements or structures prohibited, § 3-44; size, number, height, and location of signs, § 3-96 et seq.; antennas, ch. 6; notice to Building Official upon completion of antenna, § 6-50; construction standards for antennas, § 6-61 et seq.; erosion and sediment control, ch. 10; issuance of permit for land disturbing activities, § 10-8; finance and taxation, ch. 11; fire protection, ch. 12; flea markets, § 13-4; health and sanitation, ch. 14; construction standards for food establishments, § 14-41 et seq.; licenses generally, ch. 15; licensing of contractors, § 15-58; nuisances, ch. 16; public utilities, ch. 21; Building Code incorporated into public utilities chapter, § 21-3; refuse from building operations, § 24-43; streets and sidewalks, ch. 25; building encroaching on street or sidewalk, § 25-7; water and sewers, ch. 29; buildings to be separately connected to water and sewer system, § 29-4; cross connection control and backflow prevention, § 29-111 et seq.; zoning, ch. 30; certificate of occupancy under zoning chapter, § 30-7; conditional zoning, § 30-11; floodplain districts, § 30-121 et seq.; existing structures in floodplain districts, § 30-133; mobile home parks, § 30-156 et seq.~~

State law reference—Authority of Town to require removal, repair, etc., of buildings and other structures, Code of Virginia, § ~~15.1-11.2~~ 15.2-906; ~~local certification to do building related work, Code of Virginia, §§ 15.1-11.4~~ [73] ~~15.2-~~ , ~~36-99.1~~; power of Town to regulate the building of houses, Code of Virginia, § ~~15.1-15(1)~~ 36-99 ; ~~construction, maintenance, etc., of municipal buildings, Code of Virginia, § 15.1-846 ;~~ repair or other abatement of dangerous buildings, etc., Code of Virginia, § ~~15.1-867~~ 15.2-1115; power of Town to regulate the light, ventilation, sanitation, use and occupancy of buildings, Code of Virginia, § ~~15.1-869~~ 15.2-1117; limitation of prosecutions of Building Code violations, Code of Virginia, § 19.2-8; Virginia Industrialized Building Safety Law, Code of Virginia, § 36-70 et seq.; Uniform Statewide Building Code, Code of Virginia, § 36-97 et seq.; effect of Building Code on other building regulations, Code of Virginia, § 36-98; enforcement of Building Code, appeals from decisions of local building department, inspection of buildings, Code of Virginia, § 36-105; voluntary apprenticeship, Code of Virginia, § 40.1-117 et seq.; contractors, Code of Virginia, § 54.1-1100 et seq.

~~Article I. In General~~

~~Sec. 9-1. Fire districts--Creation and designation.~~

~~Sec. 9-2. Same--First district.~~

~~Sec. 9-3. Same--Second district.~~

~~Sec. 9-4. Violations.~~

~~Secs. 9-5--9-25. Reserved.~~

~~Article II. Building Code~~

~~Sec. 9-26. Adopted.~~

~~Sec. 9-27. Building Official.~~

~~Sec. 9-28. Building Inspector.~~

~~Sec. 9-29. Fee schedule.~~

~~Sec. 9-30. Building Code Board of Appeals.~~

~~Sec. 9-31. Copies available for inspection.~~

PROOFS

[73] Several former sections were repealed without being reenacted. Delete them? Yes.

~~Sec. 9-32. Manufactured homes not bearing a U.S. Department of Housing seal and modular manufactured homes not bearing a Virginia Department of Housing and Community Development Registration seal prohibited.~~

~~Secs. 9-33--9-50. Reserved.~~

~~Article III. Unsafe Buildings, Walls and Structures~~

~~Sec. 9-51. Authority of Town.~~

~~Sec. 9-52. Notice.~~

~~Sec. 9-53. Hearing.~~

~~Sec. 9-54. Appeal from ruling of Council.~~

~~Sec. 9-55. Enforcement by Council.~~

~~Sec. 9-56. Recovery of costs.~~

~~Sec. 9-57. Quorum of Council.~~

~~Sec. 9-58. Emergency provisions.~~

~~Sec. 9-59. Other remedies.~~

ARTICLE I. IN GENERAL

~~ARTICLE . FIRE DISTRICTS~~

~~[74]Sec. 9-1. Fire districts--creation and designation.~~

~~The two fire districts as set out in Sections 9-2 and 9-3 are hereby created and established within the Town and shall be known as the first fire district and the second fire district, respectively.~~

~~(Code 1972, § 9-1; Code 1992, § 9-1)~~

~~**Cross reference**--Fire protection, ch. 12.~~

~~Sec. 9-2. Same--first district.~~

~~The first fire district of the Town is comprised of the following portions of the Town:~~

- ~~All the area extending back 150 feet from the north side of Roanoke Street and between the southeast side of East Main Street and the eastern corporate limits of the Town.~~
- ~~All the area extending back 150 feet from the southeast side of First Street and the south side of Roanoke Street, beginning at the northeast side of Pepper Street; thence northeasterly along First Street and easterly along Roanoke Street to the eastern corporate limits of the Town.~~
- ~~All the area bounded by Roanoke Street on the northeast, East Main Street and West Main Street on the northwest, Chrisman Street on the southwest and First Street on the southeast.~~
- ~~All the area extending back 135 feet from the northeast side of Pepper Street, lying between the southeast side of Hill Street and the northwest side of East Main Street.~~
- ~~All the area bounded on the southeast by East Main Street, on the northeast by Pepper Street, on the northwest by Depot Street and on the southwest by North Franklin Street.~~

PROOFS

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[74] Are these sections on the fire districts still accurate and enforced? Delete.

- ~~All the area bounded on the southeast by West Main Street, on the northeast by North Franklin Street, on the northwest by Depot Street and further bounded on the southwest and northwest by College Street and on the southwest by Radford Street.~~

~~(Code 1972, § 9-2; Code 1992, § 9-2)~~

~~**Sec. 9-3. Same--second district.**~~

~~The second fire district of the Town is comprised of the following portions of the Town:~~

- ~~All the area extending back 150 feet from the southeast side of First Street and lying between the southwest side of Pepper Street and the northeast side of Chrisman Street.~~
- ~~All the area extending back 150 feet from the southwest side of Radford Street and lying between the northwest side of West Main Street and the east side of Depot Street.~~
- ~~All the area extending back 150 feet from the northeast side of Radford Street and lying between the northwest side of College Street and the east side of Depot Street.~~
- ~~All the area extending back 150 feet from the northwest and southwest sides of College Street and lying between the northeast side of Radford Street and the south side of Depot Street.~~
- ~~All the area extending back 150 feet from the east and southeast sides of Depot Street, lying between the northeast side of Radford Street and the southwest side of College Street.~~
- ~~All the area extending back 150 feet from the southeast side of Depot Street and lying between the northeast side of Pepper Street and the southeast side of Stuart Street.~~
- ~~All the area extending back 150 feet from the west side of Depot Street and the northwest side of Depot Street and extending from the north side of Radford Street to a location on the northwest side of Depot Street opposite the south side of Stuart Street.~~

~~(Code 1972, § 9-3; Code 1992, § 9-3)~~

~~[75]**Sec. 9-4. Violations.**~~

~~Any person who violates a provision of this chapter shall be fined not more than $1,000.00.~~

~~(Code 1992, § 9-4)~~

~~**State law reference**--Violation of building code, Code of Virginia, § 36-106.~~

~~**Secs. 9-5--9-25. Reserved.**~~

Secs. 10-1--10-18. Reserved.

ARTICLE II. BUILDING CODE

State law reference—Uniform statewide building code, Code of Virginia, § 36-99; enforcement, Code of Virginia, § 36-105.

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[75] Change to class 1 misdemeanor? delete.

PROOFS

[76]Sec. 10-19. Adopted.

There is hereby adopted by reference in the town the Virginia Uniform Statewide Building Code and appendices. The provisions of such code and appendices shall control all matters concerning the construction, alteration, addition, repair, removal, demolition and maintenance of all buildings, and all other functions which pertain to the installation of systems vital to all buildings and structures and their service equipment as defined by such code, and shall apply to existing and proposed buildings or structures in the town.

(Code 1972, § 9-4; Code 1992, § 9-26)

[77]Sec. 10-20. Building official.

There is hereby established the office of the building official, who is the head of his department. He shall be appointed by the town manager.

(Code 1992, § 9-27)

~~**Cross reference**— Administration, ch. 2.~~

[78]Sec. 10-21. ~~Building inspector~~ Enforcement.

Th~~ere is hereby established the position of~~ building ~~Inspector~~ official~~, whose responsibility it is to~~ shall enforce the provisions of the Virginia Uniform Statewide Building Code and appendices, as stated in section ~~103.1~~ [79]105 of such building code. The cost of enforcement may be defrayed through the levying of fees by the town, as provided in Code of Virginia, § 36-105. ~~The Building Inspector shall be appointed by the Town Manager and operate under the supervision of the Building Official. The Building Inspector in concurrence with the Building Official shall be responsible for the organization and daily enforcement of the Virginia Uniform Statewide Building Code.~~

(Code 1972, § 9-5; Code 1992, § 9-28)

~~**Cross reference**— Administration, ch. 2.~~

[80]Sec. 10-22. Fee schedule.

No permit, as required by the Virginia Uniform Statewide Building Code to begin work, shall be issued until the fees prescribed in this section have been paid. The fees shall be ~~affixed~~ ~~at the following rates:~~ as established in the latest edition of the town development fee schedule, which may be amended from time to time by the town council.

~~*Residential:*~~

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[76] The Virginia Uniform Statewide Building Code is in effect in the town without adoption in this Code. Leave as reference and add Administrative Code citation to 13 VAC CHAPTER 63, VIRGINIA UNIFORM STATEWIDE BUILDING CODE? Yes, but the Building Official said we have to adopt the Appendices separately so I added a reference.

[77] Is this title correct? Yes.

[78] 13 VAC 5-63-50, § 105 requires the building code be enforced by the building official. Delete this section or change to building official? Combine 9-27 and 9-28?

[79] Insert correct section from the building code. Is it § 105?

[80] Is this fee schedule correct and current? I revised due to new ordinance, but we want to take out.

PROOFS

~~New construction, additions, remodeling, and placement of modular homes and double-wide manufactured homes, carports, decks, and garages (attached): $0.22 per square foot of total space or area to be built including all floors and basements.~~

~~Replacement of a mobile home: $100.00.~~

~~Change in mechanical equipment, heating equipment, ventilating equipment, and air conditioning equipment: $40.00.~~

~~Commercial and Industrial:~~

~~New construction, remodeling, and additions: $3.50 per $1,000.00 value or fraction thereof.~~

~~*Miscellaneous fees:*~~

~~Value less than $500.00 and no inspection required: no charge.~~

~~Value greater than $500.00 and inspection is required: $40.00.~~

~~Driveway or curbcut: $30.00.~~

~~Water or sewer line replacement: $40.00.~~

~~Swimming pool or spa: $40.00.~~

~~Accessory building (residential): $40.00.~~

~~Moving of a building: $100.00.~~

~~Demolition: $40.00.~~

~~Asbestos removal: $40.00.~~

~~Electrical service addition or upgrade: $40.00.~~

~~Discontinued electrical service over 30 days: $40.00.~~

~~Temporary outdoor advertising/sign: $30.00.~~

~~Permanent outdoor advertising/sign: $50.00.~~

~~Blasting: $80.00.~~

~~Backflow prevention program: $40.00.~~

~~Certificate of Occupancy for existing structure: $40.00.~~

~~Insulation: $40.00~~

~~Fireworks sales setup: $100.00~~

~~*Reinspection fee (payable before reinspection):*~~

~~$100.00 per reinspection.~~

~~*Minimum:*~~

~~In any case, the minimum permit fee shall be $40.00 (with any exceptions noted in this section).~~

(Code 1972, § 9-6; Code 1992, § 9-29; Ord. of 6-15-1999(1); Ord. No. 2002-6, 7-2-2002; Ord. No. 2004-3, 6-15-2004; Ord. No. 2005-3, 6-07-2005; Ord. No. 2008-3, 6-3-2008; Ord. No. 2012-4, § 9-29, 6-5-2012)

~~**Cross reference**— Fees for antenna permit, § 6-49.~~

PROOFS

[81]Sec. 10-23. ~~Building code~~ Board of building code appeals.

(a) The owner of a building, the owner's agent, or any other person directly involved in the design and/or construction of a building or structure may appeal to the ~~Building Code~~ board of building code appeals within ~~90~~ 30 calendar days from a decision of the building official when it is claimed that:

(1) The building official has refused to grant a modification which complies with the intent of the provisions of the Uniform Statewide Building Code (USBC) or appendices;

(2) The true intent of the USBC or appendices has been incorrectly interpreted;

(3) The provisions of the USBC or appendices do not fully apply; or

(4) The use of a form of construction that is equal to or better than that specified in the USBC or appendices has been denied.

(b) The board of building code appeals shall be appointed and function in conformance with ~~Section 116.0 of~~ the Uniform Statewide Building Code or appendices.

(c) Compensation shall be determined by the town council.

(Code 1972, § 9-7; Code 1992, § 9-30)

~~**Cross reference**— Administration, ch. 2.~~

State law reference—Enforcement of building code by the building department and appeals to a local board of building code appeals, Code of Virginia, § 36-105.

[82]Sec. 10-24. Copies available for inspection.

Copies of the Virginia Uniform Statewide Building Code and appendices may be viewed in the ~~Town Manager's~~ building official's office ~~in the Municipal Building on East Main Street in the Town~~ between the hours of 8:00 a.m. and 5:00 p.m. on Monday through Friday, except when these days are legal holidays.

(Code 1972, § 9-8; Code 1992, § 9-31)

[83]Sec. 10-25. Manufactured homes not bearing a U.S. department of housing seal and modular manufactured homes not bearing a state department of housing and community development registration seal prohibited.

(a) Manufactured homes constructed before June 15, 1976 shall not be allowed within the town. All manufactured homes constructed after June 15, 1976 shall have a U.S. department of housing and urban development seal affixed to the manufactured home at the point of manufacture certifying that the manufactured home is built to HUD standards at the time of manufacture.

(b) Modular manufactured homes not having a valid state registration seal affixed certifying that the unit is built to department of housing and community development standards at the time of manufacture shall not be allowed within the town.

(Code 1992, § 9-32; Ord. No. 2002-2, 3-5-2002)

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[81] Code of Virginia, § 36-105 and 13VAC5-63-190. Section 119 Appeals require creation of a local board of building code appeals. Is this the board and is it the correct title? Delete section references as they are not to the 2009 code and just create or designate the board as the appeal procedure is in state law? changed.

[82] Is everything in this section correct? changed.

[83] Most of this is in the zoning chapter. Yes, we included in both places for referencing.

PROOFS

State law reference—Uniform regulations for manufactured housing, Code of Virginia, § 15.2-2290.

Secs. 10-26--10-53. Reserved.

ARTICLE III. UNSAFE BUILDINGS, WALLS AND STRUCTURES*

~~***Cross reference**— Town Council, § 2-31 et seq.; nuisances, ch. 16.~~

***State law reference**—Nuisance abatement, Code of Virginia, § 15.2-1115; authority to require repair, removal, etc. of dangerous or unsafe buildings, Code of Virginia, § 15.2-906; spot blight abatement authorized, procedure, Code of Virginia, § 36-49.1:1.

Sec. 10-54. Authority of town.

Pursuant to Code of Virginia, § ~~15.1-867~~ 15.2-1115, the town, its officials, agents or employees may proceed to compel the razing or repair of all unsafe, dangerous or insanitary public or private buildings, walls or structures which constitute a menace to the health and safety of the occupants thereof or the public.

(Code 1972, § 20-6; Code 1992, § 9-51)

Sec. 10-55. Notice.

(a) Whenever it appears to the ~~Town Manager~~ building official that any condition or nuisance referred to in section 10-54 exists, the ~~Town Manager~~ building official shall cause a notice to be served in the manner provided by law for legal service of process upon the owner or occupant of the property or premises affected, stating the location of the property or premises subject to the condition or nuisance complained of and the particulars thereof; and that if the same is not abated or obviated within 48 hours or 60 days with respect to all unsafe, dangerous or insanitary public or private buildings, walls or structures, the condition or nuisance will be abated, removed or obviated by the authorities of the town at the cost and expense of such owner or occupant.

(b) Should the owner or occupant of the property or premises affected be a nonresident of the town or unknown, then the notice required shall be published once a week for two consecutive weeks in a newspaper having general circulation in the town and by mailing a copy of such notice to the last known address of the owner or occupant of the property or premises affected; in which event the period of 60 days for such notice shall begin with the date of the last publication.

(c) Such notice shall inform the owner or occupant of the property or premises affected that he may appear before the town council by giving to the town manager written notice that such hearing is desired, which notice shall be served upon the town manager in the manner provided for by law for service of process within ten days following receipt of notice of the condition or nuisance complained of.

(Code 1972, § 20-7; Code 1992, § 9-52)

Sec. 10-56. Hearing.

Upon receipt of the notice provided for in ~~sub~~section 10-55(c), the town manager shall place the matter for hearing upon the agenda for the next regular meeting of the council or a meeting called for that purpose and inform the owner or occupant of the property or premises affected of the date and time thereof. At such hearing, such owner or occupant of the premises affected may appear and show cause, if any he can, why the condition or nuisance should not be abated, removed or obviated. Technical or expert testimony may be presented by either party.

(Code 1972, § 20-8; Code 1992, § 9-53)

PROOFS

Sec. 10-57. Appeal from ruling of council.

From any adverse holding of the town council at a hearing as provided herein, the owner or occupant requesting such hearing shall have a right to review thereof by the circuit court of the county, which appeal must be taken within ten days following such hearing by written petition setting forth in particular the basis therefor filed in the clerk's office of such court and a copy thereof served upon the town manager, and which may then be heard by the judge of such court upon its merits without further formal pleadings.

(Code 1972, § 20-9; Code 1992, § 9-54)

Sec. 10-58. Enforcement by council.

In the event of the failure of the owner or occupant of the property or premises affected to abate or obviate the condition or nuisance within the period specified in such notice or to show cause before the council why the same should not be abated, removed or obviated, the council, or its agent, at any regular or special meeting following the expiration of such period specified in the notice, shall order the condition or nuisance abated, removed or obviated in such manner as may be prescribed by the council.

(Code 1972, § 20-10; Code 1992, § 9-55)

Sec. 10-59. Recovery of costs.

The costs and expenses of abating, removing or obviating the condition or nuisance, less any recovery for materials sold, shall be assessed against the persons responsible for the condition or nuisance and/or property owner and shall constitute a lien against the property or premises and shall be collected and recovered in like manner as state or local taxes.

(Code 1972, § 20-11; Code 1992, § 9-56)

Sec. 10-60. Quorum of council.

A majority of the members of the council shall constitute a quorum for any action required under this chapter.

(Code 1972, § 20-12; Code 1992, § 9-57)

Sec. 10-61. Emergency provisions.

(a) Whenever in the judgment of the ~~Town Manager~~ building official, after due inspection, any building, wall or structure of any kind has become dangerous and unsafe to persons passing upon the streets, alleys or other public places or on private property or to adjoining property or constitutes an undue fire hazard and such hazards constitute a present and immediate emergency, the ~~Town Manager~~ building official is directed to place upon such building, walls or structures a placard warning all persons of the hazards.

(b) Any person tampering with or removing such placard or ignoring the warning therein contained shall be punished as provided in section 1-11.

(c) Any person aggrieved by any such posting shall have the same right to a show cause hearing with reference thereto as provided herein.

(Code 1972, § 20-13; Code 1992, § 9-58)

Sec. 10-62. Other remedies.

(a) The enactment of this article shall not limit the power of the authorities of the town to proceed by other process to compel the abatement of nuisances.

PROOFS

(b) In the discretion of the town council, the procedure herein provided shall be an optional alternate remedy for the abatement or removal of all nuisances defined as such by general law, applicable statute or other ordinance.

(Code 1972, § 20-14; Code 1992, § 9-59)

PROOFS

Chapter 11

RESERVED

PROOFS

Chapter ~~8~~ 12

BUSINESS REGULATIONS

[84]~~BARBERSHOPS AND COSMETOLOGY SALONS*~~

~~***Cross reference**— Advertising, ch. 3; health and sanitation, ch. 14; licenses generally, ch. 15; licensing of repair, personnel, business and other services, § 15-61; zoning, ch. 30.~~

~~**State law reference**— Barbers and cosmetologists, Code of Virginia, § 54.1-700 et seq.; cosmetologists, Code of Virginia, § 54.1-1200 et seq.~~

~~Sec. 8-1. Definitions.~~

~~Sec. 8-2. Alteration of premises.~~

~~Sec. 8-3. Inspection.~~

~~Sec. 8-4. Examination of personnel.~~

~~Sec. 8-5. Hand washing.~~

~~Sec. 8-6. Communicable diseases.~~

~~Sec. 8-7. Floors, walls and ceilings.~~

~~Sec. 8-8. Tables, shelves, etc.~~

~~Sec. 8-9. Hot and cold running water.~~

~~Sec. 8-10. Condition of instruments.~~

~~Sec. 8-11. Sterilization of razors, tweezers, etc.~~

~~Sec. 8-12. Storage of instruments.~~

~~Sec. 8-13. Use of certain equipment, cosmetics, etc., prohibited; construction of hairbrushes.~~

~~Sec. 8-14. Towels and washcloths.~~

~~Sec. 8-15. Chair headrests.~~

~~Sec. 8-1. Definitions.~~

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

~~*Barbering* means any one or any combination of the following acts, when done on the human body for pay or reward and not for the treatment of disease: shaving, shaping and trimming the beard; cutting, singeing, shampooing or dyeing the hair or applying lotions thereto; applications, treatment or massages of the face, neck or scalp with oils, creams, lotions, cosmetics, antiseptics, powders, clays, or other preparations in connection with shaving, cutting or trimming the hair or a beard. The term "barbering" shall not apply to the acts described hereinabove when performed by any person in his home if such service is not offered to the public.~~

~~*Barbershop* means any establishment or place of business within which the practice of barbering is engaged in or carried on by one or more barbers.~~

~~*Cosmetologist* means any person licensed under Code of Virginia, § 54.1-1200 et seq., who uses cosmetics, administers cosmetic treatments, or cuts, curls, treats, or dresses human hair and practices cosmetology for compensation.~~

PROOFS

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[84] Although not preempted by the state law, does the city still enforce this chapter? If so, conform to 18 VAC 41-20-270? Delete chapter.

~~*Cosmetology* includes, but is not limited to, the following practices: manicuring or pedicuring the nails of any person; arranging, dressing, curling, waving, cleansing, cutting, shaping, singeing, waxing, tweezing, shaving, bleaching, coloring, relaxing, straightening, or similar work, upon human hair, or a wig or hairpiece, by any means, including hands or mechanical or electrical apparatus or appliances, but shall not include such acts as adjusting, combing, or brushing prestyled wigs or hairpieces when such acts do not alter the prestyled nature of the wig or hairpiece.~~

~~*Cosmetology salon* means any place or establishment licensed by the State Board for Cosmetology for the practice of cosmetology for compensation and may include the training of apprentices under regulations of the Board.~~

~~(Code 1972, § 7-1; Code 1992, § 8-1)~~

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

~~Sec. 8-2. Alteration of premises.~~

~~It shall be unlawful to alter or enlarge the premises in which a barbershop or cosmetology salon is conducted in the Town unless such alteration or enlargement shall have been approved by the Health Department.~~

~~(Code 1972, § 7-3; Code 1992, § 8-2)~~

~~Sec. 8-3. Inspection.~~

~~All barbershops and cosmetology salons shall be open to inspection by the Health Department during all business hours. It shall be unlawful for any person maintaining or operating any such establishment in the Town to refuse or prevent the inspection of such establishment by the Health Department during business hours.~~

~~(Code 1972, § 7-4; Code 1992, § 8-3)~~

~~**Cross reference**— Health and sanitation, ch. 14.~~

~~Sec. 8-4. Examination of personnel.~~

~~Every person connected with any barbershop or cosmetology salon in the Town shall furnish such information, permit such physical examination or submit such laboratory specimens as the Health Department may require for the purpose of determining freedom from infection.~~

~~(Code 1972, § 7-5; Code 1992, § 8-4)~~

~~Sec. 8-5. Hand washing.~~

~~All employees in and operators of barbershops and cosmetology salons in the Town shall wash their hands with hot water and soap immediately before waiting on a customer and immediately after visiting the toilet. Clean individual towels for drying hands shall be provided and shall be discarded or laundered after each use.~~

~~(Code 1972, § 7-6; Code 1992, § 8-5)~~

~~Sec. 8-6. Communicable diseases.~~

~~No person suffering with any communicable disease shall act as a barber or cosmetologist at any barbershop or cosmetology salon in the Town, and no barber or cosmetologist at any barbershop or cosmetology salon in the Town shall shave any person known to be suffering from any communicable disease or whose skin is inflamed or broken out.~~

~~(Code 1972, § 7-7; Code 1992, § 8-6)~~

PROOFS

~~Sec. 8-7. Floors, walls and ceilings.~~

~~All floors, walls and ceilings in all barbershops and cosmetology salons in the Town shall be kept in good repair and shall be clean and free of dust and dirt at all times.~~

~~(Code 1972, § 7-8; Code 1992, § 8-7)~~

~~Sec. 8-8. Tables, shelves, etc.~~

~~All tables and shelves in all barbershops and cosmetology salons in the Town shall be properly constructed of material that can be thoroughly and easily cleaned. Table tops shall be free of unnecessary articles.~~

~~(Code 1972, § 7-9; Code 1992, § 8-8)~~

~~Sec. 8-9. Hot and cold running water.~~

~~For the purpose of permitting thorough washing and cleaning of all instruments, a suitable lavatory supplied with running hot and cold water at all times during business hours shall be provided in the place of business occupied and used as a barbershop or cosmetology salon.~~

~~(Code 1972, § 7-10; Code 1992, § 8-9)~~

~~Sec. 8-10. Condition of instruments.~~

~~All combs, hairbrushes, hair dusters, mugs, shaving brushes, razors, shears, scissors, clippers, tweezers and other instruments and tools used or stored in any barbershop or cosmetology salon in the Town shall be washed after each separate use and shall be kept clean at all times.~~

~~(Code 1972, § 7-11; Code 1992, § 8-10)~~

~~Sec. 8-11. Sterilization of razors, tweezers, etc.~~

~~All razors, tweezers and similar instruments used in any barbershop or cosmetology salon in the Town shall be sterilized after use on each customer by one of the following methods:~~

~~— Submerge in a five-percent aqueous solution of carbolic acid for not less than two minutes.~~

~~— Submerge in rapidly boiling water for not less than one minute.~~

~~Nothing contained in this section shall prohibit the use of any other procedure which has been approved by the Health Department as of at least equal efficiency.~~

~~(Code 1972, § 7-12; Code 1992, § 8-11)~~

~~Sec. 8-12. Storage of instruments.~~

~~All combs, hairbrushes, hair dusters, shaving brushes, razors, shears, scissors, clippers, tweezers and hairnets used in any barbershop or cosmetology salon in the Town shall be stored in a cabinet or drawer constructed only of metal and glass, either or both. Every cabinet or drawer shall contain formaldehyde vapor or shall be equipped with suitable ultraviolet ray lamps. Every cabinet or drawer shall be kept clean at all times.~~

~~(Code 1972, § 7-13; Code 1992, § 8-12)~~

~~Sec. 8-13. Use of certain equipment, cosmetics, etc., prohibited; construction of hairbrushes.~~

~~— The use of powder puffs or sponges in a barbershop or a cosmetology salon is prohibited.~~

~~— No cosmetics or other supplies which contain substances injurious to the skin shall be used or permitted therein.~~

PROOFS

~~No alum except powder or liquid may be used for any purpose, and all such powder or liquid alum must be applied with a clean towel.~~

~~The back and handle of all hairbrushes shall be constructed of metal or of such other material and construction as approved by the Health Department and shall be open or slotted so as to permit thorough and easy cleaning.~~

~~(Code 1972, § 7-14; Code 1992, § 8-13)~~

~~Sec. 8-14. Towels and washcloths.~~

~~No towel or washcloth may be used in any barbershop or cosmetology salon in the Town on more than one customer until relaundered, and each such towel or washcloth shall be discarded in a suitable container immediately after each such use.~~

~~(Code 1972, § 7-15; Code 1992, § 8-14)~~

~~Sec. 8-15. Chair headrests.~~

~~The headrest of each chair used in a barbershop or cosmetology salon in the Town shall be fitted with a clean towel or paper for each customer.~~

~~(Code 1972, § 7-16; Code 1992, § 8-15)~~

~~Chapter 19~~

ARTICLE I. IN GENERAL

Secs. 12-1—12-19. Reserved

ARTICLE II. PRECIOUS METALS DEALERS*

~~***Cross reference**—Advertising, ch. 3; flea markets and garage and/or yard sales, ch. 13; licenses generally, ch. 15; zoning, ch. 30.~~

***State law reference**—Precious metals dealers, Code of Virginia, § 54.1-4100 et seq.; local ordinances, Code of Virginia, § 54.1-4111.

~~Sec. 19-1. Definitions.~~

~~Sec. 19-2. Records to be kept; copy furnished to local authorities.~~

~~Sec. 19-3. Officers may examine records or property; warrantless search and seizure authorized.~~

~~Sec. 19-4. Credentials and statement of ownership required from seller.~~

~~Sec. 19-5. Prohibited purchases.~~

~~Sec. 19-6. Dealer to retain purchases.~~

~~Sec. 19-7. Record of disposition.~~

~~Sec. 19-8. Bond or letter of credit required of dealers when permit obtained.~~

~~Sec. 19-9. Private action on bond or letter of credit.~~

~~Sec. 19-10. Permit required; method of obtaining permit; no convictions of certain crimes; approval of weighing devices; renewal; permanent location required.~~

~~Sec. 19-11. Exemptions from chapter.~~

~~Sec. 19-12. Penalties; first and subsequent offenses.~~

Sec. 12-20. Definitions.

~~For the purposes of this chapter, unless the context requires a different meaning:~~

PROOFS

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:

Coin means any piece of gold, silver or other metal fashioned into a prescribed shape, weight and degree of fineness, stamped by authority of a government with certain marks and devices, and having a certain fixed value as money.

Dealer.

(1) The term "dealer" means any person, firm, partnership or corporation engaged in the business of:

a. Purchasing secondhand precious metals or gems;

b. Removing, in any manner, precious metals or gems from manufactured articles not then owned by the person, firm, partnership or corporation; or

c. Buying, acquiring or selling precious metals or gems removed from manufactured articles.

(2) The term "dealer" includes all employers and principals on whose behalf a purchase is made, and any employee or agent who makes any purchase for, or on behalf of, his employer or principal.

(3) The term "dealer" shall not include persons engaged in the following:

a. Purchases of precious metals or gems directly from other dealers, manufacturers or wholesalers for retail or wholesale inventories, provided that the selling dealer has complied with the provisions of this chapter.

b. Purchases of precious metals or gems from a qualified fiduciary who is disposing of the assets of an estate being administered by the fiduciary.

c. Acceptance by a retail merchant of trade-in merchandise previously sold by the retail merchant to the person presenting that merchandise for trade-in.

d. Repairing, restoring or designing jewelry by a retail merchant, if such activities are within his normal course of business.

e. Purchases of precious metals or gems by industrial refiners and manufacturers, insofar as such purchases are made directly from retail merchants, wholesalers, dealers or by mail originating outside the commonwealth.

f. Persons regularly engaged in the business of purchasing and processing nonprecious scrap metals which incidentally may contain traces of precious metals recoverable as a byproduct.

Gems means any item containing precious or semiprecious stones customarily used in jewelry.

Precious metals means any item, except coins, composed in whole or in part of gold, silver, platinum or platinum alloys.

(Code 1992, § 19-1)

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

State law reference—Similar definitions, Code of Virginia, § 54.1-4100.

Sec. 12-21. Records to be kept; copy furnished to local authorities.

(a) Every dealer shall keep at his place of business an accurate and legible record of each purchase of precious metals or gems. The record of each purchase shall be retained by the dealer for at least 24 months and shall set forth the following:

PROOFS

(1) A complete description of all precious metals or gems purchased from each seller. The description shall include all names, initials, serial numbers or other identifying marks or monograms on each item purchased, the true weight or carat of any gem and the price paid for each item;

(2) The date, time and place of receiving the items purchased;

(3) The full name, residence address, workplace, home and work telephone numbers, date of birth, sex, race, height, weight, hair and eye color, and other identifying marks;

(4) Verification of the identification by the exhibition of a government-issued identification card, such as a driver's license or military identification card. The record shall contain the type of identification exhibited, the issuing agency and the number thereon; and

(5) A statement of ownership from the seller.

(b) The information required by subsections (a)(1) through (3) of this section shall appear on each bill of sale for all precious metals and gems purchased by a dealer, and a copy shall be mailed or delivered within 24 hours of the time of purchase to the ~~chief law enforcement officer of the locality in which the purchase was made~~ chief of police.

(Code 1972, § 9.1-4(a); Code 1992, § 19-2)

State law reference—Similar provisions, Code of Virginia, § 54.1-4101.

Sec. 12-22. Officers may examine records or property; warrantless search and seizure authorized.

Every dealer, or his employee, shall admit to his place of business during regular business hours the chief ~~law enforcement officer~~ of police or his designee, ~~of the jurisdiction in which the dealer is located~~ or any law enforcement officer of the state or federal government. The dealer or his employee shall permit the officer to:

(1) Examine all records required by this chapter and any article listed in a record which is believed by the officer to be missing or stolen; and

(2) Search for, and take into possession, any article known to him to be missing, or known or believed by him to have been stolen.

(Code 1972, § 9.1-4(c); Code 1992, § 19-3)

State law reference—Similar definitions, Code of Virginia, § 54.1-4101.1.

Sec. 12-23. Credentials and statement of ownership required from seller.

(a) No dealer shall purchase precious metals or gems without first:

(1) Ascertaining the identity of the seller by requiring an identification issued by a governmental agency with a photograph of the seller thereon, and at least one other corroborating means of identification; and

(2) Obtaining a statement of ownership from the seller.

(b) The council may determine the contents of the statement of ownership.

(Code 1992, § 19-4)

State law reference—Similar definitions, Code of Virginia, § 54.1-4102.

Sec. 12-24. Prohibited purchases.

(a) No dealer shall purchase precious metals or gems from any seller who is under the age of 18.

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(b) No dealer shall purchase precious metals or gems from any seller who the dealer believes or has reason to believe is not the owner of such items, unless the seller has written and duly authenticated authorization from the owner permitting and directing such sale.

(Code 1972, § 9.1-4(d); Code 1992, § 19-5)

State law reference—Similar definitions, Code of Virginia, § 54.1-4103.

Sec. 12-25. Dealer to retain purchases.

(a) The dealer shall retain all precious metals or gems purchased for a minimum of ten calendar days from the date on which a copy of the bill of sale is received by the chief of police ~~law enforcement officer of the locality in which the purchase is made~~. Until the expiration of this period, the dealer shall not sell, alter or dispose of a purchased item in whole or in part, or remove it from the town.

(b) If a dealer performs the service of removing precious metals or gems, he shall retain the metals or gems removed and the article from which the removal was made for a period of ten calendar days after receiving such article and precious metals or gems.

(Code 1992, § 19-6)

State law reference—Similar definitions, Code of Virginia, § 54.1-4104.

Sec. 12-26. Record of disposition.

Each dealer shall maintain for at least 24 months an accurate and legible record of the name and address of the person, firm or corporation to which he sells any precious metal or gem in its original form after the waiting period required by section 12-25. This record shall also show the name and address of the seller from whom the dealer purchased the item.

(Code 1992, § 19-7)

State law reference—Similar definitions, Code of Virginia, § 54.1-4105.

Sec. 12-27. Bond or letter of credit required of dealers when permit obtained.

(a) Every dealer shall secure a permit, as required by section 12-29, and each dealer, at the time of obtaining such permit, shall enter into a recognizance to the ~~Commonwealth~~ [85]town secured by a corporate surety authorized to do business in this commonwealth, in the penal sum of $10,000.00, conditioned upon due observance of the terms of this chapter. In lieu of a bond, a dealer may cause to be issued by a bank authorized to do business in the commonwealth a letter of credit in favor of the town for $10,000.00.

(b) A single bond upon an employer or principal may be written or a single letter of credit issued to cover all employees and all transactions occurring at a single location.

(Code 1992, § 19-8)

State law reference—Similar definitions, Code of Virginia, § 54.1-4106.

Sec. 12-28. Private action on bond or letter of credit.

Any person aggrieved by the misconduct of any dealer which violated the provisions of this chapter may maintain an action for recovery in any court of proper jurisdiction against the dealer and his surety. Recovery against the surety shall be only for that amount of the judgment which is unsatisfied by the dealer.

(Code 1992, § 19-9)

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[85] Code of Virginia, § 54.1-4106 B states such bond or letter of credit shall be executed in favor of the local government that has adopted an ordinance. Yes, amend.

PROOFS

State law reference—Similar definitions, Code of Virginia, § 54.1-4107.

Sec. 12-29. Permit required; method of obtaining permit; no convictions of certain crimes; approval of weighing devices; renewal; permanent location required.

(a) No person shall engage in the activities of a dealer, as defined in section 12-20, without first obtaining a permit from the chief ~~law enforcement officer of the Town~~ of police.

(b) To obtain a permit, the dealer shall file with the ~~proper~~ chief ~~law enforcement officer~~ of police an application form which includes the dealer's full name, any aliases, address, age, date of birth, sex and fingerprints; the name, address and telephone number of the applicant's employer, if any; and the location of the dealer's place of business. Upon filing this application and the payment of a $200.00 application fee, the dealer shall be issued a permit by the chief law enforcement officer or his designee, provided that the applicant has not been convicted of a felony or crime of moral turpitude within seven years prior to the date of application. The permit shall be denied if the applicant has been denied a permit or has had a permit revoked under any ordinance similar in substance to the provisions of this chapter.

(c) Before a permit may be issued, the dealer must have all weighing devices used in his business inspected and approved by local or state weights and measures officials and present written evidence of such approval to the ~~proper chief law enforcement officer~~ chief of police.

(d) This permit shall be valid for one year from the date issued and may be renewed in the same manner as such permit was initially obtained with an annual permit fee of $200.00. No permit shall be transferable.

(e) If the business of the dealer is not operated without interruption, with Saturdays, Sundays and recognized holidays excepted, the dealer shall notify the proper chief law enforcement officer of all closings and reopenings of such business. The business of a dealer shall be conducted only from the fixed and permanent location specified in his application for a permit.

(Code 1972, § 9.1-2; Code 1992, § 19-10)

State law reference—Similar definitions, Code of Virginia, § 54.1-4108.

Sec. 12-30. Exemptions from chapter.

(a) The chief ~~law enforcement officer of the Town~~ of police~~-~~, or his designee, may waive, by written notice, implementation of any one or more of the provisions of this chapter, except section 12-24, for particular numismatic, gem or antique exhibitions or craft shows sponsored by nonprofit organizations, provided that the purpose of the exhibitions is nonprofit in nature, notwithstanding the fact that there may be casual purchases and trades made at such exhibitions.

(b) Neither the provisions of this chapter nor any local ordinances dealing with the subject matter of this chapter shall apply to the sale or purchase of coins.

(c) The provisions of this chapter shall not apply to any bank, branch thereof, trust company or bank holding company, or any wholly owned subsidiary thereof, engaged in buying and selling gold and silver bullion.

(Code 1992, § 19-11)

State law reference—Similar definitions, Code of Virginia, § 54.1-4109.

Sec. 12-31. Penalties; first and subsequent offenses.

(a) Any person convicted of violating any of the provisions of this chapter shall be guilty of a Class 2 misdemeanor for the first offense. Upon conviction of any subsequent offense he shall be guilty of a Class 1 misdemeanor.

PROOFS

(b) Upon the first conviction of a dealer for violation of any provision of this chapter, the ~~chief law enforcement officer~~ chief of police may revoke the dealer's permit for one full year from the date the conviction becomes final. Such revocation shall be mandatory [86]for two full years from the date the conviction becomes final upon a second conviction.

(Code 1972, § 9.1-5; Code 1992, § 19-12)

State law reference—Similar definitions, Code of Virginia, § 54.1-4110.

PROOFS

[86] Conformed to amendment to Code of Virginia, § 54.1-4110 adopted in 2010. Yes.

Chapter 13

RESERVED

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Chapter ~~23~~ 14

EMERGENCY SERVICES

ARTICLE I. IN GENERAL

Secs. 14-1--14-18. Reserved.

ARTICLE II. [87]~~RESCUE AND~~ ~~LIFESAVING~~ EMERGENCY MEDICAL SERVICES*

~~***Cross reference**— Administration, ch. 2; fire protection, ch. 12; Police Department, ch. 18.~~

***State law reference**—Gifts and payments to rescue squads, Code of Virginia, § ~~15.1-25~~ 15.2-953 et seq.

~~Sec. 23-1. Establishment.~~

~~Sec. 23-2. Officers Rescue Chief; position established.~~

~~Sec. 23-3. Election and certification of officers; roster of members Rescue Chief; duties in general.~~

~~Sec. 23-4. Police powers of Captain Rescue Chief.~~

~~Sec. 23-5. Direction of traffic by rescue and lifesaving crew department members.~~

~~Sec. 23-6. Compliance with command of member of rescue and lifesaving crew the department at scene of emergency call.~~

~~Sec. 23-7. Duties of Captain relative to vehicles and equipment.~~

~~Sec. 23-8. Cost reimbursement for emergency medical transport.~~

Sec. 14-19. Establishment.

~~A voluntary rescue and lifesaving crew is hereby formed in the Town pursuant to Section 6.01 of the Town Charter and Code of Virginia, § 2.1-554 et seq.~~

The voluntary rescue and lifesaving crew, formed in the town pursuant to section 6.01 of the town Charter and the Code of Virginia § 2.1-554 et seq., is continued as the Christiansburg Rescue Squad, a department of the town. The department is the town's designated emergency response agency for emergency medical response pursuant to 12 VAC 5-31-370. The director of the department will establish with the state department of health, office of emergency medical services the agency name for purposes of licensure, currently "Christiansburg Rescue Squad."

(Code 1992, § 23-1; Ord. of 12-19-1989, § 24.2-1)

Sec. 14-20. ~~Officers~~ Rescue chief; position established.

~~The Town Manager will appoint the captain of the voluntary rescue and lifesaving crew. The crew will elect a secretary-treasurer and any additional officers deemed necessary by the voluntary rescue and lifesaving crew or the town council.~~

The position of rescue captain is continued as the rescue chief and serves as the director of the Christiansburg Rescue Squad. The rescue chief is an employee of the town who shall be appointed by, and serve under, the direct supervision of the town manager.

(Code 1992, § 23-2; Ord. of 12-19-1989, § 24.2-2; Ord. No. 2011-1, 5-3-2011)

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[87] Is this entire chapter still current and correct? Is the title still voluntary rescue and lifesaving crew or is it emergency medical services or fire and rescue services? Yes, the chapter is current and it is still the voluntary rescue and lifesaving crew, but we want to change as amended.

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Sec. 14-21. ~~Election and certification of officers; roster of members~~ Rescue chief duties in general.

~~All officers of the voluntary rescue and lifesaving crew, except the captain who shall be appointed by the town manager, shall be elected annually by its members and certified to the town council immediately after election, together with a complete and corrected roster of all members before they assume responsibility of their respective offices.~~

The rescue chief's duties shall include, but not be limited to, the following:

(1) Establish such policies as are necessary for the operations of the department.

(2) Foster and promote volunteer membership in the department.

(3) Establish and maintain procedures for the recruiting, selection, retention and termination of voluntary members of the department.

(4) Establish and maintain an organizational structure inclusive of both voluntary and employed members and officers.

(5) Establish and maintain subordinate officer positions, including job descriptions, authorities, responsibilities, process for selection and process for removal from office.

(6) Establish programs to promote preparedness for medical emergencies to the general public.

(7) Establish procedures to keep all department equipment and vehicles in proper condition and repair.

(Code 1992, § 23-3; Ord. of 12-19-1989, § 24.2-3; Ord. No. 2011-2, 5-3-2011)

Sec. 14-22. Police powers of ~~captain~~ rescue chief.

The ~~Captain~~ rescue chief shall, for the purpose of safeguarding life and property, have police powers in making a response or providing aid to a rescue and lifesaving call.

(Code 1992, § 23-4; Ord. of 12-19-1989, § 24.2-4)

~~**Cross reference**—Police Department, ch. 18.~~

Sec. 14-23. Direction of traffic by ~~rescue and lifesaving crew~~ department members.

Any officer or member of the ~~rescue and lifesaving crew~~ department, when at the scene of an accident or emergency call, may direct or assist in directing traffic thereat or in the immediate vicinity.

(Code 1992, § 23-5; Ord. of 12-19-1989, § 24.2-5)

~~**Cross reference**—Traffic and motor vehicles, ch. 28.~~

Sec. 14-24. Compliance with command of member of ~~rescue and lifesaving crew~~ the department at scene of emergency call.

It shall be unlawful for any person in attendance at the scene where a ~~rescue and lifesaving~~ department unit is performing its duties to fail, neglect or refuse to comply with the commands of a member of the ~~rescue and lifesaving crew~~ department; or, in case of need, for any person to fail, neglect or refuse to render assistance to the ~~rescue and lifesaving crew~~ department personnel upon request or upon command of the officer in charge or any member of the ~~crew~~ department performing his duties.

(Code 1992, § 23-6; Ord. of 12-19-1989, § 24.2-6)

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~~**Sec. 23-7. Duties of captain relative to vehicles and equipment.**~~

~~It shall be the responsibility of the Captain of the rescue and lifesaving crew to keep all equipment and vehicles in proper condition and repair and, to that end, to make regular systematic inspections of all equipment and vehicles. It shall be the duty of the Captain of the rescue and lifesaving crew to report to the Town Manager at least once a year, and as often as may be deemed necessary, as to the condition of such equipment and vehicles, with recommendations as to new equipment, additional or replacement, required for the reasonable protection of life and property in the Town or the area served by the rescue and lifesaving crew. Such report shall be submitted in writing to the Town Manager.~~

~~(Code 1992, § 23-7; Ord. of 12-19-89, § 24.2-7)~~

~~**Cross reference**—Traffic and motor vehicles, ch. 28.~~

Sec. 14-25. Cost reimbursement for emergency medical transport.

Reasonable fees shall be charged for emergency medical transport services provided by all emergency medical services personnel, whether provided by volunteer or town employees upon adoption of a schedule of rates for emergency medical transport services. The schedule of rates for services shall be established by resolution of the town council ~~of the town~~. The funds received from the payment of these fees shall be used to aid in defraying the cost of providing emergency services.

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

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

Emergency medical services personnel means persons responsible for the direct provision of emergency medical services in a given medical emergency, including all persons who could be described as attendants, attendant-in-charge or operators.

Emergency medical transport services means services providing transportation in an ambulance, accompanied by emergency medical services personnel, as defined herein.

(2) *Billing.*

a. A bill will be generated for ambulance transports by all emergency medical services personnel whether the personnel are volunteers or town employees.

b. Patients will generally fall into one of the following categories for billing purposes:

1. *Insured, town/county resident or non-resident.* The appropriate insurance carrier will be billed for emergency transport services utilized by town and ~~Montgomery~~ county residents, as well as non-residents.

2. *Uninsured town/county residents.* The town compassionate billing policy provides for waiver of emergency transport fees for uninsured town and county residents that can demonstrate a financial hardship. A statement showing zero balance will be sent to any patient qualifying for such waiver.

3. *Uninsured non-resident.* A bill will be sent to the patient transported. If the individual has the ability to pay, then payment is expected in full. If the patient

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can demonstrate financial hardship in accordance with the compassionate billing policy, they may qualify for waiver of fees.

4. *Bill generated/no collection.* There are instances when a bill is generated in which the town would be merely transferring funds from one department budget to another to satisfy the bill. For example, when an on-duty town employee is transported for a compensable workers' compensation injury, the town is responsible for payment of those expenses. If the workers' compensation claim is denied, the employee's health insurance will be billed. The billing contractor will update its records to reflect such adjustment. Designated personnel will notify the town's billing contractor that the bill generated is internal to the town in those circumstances to ensure proper record keeping.

(3) *Compassionate billing policy.*

a. No one will ever be denied necessary medical transport service due to either his ~~or her~~ inability to pay or a lack of insurance.

b. All consumers of ambulance services will be asked, in writing, to provide information regarding available insurance coverage. All consumers of ambulance services will receive written notification of the value of services received and notice of billing forwarded to their insurers.

c. Compassionate billing is intended to eliminate or minimize out-of-pocket expenses for ambulance services received by town and county residents. The town regards taxes paid by town residents and residents of ~~Montgomery~~ the county as inclusive of copays and/or deductibles for ambulance service for all persons living in a taxpaying household. Elderly or disabled town or county residents qualifying for real estate tax relief shall be deemed qualified for relief from any deductible or copay for ambulance services received.

d. Any town or county resident lacking health insurance may submit a waiver request form stating a financial hardship.

e. The town's billing process or company will not pursue payment recovery through a debt collection agency without express authorization of the town manager or his designee.

f. Non-residents receiving town medical transport will receive a bill, but these nonresidents may also apply for a financial hardship waiver.

g. If any insured party requires EMS transport within a given calendar year that exceeds his ~~or her~~ policy limits and no additional insurance coverage is available, the fees for service beyond coverage limits will be waived.

h. If the insurance company deems the transport is not medically necessary, the billing company will verify the information that was submitted to the insurance company and resubmit the claim for reconsideration. If the insurance carrier still deems the transport not medically necessary, the town manager or his designee will review the individual case for possible waiver of the fees.

i. Town volunteer fire and rescue personnel, whether they are town residents or not, will not be charged out-of-pocket expenses for ambulance services.

(Ord. No. 2013-1, § 23-8, 2-19-2013)

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Secs. 14-26--14-53. Reserved.

ARTICLE III. FALSE ALARMS

Sec. 14-54. Purpose.

The purpose of this article is to minimize the unnecessary use of the town's emergency services by reducing the number of commercial false alarms and regulating the installation and maintenance of commercial alarm systems, as authorized pursuant to Code of Virginia, § 15.2-911, as amended.

(Ord. No. 2012-9, § 17-100, 10-16-2012)

Sec. 14-55. Definitions.

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

Alarm means any device which, when actuated by the occurrence of a criminal act or fire risk requiring police, fire or rescue response, transmits a signal to a central alarm system, a third-party or directly to the town police department or produces an audible or visible signal designed to notify persons within audible or visual range of the signal.

Alarm company operator means any person legally authorized to transact business within the commonwealth of the state and currently maintaining either state contractor's license or a local business license to engage in the business of installation, maintenance, alteration, servicing or monitoring alarm systems.

Alarm permit means a permit issued by the town treasurer upon receipt of a completed registration form for the use of an alarm system on commercial properties.

Alarm user means any non-residential commercial entity or business using a security or fire alarm system or having an insurable interest in any premises upon which is located such a system, regardless of whether the person or entity owns the security or fire alarm system or the premises on which it is located.

Commercial property means any commercial or business property that is required to obtain a town business license to operate in the town and has an alarm system installed at the place of business.

False alarm means any security or fire alarm signal, communicated directly or indirectly to the town police department, which is not in response to actual or threatened criminal activity or fire risk requiring immediate police, fire or rescue response. False alarms include negligently or accidentally activated signals; signals which are the result of faulty, malfunctioning or improperly installed or maintained equipment; signals which are purposely activated to summon the police department or fire and rescue service in nonemergency situations; and signals for which the actual cause is not determined. False alarms shall not include signals activated by unusually severe weather conditions or other causes which are identified and determined by the chief of police or designee to be beyond the control of the user.

(Ord. No. 2012-9, § 17-101, 10-16-2012)

Sec. 14-56. Alarm system user registration and permits.

(a) Every alarm user shall obtain an alarm system user permit from the town for the operation of an alarm system. If the alarm system is to be installed or maintained by an alarm company operator, the alarm company operator may obtain the required permit on behalf of the alarm system user. The person or entity applying for the permit shall state on the registration form provided by the town the following: name; address of the commercial premises; telephone number of the alarm system user; the type of alarm system (local or monitored); name of the alarm

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company operator selling or leasing the new or existing alarm system equipment or services; and the names, addresses and telephone numbers of at least two ~~(2)~~ persons who can be reached at any time, day or night, and who are authorized to respond to an alarm signal and who can open and represent the premises in which the system is installed for reporting and investigative purposes. It shall be the responsibility of the alarm system user to make sure that such persons respond within ~~twenty (~~20~~)~~ minutes of notification by the town. If the responsible party's response time is delayed longer than ~~thirty (~~30~~)~~ minutes from the time police units are dispatched and there is no exterior indication of criminal activity, a determination will be made as to the need to remain on scene pending their arrival. It shall be the responsibility of the alarm system user to notify the town police department, in writing, of any subsequent changes in the information provided on the permit registration. Upon approval by the town of the alarm permit registration, the permit shall be issued to the alarm system user which shall be prominently displayed in the business property.

(b) Permits shall be renewed annually at the time that business licenses are obtained.

(c) Any alarm system user who operates, or allows an alarm system to be operated, without first obtaining a permit as required by this section shall be in violation of this article and subject to service charges for every false alarm.

(d) This permit requirement is intended to assist the police and fire departments, as well as the town manager, in the administration of the provisions of this article and shall not be deemed to create any special duty with respect to the protected premises beyond that owed to the general public.

(e) Permits issued under this article shall be nontransferable.

(Ord. No. 2012-9, § 17-102, 10-16-2012)

Sec. 14-57. Duties of alarm system users.

Alarm system users shall instruct employees, tenants or others who may have occasion to activate an alarm that alarm systems are to be activated only in emergency situations to summon an immediate police or fire department response and shall provide instruction as to the operation of the alarm system, including setting, activation, deactivation and resetting of the alarm. The alarm system user shall be responsible for maintaining the alarm system in proper working order.

(Ord. No. 2012-9, § 17-103, 10-16-2012)

Sec. 14-58. Duties of alarm company operators.

(a) No commercial alarm system shall be installed, monitored, altered, serviced or repaired to a level of operation by an alarm company operator, unless the alarm system user has complied with the registration and permit provisions of this article.

(b) Every alarm company operator that installs, monitors, alters, services or repairs an alarm system after the effective date of this article shall certify that the alarm system user has been instructed in the proper use and operation of the alarm system.

(Ord. No. 2012-9, § 17-104, 10-16-2012)

Sec. 14-59. Service charges for false alarms.

(a) All unregistered alarm systems will be charged a service charge of $100.00 for every false alarm.

(b) No service charge shall apply to the first four ~~(4)~~ false fire and/or security alarms in each calendar year for each registered location provided the alarm system user is an alarm permit holder. A service charge of ~~fifty dollars (~~$50.00~~)~~ for the fifth response, ~~one hundred dollars (~~$100.00~~)~~ for the sixth response, and ~~one hundred fifty (~~$150.00~~)~~ for the seventh and subsequent

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false alarm response shall be assessed against the permitted alarm system user who activates, utilizes, operates or maintains an alarm system within the town.

(c) Any service charge or fee billed under this article shall be due ~~thirty (~~30~~)~~ days from the date of invoice by the town and shall be payable to the town treasurer.

(Ord. No. 2012-9, § 17-105, 10-16-2012)

Sec. 14-60. Failure to pay service charges; revocation of alarm permit.

All service charges assessed against the alarm system user of the protected premises, if registered or not, who activates, utilizes, operates or maintains an alarm system shall be paid to the town treasurer. In the event legal action is necessary to collect the service charges, the alarm system user shall be required to pay for any and all attorney fees and other costs expended by the town to collect such funds. The failure of a permit holder to pay any service charge assessed under this article, when due, shall constitute grounds for the revocation of an alarm permit by the town manager or his~~/her~~ designee and subject the alarm user to a service charge in the amount of ~~one hundred dollars (~~$100.00~~)~~ for every false alarm. An alarm permit that has been revoked pursuant to this section may be reinstated by the town manager or his~~/her~~ designee upon payment of all outstanding service charges, a reinstatement fee ~~or~~ of ~~fifty dollars (~~$50.00~~)~~ and compliance with all other requirements of this article.

(Ord. No. 2012-9, § 17-106, 10-16-2012)

Sec. 14-61. Appeals.

Upon an appeal made in writing to the town manager or his designee within ~~thirty (~~30~~)~~ days of the date of receiving the town's invoice, any person against whom a service charge has been assessed under this article may appeal such charge to be reviewed by the town manager or his designee. The appeal shall include a brief statement setting forth why the person against whom the charge has been assessed believes that the service charge is not valid. The town manager or his designee may waive all or a portion of the service charge for good cause shown in the appeal.

(Ord. No. 2012-9, § 17-107, 10-16-2012)

Sec. 14-62. Penalty and interest.

Service charges which remain outstanding for more than 30 days will be charged a late penalty of ten percent of the amount owed and interest at six percent per annum.

(Ord. No. 2012-9, § 17-108, 10-16-2012)

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Chapter 15

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Chapter ~~10~~ 16

ENVIRONMENT*

~~EROSION AND SEDIMENT CONTROL AND STORMWATER MANAGEMENT*~~

~~***Cross reference**—Buildings, ch. 9; health and sanitation, ch. 14; nuisances, ch. 16; subdivisions, ch. 26; water and sewers, ch. 29; limitation on uses in I-2 district, § 30-115.~~

***State law reference**—Erosion and Sediment Control Law, Code of Virginia, § 10.1-560 et seq.

~~Article I. In General~~

~~Article II. Erosion and Sediment Control~~

~~Sec. 10-1. Definitions.~~

~~Sec. 10-2. Purpose.~~

~~Sec. 10-3. Authority.~~

~~Sec. 10-4. Local program; adoption of State standards and regulations.~~

~~Sec. 10-5. Erosion and sedimentation control plan--When required; exceptions.~~

~~Sec. 10-6. Same--Review.~~

~~Sec. 10-7. Land disturbing permit--Required; exceptions; fees.~~

~~Sec. 10-8. Same--Plan approval prerequisite for issuance; certification; performance bond.~~

~~Sec. 10-9. Monitoring, reports and inspections.~~

~~Sec. 10-10. Administrative appeal; judicial review.~~

~~Sec. 10-11. Penalties, injunctions and other legal actions.~~

~~Sec. 10-12. Enforcement; stop-work order.~~

~~Secs. 10-13--10-19. Reserved.~~

~~Article II. Stormwater Management~~

~~Sec. 10-20. Definitions.~~

~~Sec. 10-21. Statutory authority.~~

~~Sec. 10-22. Purpose.~~

~~Sec. 10-23. Applicability.~~

~~Sec. 10-24. Compatibility with other permit and Article requirements.~~

~~Sec. 10-25. Severability.~~

~~Sec. 10-26. Stormwater Management Handbook.~~

~~Sec. 10-27. Valid stormwater management plan necessary for building and other permits.~~

~~Sec. 10-28. Plan submittal requirements.~~

~~Sec. 10-29. Stormwater management plan required.~~

~~Sec. 10-30. Stormwater facility maintenance agreements.~~

~~Sec. 10-31. Performance bonds.~~

~~Sec. 10-32. Stormwater management plan review fees.~~

~~Sec. 10-33. Stormwater management plan submittal procedure.~~

~~Sec. 10-34. Exceptions for providing stormwater management.~~

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~~Sec. 10-35. General criteria for stormwater management.~~

~~Sec. 10-36. Structural stormwater management practices.~~

~~Sec. 10-37. Water quality.~~

~~Sec. 10-38. Stream channel erosion.~~

~~Sec. 10-39. Flooding.~~

~~Sec. 10-40. Regional stormwater management plans.~~

~~Sec. 10-41. Construction inspection in general.~~

~~Sec. 10-42. Notice of construction commencement.~~

~~Sec. 10-43. Post-construction final inspection and as-built plans.~~

~~Sec. 10-44. Maintenance inspection of stormwater facilities.~~

~~Sec. 10-45. Records of maintenance and repair activities of stormwater facilities.~~

~~Sec. 10-46. Violations.~~

~~Sec. 10-47. Notice of violation.~~

~~Sec. 10-48. Stop work orders.~~

~~Sec. 10-49. Civil and criminal penalties.~~

~~Sec. 10-50. Restoration of lands.~~

~~Sec. 10-51. Holds on occupancy permits.~~

~~Secs. 10-52--10-59. Reserved.~~

~~Article III. Illicit Discharge~~

~~Sec. 10-60. In general.~~

~~Sec. 10-61. Intent and purpose.~~

~~Sec. 10-62. Definitions.~~

~~Sec. 10-63. Prohibited discharges or connections to the storm sewer system.~~

~~Sec. 10-64. Inspections and monitoring.~~

~~Sec. 10-65. Enforcement of Article and penalties.~~

~~Sec. 10-66. Compliance with other laws and regulations.~~

ARTICLE I. IN GENERAL

Secs. 16-1--16-18. Reserved.

ARTICLE II. EROSION AND SEDIMENT CONTROL

Sec. 16-19. Definitions.

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

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

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Administrator means the town manager and/or his ~~or her~~ designee, including the [88]director of engineering and public works, engineering development coordinator, certified program administrator, certified plan reviewer or certified inspector, who has been appointed to serve as the agent of the council in administering this article.

Agreement in lieu of a plan means a contract between the plan-approving authority and the owner which specifies conservation measures which must be implemented in the construction of a single-family residence; this contract may be executed by the plan-approving authority in lieu of a formal site plan.

Certified inspector means an employee or agent of the town who:

(1) Holds a certificate of competence from the soil and water conservation board (board) in the area of project inspection; or

(2) Is enrolled in the board's training program for project inspection and successfully completes such program within one year after enrollment.

[89]*Certified plan reviewer* means an employee or agent of the town who:

(1) Holds a certificate of competence from the soil and water conservation board (board) in the area of plan review; ~~or~~

(2) Is enrolled in the board's training program for plan review and successfully completes such program within one year after enrollment; or

(3) Is licensed as a professional engineer, ~~or~~ architect, ~~or~~ ~~Certified~~ landscape architect or land surveyor pursuant to ~~general law of this state~~ Code of Virginia, § 54.1-400 et seq. or professional soil scientist as defined in Code of Virginia, § 54.1-2200.

Certified program administrator means an employee or agent of the town who:

(1) Holds a certificate of competence from the soil and water conservation board (board) in the area of program administration; or

(2) Is enrolled in the board's training program for program administration and successfully completes such program within one year after enrollment.

Clearing means any activity which removes the vegetative ground cover, including, but not limited to, the removal, root mat removal and/or topsoil removal.

Completion of land alteration activities means the completion of activities in the approved plan for the subject property, including adequate permanent stabilization of the disturbed area, plus reasonable evidence that soil erosion is under control.

Conservation standards or *standards* means the criteria, guidelines, techniques and methods for the control of erosion and sedimentation.

Department means the state department of conservation and recreation.

Development means a tract of land developed, or to be developed, as a single unit under single ownership or unified control which is to be used for any business or industrial purpose or is to contain three or more residential dwelling units.

Director means the director of the department of conservation and recreation.

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[88] Are all these titles still correct? Yes.

[89] Conform definitions to amendments to Code of Virginia, § 10.1-560? Yes, change.

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District or *soil and water conservation district* means a political subdivision of this commonwealth, organized in accordance with the provisions of Code of Virginia, ~~Title 10.1, Chapter 5, Article 3 (~~§ 10.1-506 et seq.~~)~~

Erosion and sediment control plan, conservation plan or *plan* means a document containing material for the conservation of soil and water resources of a unit, or group of units, of land. ~~It~~ The term "erosion and sediment control plan," "conservation plan" or "plan" may include appropriate maps, an appropriate soil and water plan inventory and management information with needed interpretations and a record of decisions contributing to conservation treatment. The plan shall contain all major conservation decisions to ensure that the entire unit or units of land will be so treated to achieve the conservation objectives.

Erosion impact area means an area of land not associated with current land disturbing activity, but subject to persistent soil erosion resulting in the delivery of sediment onto neighboring properties or into state waters. ~~This definition~~ The term "erosion impact area" shall not apply to any lot or parcel of land of 10,000 square feet or less used for residential purposes or to shorelines where the erosion results from wave action or coastal processes.

Excavating means any digging, scooping or other methods of removing earth materials.

Filling means any depositing or stockpiling of earth materials.

Grading means any excavating or filling of earth materials or any combination thereof, including the land in its excavated or filled condition.

Land disturbing activity.

(1) The term "land distributing activity" means any manmade change to the land surface that may result in soil erosion from water or wind and the movement of sediments into state waters or onto lands in the commonwealth, including, but not limited to, clearing, grading, excavating, transporting and filling of land.

(2) Except that the term "land distributing activity" shall not include:

a. Minor land-disturbing activities such as home gardens and individual home landscaping, repairs and maintenance work;

b. Individual service connections;

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

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

e. Permitted surface or deep mining operations and projects, or oil and gas operations and projects conducted pursuant to Code of Virginia, title 45.1;

f. Tilling, planting or harvesting of agricultural, horticultural or forest crops, livestock feedlot operations, or as additionally set forth by the board in regulation, including engineering operations as follows: construction of terraces, terrace outlets, check dams, desilting basins, dikes, ponds, ditches, strip cropping, lister furrowing, contour cultivating, contour furrowing, land drainage and land irrigation; however, this exception shall not apply to harvesting of forest crops unless the area on which harvesting occurs is reforested artificially or naturally in accordance with the provisions of ~~Chapter 11 (§~~ Code of Virginia, § 10.1-1100 et seq. or is converted to

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bona fide agricultural or improved pasture use as described in Code of Virginia, § 10.1-1163 B;

g. Repair or rebuilding of the tracks, right-of-way, bridges, communication facilities and other related structures and facilities of a railroad company;

h. Agricultural engineering operations, including, but not limited to, the construction of terraces, terrace outlets, check dams, desilting basins, dikes, ponds not required to comply with the provisions of the Dam Safety Act, ~~Article 2 (§~~ Code of Virginia, § 10.1-604 et seq.~~) of Chapter 6~~, ditches, strip cropping, lister furrowing, contour cultivating, contour furrowing, land drainage and land irrigation;

~~[90]9. Disturbed land areas of less than 10,000 square feet in size or 2,500 square feet in all areas of the jurisdictions designated as subject to the Chesapeake Bay Preservation Area Designation and Management Regulations adopted pursuant to the Chesapeake Bay Preservation Act, Code of Virginia, § 10.1-2100 et seq.; however, the governing body of the program authority may reduce this exception to a smaller area of disturbed land or qualify the conditions under which this exception shall apply;~~

i. Installation of fence and sign posts or telephone and electric poles and other kinds of posts or poles;

~~[91]11. Shoreline erosion control projects on tidal waters when all of the land disturbing activities are within the regulatory authority of and approved by local wetlands boards, the Marine Resources Commission or the United States Army Corps of Engineers; however, any associated land that is disturbed outside of this exempted area shall remain subject to this article and the regulations adopted pursuant thereto; and~~

j. Emergency work to protect life, limb or property, and emergency repairs; however, if the land disturbing activity would have required an approved erosion and sediment control plan, if the activity were not an emergency, then the land area disturbed shall be shaped and stabilized in accordance with the requirements of the ~~VESCP authority~~ town.

~~any land change which may result in soil erosion from water or wind and the movement of sediments into state waters or onto lands in the Commonwealth, including, but not limited to, clearing, grading, excavating, transporting and filling of land, except that the term shall not include:~~

~~— Minor land disturbing activities such as home gardens and individual home landscaping, repairs and maintenance work.~~

~~— Individual service connections.~~

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

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[90] Delete as not applicable to the town?
[91] Delete as not applicable to the town?

- ~~Septic tank lines or drainage fields unless included in an overall plan for land disturbing activity relating to construction of the building to be served by the septic tank system.~~
- ~~Surface or deep mining.~~
- ~~Exploration or drilling for oil and gas including the well site, roads, feeder lines and off-site disposal areas.~~
- ~~Tilling, planting, or harvesting of agricultural, horticultural, or forest crops, or livestock feedlot operations; including engineering operations as follows: construction of terraces, terrace outlets, check dams, desilting basins, dikes, ponds, ditches, strip cropping, lister furrowing, contour cultivating, contour furrowing, land drainage and land irrigation; however, this exception shall not apply to harvesting of forest crops unless the area on which harvesting occurs is reforested artificially or naturally in accordance with the provisions of Chapter 11 (Code of Virginia, § 10.1-1100 et seq.) of this title [Code of Virginia, Title 10.1] or is converted to bona fide agricultural or improved pasture use as described in subsection B of Section Code of Virginia, § 10.1-1163 [Code of Virginia].~~
- ~~Repair or rebuilding of the tracks, right-of-way, bridges, communication facilities and other related structures and facilities of a railroad company.~~
- ~~Agricultural engineering operations including but not limited to the construction of terraces, terrace outlets, check dams, desilting basins, dikes, ponds not required to comply with the provisions of the Dam Safety Act, Code of Virginia, Title 10.1, Chapter 6, Article 2 (§ 10.1-604 et seq.), ditches, strip cropping, lister furrowing, contour cultivating, contour furrowing, land drainage and land irrigation.~~
- ~~Disturbed land areas of less than 10,000 square feet in size; however, the Council may reduce this exception to a smaller area of disturbed land or qualify the conditions under which this exception shall apply.~~
- ~~Installation of fence and signposts or telephone and electric poles and other kinds of posts or poles.~~
- ~~Emergency work to protect life, limb or property, and emergency repairs; however, if the land disturbing activity would have required an approved erosion and sediment control plan if the activity were not an emergency, then the land area disturbed shall be shaped and stabilized in accordance with the requirements of the plan approving authority.~~

Land disturbing permit means a permit issued by the town for clearing, filling, excavating, grading or transporting, or any combination thereof, on all lands except privately owned, occupied or operated agricultural, horticultural or forest lands.

Local erosion and sediment control program or *local control program* means an outline of the various methods employed by a district or locality to regulate land disturbing activities and thereby minimize erosion and sedimentation in compliance with the state program and may include such items as local ordinances, policies and guidelines, technical materials, inspection, enforcement and evaluation.

Natural channel design concepts means the utilization of engineering analysis and fluvial geomorphic processes to create, rehabilitate, restore or stabilize an open conveyance system for the purpose of creating or recreating a stream that conveys its bankfull storm event within its banks and allows larger flows to access its bankfull bench and its floodplain.

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Owner means the owner, or owners, of the freehold of the premises or lesser estate therein, a mortgagee or vendee in possession, assignee of rents, receiver, executor, trustee, lessee or other person, firm or corporation in control of a property.

Peak flow rate means the maximum instantaneous flow from a given storm condition at a particular location.

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

Person means any individual, partnership, form, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, county, city, town or other political subdivision of the commonwealth, governmental body, including a federal or state entity as applicable, any interstate body or any other legal entity.

Plan approving authority means the administrator who is responsible for determining the adequacy of a conservation plan submitted for land disturbing activities on a unit, or units, of land and shall approve such plan if the plan is determined to be adequate.

Program authority means the town which has adopted a soil erosion and sediment control program that has been approved by the board.

Responsible land disturber means an individual from the project or development team, who will be in charge of, and responsible for, carrying out a land disturbing activity covered by an approved plan or agreement in lieu of a plan, who:

(1) Holds a responsible land disturber certificate of competence;

(2) Holds a current certificate of confidence from the board in the areas of combined administration, program administration, inspection or plan review;

(3) Holds a current contractor certificate of competence for erosion control; or

(4) Is licensed in the state as a professional engineer, architect, certified landscape architect or surveyor pursuant to Code of Virginia, title 54.1, chapter 4, article 1 (Code of Virginia, § 54.1-400 et seq.).

Runoff volume means the volume of water that runs off the land development project from a prescribed storm event.

Single-family residence means a noncommercial dwelling that is occupied exclusively by one family.

State erosion and sediment control program or *state program* means the program administered by the board pursuant to Code of Virginia, title 10.1, chapter 5, article 4 (Code of Virginia, § 10.1-560 et seq.), including regulations designed to minimize erosion and sedimentation.

~~*Board* or~~ *State soil and water conservation board* means the agency referred to in Code of Virginia, § 10.1-502.

Town means the Town of Christiansburg, Virginia.

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

Water quality volume means the volume equal to the first one-half inch of runoff multiplied by the impervious surface of the land development project.

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(Code 1972, § 10-4; Code 1992, § 10-1; Ord. of 4-2-1996; Ord. No. 2002-4, 6-4-2002; Ord. No. 2005-2, 2-1-2005; Ord. No. 2007-4, 11-6-2007; Ord. No. 2008-8, 12-16-2008)

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

State law reference—Similar definitions, Code of Virginia, § 10.1-560.

Sec. 16-20. Purpose.

The purpose of this article is to conserve the land, water, air and other natural resources of the town and promote the public health and welfare of the people in the town by establishing requirements for the control of erosion and sedimentation and by establishing procedures whereby these requirements shall be administered and enforced.

(Code 1972, § 10-2; Code 1992, § 10-2; Ord. of 4-2-1996; Ord. No. 2007-4, 11-6-2007)

Sec. 16-21. Authority.

This article is authorized by the Erosion and Sediment Control Law, ~~(~~Code of Virginia, ~~Title 10.1, Chapter 5, Article 4 (~~§ 10.1-560 et seq.~~)~~ Such law provides for a comprehensive statewide program with standards and guidelines to control soil erosion and sedimentation, which is implemented on the local level.

(Code 1972, § 10-3; Code 1992, § 10-3; Ord. of 4-2-1996; Ord. No. 2007-4, 11-6-2007)

Sec. 16-22. Local program; adoption of state standards and regulations.

(a) This article and the procedures for plan submission and review, on-site inspection and ordinance enforcement shall be an integral part of the erosion and sedimentation control program of the town, which program, by reference herein, is hereby adopted.

(b) The state erosion and sediment control regulations are hereby adopted by reference as an integral part hereof.

(c) Chapter 3 of the Virginia Erosion and Sediment Control Handbook, second edition, dated 1980, and entitled State Minimum Criteria, Standards and Specifications, and as may be amended from time to time, is hereby adopted and shall be included as an integral part of the erosion and sedimentation control program of the town.

(d) Chapter 2 of the Virginia Erosion and Sediment Control Handbook, second edition, dated 1980, and entitled Erosion and Sediment Control Principals, Practices, and Costs as may be amended from time to time, and chapter 4 of the Virginia Erosion and Sediment Control Handbook, second edition, as may be amended from time to time, are hereby adopted in their entirety, and shall be included as an integral part of the erosion and sedimentation control program of the town.

(e) The erosion and sedimentation control program for the town shall be outlined and contained in the Erosion and Sediment Control Handbook of the town, which handbook shall be used by the applicant, making a submittal under the provisions of this article, in preparing his erosion and sedimentation control plan. The plan approving authority, in considering the adequacy of such submitted plan, shall be guided by the same guidelines and standards.

(f) In accordance with Code of Virginia, § 10.1-561, stream restoration and relocation projects that incorporate natural channel design concepts are not manmade channels and shall be exempt from any flow rate capacity and velocity requirements for natural or manmade channels, as defined in any regulations promulgated pursuant to this section, Code of Virginia, § 10.1-562 or 10.1-570.

(g) In accordance with Code of Virginia, § 10.1-561, any land disturbing activity that provides for stormwater management intended to address any flow rate capacity and velocity

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requirements for natural or manmade channels shall satisfy the flow rate capacity and velocity requirements for natural or manmade channels if the practices are designed to:

(1) Detain the water quality volume and to release it over 48 hours;

(2) Detain and release over a 24-hour period the expected rainfall resulting from the one year, 24-hour storm; and

(3) Reduce the allowable peak flow rate resulting from the 1.5, 2, and 10-year, 24-hour storms to a level that is less than or equal to the peak flow rate from the site, assuming it was in a good forested condition, achieved through multiplication of the forested peak flow rate by a reduction factor that is equal to the runoff volume from the site when it was in a good forested condition divided by the runoff volume from the site in its proposed condition, and shall be exempt from any flow rate capacity and velocity requirements for natural or manmade channels.

(Code 1972, § 10-5; Code 1992, § 10-4; Ord. of 4-2-1996; Ord. No. 2002-4, 6-4-2002; Ord. No. 2007-4, 11-6-2007; Ord. No. 2008-8, 12-16-2008)

State law reference—Virginia erosion and sediment control program, Code of Virginia, § 10.1-561.

Sec. 16-23. Erosion and sedimentation control plan; when required; exceptions; variances.

(a) Except as provided in this section, no person shall engage in any land disturbing activity until he has submitted to the administrator an erosion and sediment control plan for such land disturbing activity and until that plan has been reviewed and approved by the plan approving authority.

(b) The plan approving authority may waive the certificate of competence requirement for an agreement in lieu of a plan for construction of a single-family residence. If a violation occurs during the land disturbing activity, then the person responsible for carrying out the agreement in lieu of a plan shall correct the violation and provide the name of an individual holding a certificate of competence, as provided by § 10.1-561 of the Virginia Erosion and Sediment Control Law (Code of Virginia, ~~title 10.1, Chapter 5, Article 4 (~~§ 10.1-561). Failure to provide the name of an individual holding a certificate of competence shall be a violation of this ~~ordinance~~ article.

(c) Any person who owns, occupies or operates private agricultural, horticultural or forest lands shall not be deemed to be in violation of this article for land disturbing activities which result from the tilling, planting or harvesting of agricultural, horticultural or forest crops or products or engineering operations such as the construction of terraces, terrace outlets, check dams, desilting basins, floodwater retarding structures, channel improvements, floodways, dikes, ponds, ditches, and the like; the utilization of strip cropping, lister furrowing, contour cultivating and contour furrowing; land drainage; land irrigation; seeding and planting of waste, sloping, abandoned or eroded lands to water-conserving and erosion-preventing plants, trees and grasses; forestation and reforestation; rotation of crops, soil stabilization with trees, grasses, legumes and other thick growing, soil holding crops; retardation of runoff by increasing absorption of rainfall; and retirement from cultivation of steep, highly erosive areas and areas now badly gullied or otherwise eroded. Any person who owns, occupies or operates private agricultural, horticultural or forest lands shall comply with the requirements of this article whenever that person proposes to conduct grading, excavating or filling operations.

(d) The provisions of subsection (a) of this section shall not apply to any state agency that undertakes a project involving a land disturbing activity.

(e) The provisions of subsection (a) of this section shall not apply to any person whose land disturbing activities involve lands which extend into the jurisdiction of another local erosion and sediment control program; provided, such person has a plan approved by the state soil and water

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conservation board. Such persons shall comply with the requirements of this article concerning a performance bond, cash escrow, letter of credit, any combination thereof or such other legal arrangement as is acceptable to the town.

(f) Whenever a land disturbing activity is proposed to be conducted by a contractor performing construction work pursuant to a construction contract, the preparation, submission and approval of the required erosion and sedimentation control plan shall be the responsibility of the owner of the land.

(g) Electric, natural gas and telephone utility companies, interstate and intrastate natural gas pipeline companies and railroad companies shall file general erosion and sediment control specifications annually with the board for review and written comments. The specifications shall apply to:

(1) Construction, installation or maintenance of electric, natural gas and telephone utility lines, and pipelines; and

(2) Construction of the tracks, rights-of-way, bridges, communication facilities and other related structures and facilities of the railroad company.

Individual approval of separate projects within subsection (g)(1) and (2) of this section is not necessary when board-approved specifications are followed; however, projects included in subsections (g)(1) and (2) of this section must comply with board-approved specifications. Projects not included in subsections (g)(1) and (2) of this section shall comply with the requirements of the town erosion and sediment control program.

(h) Variances. The plan-approving authority may waive or modify any of the standards that are deemed to be too restrictive for site conditions, by granting a variance. A variance may be granted under these conditions:

(1) At the time of plan submission, an applicant may request a variance to become part of the approved erosion and sediment control plan. The applicant shall explain the reasons for requesting variances, in writing. Specific variances which are allowed by the plan-approving authority shall be documented in the plan.

(2) During construction, the person responsible for implementing the approved plan may request a variance, in writing, from the plan-approving authority. The plan-approving authority shall respond, in writing, either approving or disapproving such a request. If the plan-approving authority does not approve a variance within ten days of receipt of the request, the request shall be considered to be disapproved. Following disapproval, the applicant may resubmit a variance request with additional documentation.

(i) In accordance with the procedure set forth by Code of Virginia, § 10.1-563 (E), any person engaging in the creation and operation of wetland mitigation banks in multiple jurisdictions, which have been approved and are operated in accordance with applicable federal and state guidance, laws or regulations for the establishment, use and operation of mitigation banks, pursuant to a permit issued by the department of environmental quality, the marine resources commission or the U.S. Army Corps of Engineers, may, at the option of that person, file general erosion and sediment control specifications for wetland mitigation banks annually with the board for review and approval consistent with guidelines established by the board.

(j) The developer or builder shall submit grading plans detailing existing conditions and planned improvements and contours at one-foot or two-foot intervals prepared by a licensed state professional engineer, architect, landscape architect or land surveyor in accordance with the town grading and erosion and sediment control checklist.

(Code 1972, § 10-6; Code 1992, § 10-5; Ord. of 4-2-1996; Ord. No. 2005-2, 2-1-2005; Ord. No. 2007-4, 11-6-2007; Ord. No. 2008-8, 12-16-2008)

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State law reference—Sediment control plan, Code of Virginia, § 10.1-563.

Sec. 16-24. Erosion and sedimentation control plan review.

(a) The plan approving authority shall review conservation plans submitted to it and grant written approval within 45 days of receipt of the plan if it determines that the plan meets the requirements of the board's regulations and if the person responsible for carrying out the plan certifies that he will properly perform the conservation measures included in the plan and will conform to the provisions of this article. In addition, as a prerequisite to engaging in the land disturbing activities shown on the approved plan, the person responsible for carrying out the plan shall provide the name of an individual holding a certificate of competence to the program authority, as provided by Code of Virginia, § 10.1-561~~ of the Virginia Erosion and Sediment Control Law (Code of Virginia, Title 10.1, Chapter 5, Article 4 (§ 10.1-561))~~, who will be in charge of, and responsible for, carrying out the land disturbing activity. Failure to provide the name of an individual holding a certificate of competence prior to engaging in land disturbing activities may result in revocation of the approval of the plan and the person responsible for carrying out the plan shall be subject to the penalties provided in this ~~ordinance~~ article.

(b) The plan approving authority shall act on all plans submitted to it within 45 days from receipt thereof by either approving such plan, in writing, or by disapproving such plan, in writing, and giving the specific reasons for its disapproval. When a plan submitted for approval pursuant to this article is found, upon review by the plan approving authority, to be inadequate, the plan approving authority shall specify such modifications, terms and conditions as will permit approval of the plan and shall communicate these requirements to the applicant. If no action is taken by the plan approving authority within the time specified above, the plan shall be deemed approved and the person shall be authorized to proceed with the proposed activity.

(c) An approved plan may be changed by the plan approving authority which has approved the plan in the following cases:

(1) Where inspection has revealed the inadequacy of the plan to accomplish the erosion and sedimentation control objectives of the plan; or

(2) Where the person responsible for carrying out the approved plan finds that, because of changed circumstances or for other reasons, the approved plan cannot be effectively carried out, and proposed amendments to the plan, consistent with the requirements of this article, are agreed to by the plan approving authority and the person responsible for carrying out the plan, or where it is necessary to coordinate the erosion and sedimentation control plan with other plans or activities such as a revised subdivision plan, site plan, etc.

(d) In order to prevent further erosion, a local program may require approval of a conservation plan for any land identified in the local program as an erosion impact area.

(Code 1972, § 10-7; Code 1992, § 10-6; Ord. of 4-2-1996; Ord. No. 2005-2, 2-1-2005; Ord. No. 2007-4, 11-6-2007)

~~**Cross reference**—Subdivisions, ch. 26.~~

Sec. 16-25. Land disturbing permit; required; exceptions; fees.

(a) Except as provided in subsection (c) of this section, no person shall engage in any land disturbing activity until he has acquired a land disturbing permit from the administrator.

(b) Any person whose land disturbing activities require the issuance of a grading, building and other permit, and such issuance is conditioned on an approved erosion and sedimentation control plan, shall comply with the requirements of this article concerning a performance bond,

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cash escrow, letter of credit, any combination thereof or such other legal arrangement as is acceptable to the administrator and to the fees herein levied for land disturbing activities.

(c) The requirements of subsection (a) of this section shall not apply to any person grading, filling or excavating on privately owned, occupied or operated agricultural, horticultural or forest lands.

(d) There shall be a reasonable fee to defray the cost of program administration.

(e) The administrator shall designate an amount to be placed in a cash escrow account with the town to cover the actual costs and shall be paid at the time of filing the erosion and sediment control plans with the town.

(Code 1972, § 10-8; Code 1992, § 10-7; Ord. of 4-2-1996; Ord. No. 2002-4, 6-4-2002; Ord. No. 2007-4, 11-6-2007)

Sec. 16-26. Land disturbing activities plan approval prerequisite for issuance; certification; performance bond.

(a) The building official shall not issue any building or other permit, nor shall the administrator issue any grading, land disturbing or other permit for activities which involve land disturbing activities unless the applicant therefor submits with his application the approved erosion and sedimentation control plan or certification of such approved plan from the plan approving authority, and certification that such plan will be followed.

(b) The administrator, prior to the issuance of any grading, land disturbing, building or other permit, shall require from any applicant a reasonable performance bond, cash escrow, letter of credit, any combination thereof or such other legal arrangement as is acceptable to the administrator, to ensure that emergency measures could be taken by the town at the applicant's expense should he fail within the time specified to initiate appropriate conservation action which may be required of him as a result of his land disturbing activity. If the town takes such conservation action upon failure by the permittee, the administrator may collect from the permittee for the difference should the reasonable cost of such action exceed the amount of security held. Within 60 days of the achievement of adequate stabilization of the land disturbing activity, such bond, cash escrow, letter of credit or other legal arrangement, or the unexpended or unobligated portion thereof, shall be refunded to the applicant or terminated, as the case may be.

(c) The requirements of this section are in addition to all other provisions of law which relate to the issuance of such permits and shall not be construed to otherwise affect the requirements for such permits; except, that the legal arrangement for bonding of performance shall not be required in cases where such arrangement is already required under chapter 40 of this Code, provided the legal arrangement is sufficient to ensure that the measures required by this article can be carried out.

(Code 1972, § 10-9; Code 1992, § 10-8; Ord. of 4-2-1996; Ord. No. 2002-4, 6-4-2002; Ord. No. 2007-4, 11-6-2007)

~~**Cross reference**—Buildings, ch. 9.~~

State law reference—Approved plan, etc. required, Code of Virginia, § 10.1-565.

Sec. 16-27. Monitoring, reports and inspections.

(a) The administrator or his agent shall periodically inspect the land disturbing activity and require that an individual holding a certificate of competence, as provided by Code of Virginia, § 10.1-561, ~~who~~ will be in charge of, and responsible for, carrying out the land disturbing activity and may require monitoring and reports from the person responsible for carrying out the erosion and sediment control plan, to ensure compliance with the approved plan and to determine whether the measures required in the plan are effective in controlling erosion and sediment. ~~to insure~~

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~~compliance with the approved plan and to determine whether the measures required in that plan are effective in controlling erosion and sedimentation resulting from the land disturbing activity.~~ The right of entry to conduct such inspections shall be expressly reserved in the permit. The permit holder, or his duly designated representative, shall be given notice of the inspection.

(b) If the administrator determines that the permit holder has failed to comply with the plan, notice shall be served upon the permittee or person responsible for carrying out the plan by registered or certified mail to the address specified in the permit application or in the plan certification, or by delivery at the site of the land disturbing activities to the agent or employee supervising such activities. The notice shall specify the measures needed to comply with the plan and shall specify the time within which such measures shall be completed. Upon failure to comply within the time specified, the permit may be revoked and the ~~VESCP authority~~ administrator, where authorized to enforce this article, the department or the board may pursue enforcement as provided by Code of Virginia, § 10.1-569. ~~the administrator shall immediately serve upon the permit holder, by registered or certified mail to the address specified by the permit holder in his permit application, or by delivery at the site of the permitted activities to the agent or employee of the permittee supervising such activities, a notice to comply. Such notice shall set forth specifically the measures needed to come into compliance with such plan and shall specify the time within which such measures shall be completed. If the permit holder fails to comply within the time specified, he may be subject to revocation of the permit; furthermore, he shall be subject to the penalties provided by this Article.~~

(c) With respect to approved plans for erosion and sedimentation control in connection with all regulated land disturbing activities which require no permit, the administrator may require the person responsible for carrying out the plan to allow or provide such monitoring and reports, and may make such on-site inspections after notice to that person, as are deemed necessary to determine whether the soil erosion and sedimentation control measures required by the approved plan are being properly performed, and whether such measures are effective in controlling soil erosion and sedimentation resulting from the land disturbing activity. Such person shall be afforded an opportunity to accompany the inspectors on any on-site inspections.

(d) If it is determined that there is a failure to comply with the approved plan, the administrator shall serve notice upon the person who is responsible for carrying out the plan at the address specified by him in his certification at the time of obtaining his approved plan, or by delivery at the site of the permitted activities to the agent or employee of the permittee supervising such activities. Such notice shall set forth the measures needed for compliance and the time within which such measures shall be completed. Upon failure of such person to comply within the specified period, he will be deemed to be in violation of this article and upon conviction shall be subject to the penalties provided by this article.

(e) Upon receipt of a sworn complaint of a substantial violation from the designated enforcement officer, the administrator, or his designee, may issue an order requiring that all or part of land disturbing activities permitted on the site be stopped until the specified corrective measures have been taken. Where the alleged noncompliance is causing, or is in imminent danger of causing, harmful erosion of lands or sediment deposition in waters within the watersheds of the commonwealth, such an order may be issued without regard to whether the permittee has been issued a notice to comply as specified in subsections (a) through (d) of this section. Otherwise, such an order may be issued only after the permittee has failed to comply with such a notice to comply. The order shall be served in the same manner as a notice to comply and shall remain in effect for a period of seven days from the date of service pending application by the enforcing authority or permit holder for appropriate relief to the circuit court of the county. Upon completion of corrective action, the order shall immediately be lifted. Nothing in this section shall prevent the town manager from taking any other action specified in section 16-29.

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(f) Inspection frequency shall be in accordance with 4 VAC 50-30-60.

(Code 1972, § 10-10; Code 1992, § 10-9; Ord. of 4-2-1996; Ord. No. 2007-4, 11-6-2007; Ord. No. 2008-8, 12-16-2008)

State law reference—Monitoring, reports and inspection, Code of Virginia, § 10.1-566, maintenance and inspections, 4 VAC 50-30-60.

Sec. 16-28. Administrative appeal; judicial review.

(a) Final decisions of the administrator or the plan review technician shall be subject to review by the town council, provided an appeal is filed within 30 days from the date of any written decision by the administrator or the plan review technician which adversely affects the rights, duties or privileges of the person engaging in or proposing to engage in land disturbing activities.

(b) Final decisions of the town council under this section shall be subject to review by the circuit court, provided an appeal is filed within 30 days from the date of the final written decision which adversely affects the rights, duties or privileges of the person engaging in or proposed to engage in land disturbing activities.

(Code 1972, § 10-11; Code 1992, § 10-10; Ord. of 4-2-1996; Ord. No. 2002-4, 6-4-2002; Ord. No. 2007-4, 11-6-2007)

~~**Cross reference**— Administration, ch. 2.~~

State law reference—Appeals, Code of Virginia, § 10.1-568.

Sec. 16-29. Penalties, injunctions and other legal actions.

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

(b) The town manager may apply to the circuit court of the county for injunctive relief to enjoin a violation or a threatened violation of this article without the necessity of showing that there does not exist an adequate remedy at law.

(c) The town attorney shall, upon request of the town manager, take legal action to enforce the provisions of this article.

(d) Compliance with the provisions of this article shall be prima facie evidence in any legal or equitable proceeding for damages caused by erosion, siltation or sedimentation that all requirements of law have been met and the complaining party must show negligence in order to recover any damages.

(e) In addition to any criminal penalties provided under this article, any person who violates any provision of this article may be liable to the town in a civil action for damages.

(1) The civil penalty for one such violation shall be [92]not less than $100.00 nor more than $1,000.00 ~~one hundred dollars ($100.00) except that the civil penalty for commencement of a land disturbing activity without an approved plan shall be one thousand dollars ($1,000.00)~~. Each day during which the violation is found to have existed shall constitute a separate offense. In no event shall a series of specified violations arising out of the same operative set of facts result in civil penalties which exceed [93]~~three thousand dollars ($3,000.00)~~ ten thousand dollars ($10,000.00),

a. Failure to properly install and maintain perimeter controls — $100.00 per violation, per day.

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[92] Conform to 2010 amendment to Code of Virginia, § 10.1-562 J? Yes.

[93] Change to $10,000 as provided in amendment in 2007 to Code of Virginia, § 10.1-562 J? Yes.

PROOFS

b. Failure to properly install and maintain temporary stone construction entrance — $100.00 per violation, per day.

c. Sediment or debris transported onto paved public road by vehicular traffic or runoff — $100.00 per violation, per day.

d. Failure to install and maintain storm drain inlet protection — $100.00 per violation, per day.

e. Failure to install and maintain storm drain outlet protection — $100.00 per violation, per day.

f. Failure to install and maintain vegetative, structural, or any other measure as specified in the minimum standards — $100.00 per violation, per day.

g. Failure to seed and mulch disturbed areas within 14 days of notice to comply — $100.00 per violation, per day.

(2) The town may bring a civil action in the general district or circuit court of ~~Montgomery~~ the county, as appropriate, to enforce the civil penalty and to abate the violation. In any trial for a violation, it shall be the burden of the town to show the liability of the violator by a preponderance of the evidence. Any civil penalties assessed by a court shall be paid into the treasury of the town.

(f) Without limiting the remedies which may be obtained in this section, any person violating or failing, neglecting or refusing to obey any injunction, mandamus or other remedy obtained pursuant to this section shall be subject, in the discretion of the court, to a civil penalty not to exceed $2,000.00 for each violation.

(g) With the consent of any person who has violated or failed, neglected or refused to obey any regulation or order of the board, or any condition of a permit or any provision of this article, the board or plan approving authority may provide, in an order issued by the board or plan approving authority against such person, for the payment of civil charges for violations in specific sums, not to exceed the limit specified in subsection (f) of this section. Such civil charges shall be instead of any appropriate civil penalty which could be imposed under subsection (f) of this section.

(Code 1972, § 10-12; Code 1992, § 10-11; Ord. of 4-2-1996; Ord. No. 2002-4, 6-4-2002; Ord. No. 2007-4, 11-6-2007)

State law reference—Penalties, injunctions and other legal actions, Code of Virginia, § 10.1-569.

Sec. 16-30. Enforcement; stop work order.

(a) The town ~~(i)~~ shall provide for periodic inspections of the land disturbing activity and require an individual holding a certificate of competence issued by the department of conservation and recreation who will be in charge of and responsible for carrying out the land disturbing activity, and ~~(ii)~~ may require monitoring and reports from the person responsible for carrying out the plan, to ensure compliance with the approved plan and to determine whether the measures required in the plan are effective in controlling erosion and sediment. If the town determines that there is a failure to comply with the plan, notice shall be served upon the permittee or person responsible for carrying out the plan by registered or certified mail to the address specified in the permit application or in the plan certification, or by delivery at the site of the land disturbing activities to the agent or employee supervising such activities. The notice shall specify the measures needed to comply with the plan and shall specify the time within which such measures shall be completed. Upon failure to comply within the time specified, the permit may be revoked and the permittee or person responsible for carrying out the plan shall be deemed to be in violation of this article and shall be subject to the penalties provided by this article.

PROOFS

(b) Upon receipt of the administrator's sworn complaint of a violation of the terms of the plan or of this article, the town manager may, in conjunction with or subsequent to a notice to comply as specified above, issue an order requiring that all, or a part of, the land disturbing activities permitted on the site be stopped until the specified corrective measures have been taken or, if land disturbing activities have commenced without an approved plan as provided in this article, requiring that all of the land disturbing activities be stopped until an approved plan or any required permits are obtained.

(c) Where the alleged noncompliance is causing, or is in imminent danger of causing, harmful erosion of lands or sediment deposition in water within the watershed of the town, or where the land disturbing activities have commenced without an approved plan or any required permits, such an order may be issued without regard to whether the alleged violator has been issued a notice to comply as specified above. Otherwise, such an order may be issued only after the alleged violator has failed to comply with such a notice to comply.

(d) The order shall be served in the same manner as a notice to comply, and shall remain in effect for a period of seven days from the date of service pending application by the town or the alleged violator for appropriate relief to the circuit court of ~~Montgomery~~ the county.

(e) If the alleged violator has not obtained an approved plan or any required permits within seven days from the date of service of the order, the administrator, on behalf of the town, may issue an order to the owner requiring that all construction and other work on the site, other than control measures, be stopped until an approved plan and any required permits have been obtained. Such an order shall be served on the owner by registered or certified mail to the address specified in the permit application or the land records of the town or of ~~Montgomery~~ the county.

(f) Any person violating or failing, neglecting or refusing to obey the town manager's order may be compelled in a proceeding instituted in the circuit court of ~~Montgomery~~ the county to obey the order, by injunction, mandamus or other appropriate remedy.

(g) Upon completion of the corrective action, the order shall immediately be lifted. Nothing in this section shall prevent the town manager from taking any other enforcement action against the alleged violator, specified in this article or elsewhere in this Code.

(h) Appeals of the decision of the ~~administrator or the~~ town ~~Manager~~ council made pursuant to this article shall be subject to review by the circuit court of ~~Montgomery~~ the county, provided an appeal is filed within 30 days from the date of any written decision adversely affecting the rights, duties or privileges of the person engaging in or proposing to engage in land disturbing activities.

(i) An aggrieved owner of property sustaining pecuniary damage resulting from a violation of an approved plan or required permit, or from the conduct of land disturbing activities commenced without an approved plan or required permit, may give written notice of the alleged violation to the administrator and to the director of the department of conservation and recreation (director).

(1) Upon receipt of the notice from the aggrieved owner and notification to the town, the director shall conduct an investigation of the aggrieved owner's complaint.

(2) If the town has not responded to the alleged violation in a manner which causes the violation to cease and abates the damage to the aggrieved owner's property within 30 days following receipt of the notice from the aggrieved owner, the aggrieved owner may request that the director require the violator to stop the violation and abate the damage to his ~~or her~~ property.

(3) If:

a. The director's investigation of the complaint indicates that the town has not responded to the alleged violation as required by the local program;

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b. The town has not responded to the alleged violation within 30 days from the date of the notice given pursuant to this subsection; and

c. The director is requested by the aggrieved owner to require the violator to cease the violation;

then the director shall give written notice to the town that the director will request the state soil and water conservation board (board) to issue an order pursuant to subsection (i)(4) of this section.

(4) If the town has not instituted action to stop the violation and abate the damage to the aggrieved owner's property within ten days following receipt of the notice from the director, the board is authorized to issue an order requiring the owner, permittee, person responsible for carrying out an approved plan or person conducting the land disturbing activities without an approved plan or required permit to cease all land disturbing activities until the violation of the plan or permit has ceased, or an approved plan and required permits are obtained, as appropriate, and specified corrective measures have been completed.

(5) Such orders are to be issued only after a hearing with reasonable notice to the affected person of the time, place and purpose thereof, and they shall become effective upon service on the person by certified mail, return receipt requested, sent to his ~~or her~~ address specified in the land records of the town, or by personal delivery by an agent of the director. However, if the board finds that any such violation is grossly affecting or presents an imminent and substantial danger of causing harmful erosion of lands or sediment deposition in waters within the watersheds of the town, it may issue, without advance notice or hearing, an emergency order directing such person to cease all land disturbing activities on the site immediately and shall provide an opportunity to a hearing, after reasonable notice as to the time and place thereof to such person, to affirm, modify, amend or cancel such emergency order.

(6) If a person who has been issued an order or emergency order is not complying with the terms thereof, the board may institute a proceeding in the appropriate circuit court for an injunction, mandamus or other appropriate remedy compelling the person to comply with such order.

(7) Any person violating or failing, neglecting or refusing to obey any injunction, mandamus or other remedy obtained pursuant to subsection (i)(6) of this section shall be subject, in the discretion of the court, to a civil penalty not to exceed $2,000.00 for each violation.

(Code 1992, § 10-12; Ord. No. 2002-4, 6-4-2002; Ord. No. 2005-2, 2-1-2005; Ord. No. 2007-4, 11-6-2007)

State law reference—Stop work orders, civil penalties, Code of Virginia, § 10.1-569.1.

Secs. 16-31--16-48. Reserved.

ARTICLE III. STORMWATER MANAGEMENT

State law reference—Stormwater management, Code of Virginia, § 10.1-603.2—10.1-603.15.

Sec. 16-49. Definitions.

~~For the purposes of this article, the following words and phrases shall have the meanings respectively ascribed to them by this Article:]\~~

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

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Accelerated erosion means erosion caused by development activities that exceed the natural processes by which the surface of the land is worn away by the action of water, wind or chemical action.

Act means article 1.1 (Code of Virginia, § 10.1-603.1 et seq.) of chapter 6 of title 10.1 of the Code of Virginia.

Adequate channel means a channel with a defined bed and banks, or an otherwise limited flow area that will convey the designated frequency storm event without overtopping the channel banks nor causing erosive damage to the channel bed or banks.

Applicant means any person submitting a stormwater management plan for approval.

Aquatic bench means a ten-foot to 15-foot wide bench around the perimeter of a permanent pool that ranges in depth from zero to 12 inches. Vegetated with emergent plants, the bench augments pollutant removal, provides habitats, conceals trash and water level fluctuations, and enhances safety.

Average land cover condition means a measure of the average amount of impervious surfaces within a watershed, assumed to be 16 percent in regulations: any deviation would require a study.

Best management practice (BMP) means a structural or nonstructural practice which is designed to minimize the impacts of development on surface and groundwater systems.

Bioretention basin means a water quality BMP engineered to filter the water quality volume through an engineered planting bed, consisting of a vegetated surface layer (vegetation, mulch, groundcover), planting soil and sand bed, and into the in-situ material.

Bioretention filter means a bioretention basin with the addition of a sand filter collection pipe system beneath the planting bed.

Board means the Virginia Board of Conservation and Recreation.

Building means any structure, either temporary or permanent, having walls and a roof, designed for the shelter of any person, animal or property, and occupying more than 100 square feet of area.

Channel means a natural or artificial watercourse with a definite bed and banks that conducts continuously or periodically flowing water.

Constructed wetlands means areas intentionally designed and created to emulate the water quality improvement function of wetlands for the primary purpose of removing pollutants from stormwater.

Dedication means the deliberate appropriation of property by its owner for general public use.

Department means the Virginia Department of Conservation and Recreation.

Detention means the temporary storage of storm runoff in a stormwater management practice with the goals of controlling peak discharge rates and providing gravity settling of pollutants.

Detention facility means a detention basin or alternative structure designed for the purpose of temporary storage of stream flow or surface runoff and gradual release of stored water at controlled rates.

Developer means a person who undertakes land disturbance activities.

Development. See *land development* or *land development project*.

Drainage easement means a legal right granted by a landowner to a grantee allowing the use of private land for stormwater management purposes.

PROOFS

Erosion and sediment control plan means a plan that is designed to minimize the accelerated erosion and sediment runoff at a site during construction activities.

Fee in lieu means a payment of money in place of meeting all, or part of, the stormwater performance standards required by this article.

Flooding means a volume of water that is too great to be confined within the banks or walls of the stream, water body or conveyance system and that overflows onto adjacent lands, causing or threatening damage.

Grassed swale means an earthen conveyance system which is broad and shallow with erosion resistant grasses and check dams, engineered to remove pollutants from stormwater runoff by filtration through grass and infiltration into the soil.

Hotspot means an area where land use or activities generate highly contaminated runoff, with concentrations of pollutants in excess of those typically found in stormwater.

Hydrologic soil group (HSG) means a natural resource conservation service classification system in which soils are categorized into four runoff potential groups. The groups range from A soils, with high permeability and little runoff production, to D soils, which have low permeability rates and produce much more runoff.

Impervious cover means a surface composed of any material that significantly impedes or prevents natural infiltration of water into soil. Impervious surfaces include, but are not limited to, roofs, buildings, streets, parking areas and any concrete, asphalt or compacted gravel surface.

Industrial stormwater permit means a national pollutant discharge elimination system permit issued to a commercial industry or group of industries which regulates the pollutant levels associated with industrial stormwater discharges or specifies on-site pollution control strategies.

Infiltration means the process of percolating stormwater into the subsoil.

Infiltration facility means any structure or device designed to infiltrate retained water to the subsurface. These facilities may be above-grade or below-grade.

Jurisdictional wetland means an area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation.

Land development or *land development project* means a manmade change to the land surface that potentially changes its runoff characteristics.

Land disturbance activity means any activity which changes the volume or peak flow discharge rate of rainfall runoff from the land surface. This may include the grading, digging, cutting, scraping or excavating of soil, placement of fill materials, paving, construction, substantial removal of vegetation, or any activity which bares soil or rock or involves the diversion or piping of any natural or manmade watercourse.

Landowner means the legal or beneficial owner of land, including those holding the right to purchase or lease the land, or any other person holding proprietary rights in the land.

Linear development project means a land development project that is linear in nature, such as, but not limited to:

(1) The construction of electric and telephone utility lines, and natural gas pipelines;

(2) Construction of tracks, rights-of-way, bridges, communication facilities and other related structures of a railroad company; and

(3) Highway construction projects.

PROOFS

Local stormwater management program or *local program* means a statement of the various methods adopted pursuant to the Act and implemented by the town to manage the runoff from land development projects and shall include an ordinance with provisions to require the control of after development stormwater runoff rate of flow, water quality, the proper maintenance of stormwater management facilities and minimum administrative procedures consistent with this article.

Maintenance agreement means a legally recorded document that acts as a property deed restriction, and which provides for permanent maintenance of stormwater management practices.

Nonpoint source (NPS) pollution means pollution from any source other than from any discernible, confined and discrete conveyances, and shall include, but not be limited to, pollutants from agricultural, silvicultural, mining, construction, subsurface disposal and urban runoff sources.

Nonpoint source pollutant runoff load or *pollutant discharge* means the average amount of a particular pollutant measured in pounds per year, delivered in a diffuse manner by stormwater runoff

Offset fee means a monetary compensation paid to the town for failure to meet pollutant load reduction targets.

Off-site facility means a stormwater management measure located outside the subject property boundary described in the permit application for land development activity.

On-site facility means a stormwater management measure located within the subject property boundary described in the permit application for land development activity.

Owner means the owner or owners of the freehold of the premises or lesser estate therein, a mortgagee or vendee in possession, assignee of rents, receiver, executor, trustee, lessee or other person, firm or corporation in control of a property.

Percent impervious means the impervious area within the site, divided by the area of the site, multiplied by 100.

Person means any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, county, city, town or other political subdivision of the commonwealth, any interstate body or any other legal entity.

Plan-approving authority means the state board of conservation and recreation, the program authority or a department of a program authority responsible for determining the adequacy of a submitted stormwater management plan.

Planning area means a designated portion of the parcel on which the land development project is located. Planning areas shall be established by delineation on a master plan. Once established, planning areas shall be applied consistently for all future projects.

Post-development refers to conditions that reasonably may be expected or anticipated to exist after completion of the land development activity on a specific site or tract of land.

Pre-development refers to the conditions that exist at the time that plans for the land development of a tract of land are approved by the plan-approving authority. Where phased development or plan approval occurs (preliminary grading, roads and utilities, etc.), the existing conditions at the time prior to the first item being approved or permitted, shall establish pre-development conditions.

Program authority means a district, county, city or town which has adopted a stormwater management program which as been approved by the board.

PROOFS

Recharge means the replenishment of underground water reserves.

Redevelopment means the process of developing land that is or has been previously developed where 10,000 square feet or more is disturbed.

Regional (watershed-wide) stormwater management facility or *regional facility* means a facility or series of facilities designed to control stormwater runoff from a specific watershed, although only portions of the watershed may experience development.

Regional (watershed-wide) stormwater management plan or *regional plan* means a document containing material describing how runoff from open space, existing development and future planned development areas within a watershed will be controlled by coordinated design and implementation of regional stormwater management facilities.

Runoff or *stormwater runoff* means that portion of precipitation that is discharged across the land surface or through conveyances to one or more waterways.

Sand filter means a contained bed of sand which acts to filter the first flush of runoff. The runoff is then collected beneath the sand bed and conveyed to an adequate discharge point or infiltrated into the in-situ soils.

Shallow marsh means a zone within a stormwater extended detention facility that exists from the surface of the normal pool to a depth of six to 18 inches, and has a large surface area and, therefore, requires a reliable source of baseflow, groundwater supply or a sizeable drainage area to maintain the desired water surface elevations to support emergent vegetation.

Site means the parcel of land being developed, or a designated planning area in which the land development project is located.

State waters means all waters on the surface and under the ground wholly or partially within or bordering the commonwealth or within its jurisdiction.

Stop work order means an order issued which requires that all construction activity on a site be stopped.

Stormwater detention basin or *detention basin* means a stormwater management facility which temporarily impounds runoff and discharges it through a hydraulic outlet structure to a downstream conveyance system. While a certain amount of outflow may also occur via infiltration through the surrounding soil, such amounts are negligible when compared to the outlet structure discharge rates and are, therefore, not considered in the facility's design. Since a detention facility impounds runoff only temporarily, it is normally dry during non-rainfall periods.

Stormwater extended detention basin or *extended detention basin* means a stormwater management facility which temporarily impounds runoff and discharges it through a hydraulic structure over a period of time to a downstream conveyance system for the purpose of water quality enhancement or stream channel erosion control. While a certain amount of outflow may also occur via infiltration through the surrounding soil, such amounts are negligible when compared to the outlet structure discharge rates and, therefore, are not considered in the facility's design. Since an extended detention basin impounds runoff only, temporarily, it is normally dry during non-rainfall periods.

Stormwater extended detention basin-enhanced or *extended detention basin-enhanced* means an extended detention basin modified to increase pollutant removal by providing a shallow marsh in the lower stage of the basin.

Stormwater management means the use of structural or non-structural practices that are designed to reduce stormwater runoff pollutant loads, discharge volumes and/or peak flow discharge rates.

PROOFS

Stormwater management facility means a device that controls stormwater runoff and changes the characteristics of that runoff, including, but not limited to, the quantity and quality, the period of release or the velocity of flow.

Stormwater management plan or *plan* means a document containing material for describing how existing runoff characteristics will be affected by a land development project and methods for complying with the requirements of the local program.

Stormwater retention basin I or *retention basin I* means a retention basin with the volume of the permanent pool equal to three times the water quality volume.

Stormwater retention basin II or *retention basin II* means a retention basin with the volume of the permanent pool equal to four times the water quality volume.

Stormwater retention basin III or *retention basin III* means a retention basin with the volume of the permanent pool equal to four times the water quality volume with the addition of an aquatic bench.

Stormwater retrofit means a stormwater management practice designed for an existing development site that previously had either no stormwater management practice in place or a practice inadequate to meet the stormwater management requirements of the site.

Stormwater treatment practices (STPs) means measures, either structural or nonstructural, that are determined to be the most effective, practical means of preventing or reducing point source or nonpoint source pollution inputs to stormwater runoff and water bodies.

~~*Stormwater management plan* or *plan* means a document containing material for describing how existing runoff characteristics will be affected by a land development project and methods for complying with the requirements of the local program, or this Article.~~

Subdivision means the division of a parcel of land, as defined by chapter 40, Subdivisions. The term "subdivision" includes resubdivision and, when appropriate to the context, shall relate to the process of subdividing or to the land subdivided.

Town means the Town of Christiansburg, Virginia.

Vegetated filter strip means a densely vegetated section of land engineered to accept runoff as overland sheet flow from upstream development. It shall adopt any vegetated form, from grass meadow to small forest. The vegetative cover facilitates pollutant removal through filtration, sediment deposition, infiltration and absorption, and is dedicated for that purpose.

Water quality volume (WQV) means the volume equal to the first one-half inch of runoff multiplied by the impervious surface of the land development project.

Watercourse means a permanent or intermittent stream or other body of water, either natural or manmade, which gathers or carries surface water.

Watershed means a defined land area drained by a river, stream, drainage ways or system of connecting rivers, streams or drainage ways such that all surface water within the area flows through a single outlet.

(Code 1992, § 10-20; Ord. No. 2007-4, 11-6-2007)

Sec. 16-50. Statutory authority.

The state stormwater management law~~ ("Law"), Title 10.1, Chapter 6, Article 1.1 of the~~ Code of Virginia, § 10.1-603.1 et seq., enables localities to adopt, by ordinance, a stormwater management program consistent with state regulations promulgated pursuant to the state stormwater management law.

(Code 1992, § 10-21; Ord. No. 2007-4, 11-6-2007)

PROOFS

Sec. 16-51. Purpose.

The purpose of this article is to establish minimum stormwater management requirements and controls to protect properties, safeguard the general health, safety and welfare of the public residing in watersheds within this jurisdiction, and protect aquatic resources. This article seeks to meet that purpose through the following objectives:

(1) Require that land development and land conversion activities maintain the ~~after-development~~ post-development runoff characteristics, as nearly as practicable, as the pre-development runoff characteristics in order to reduce flooding, siltation, stream bank erosion and property damage;

(2) Establish minimum design criteria for the protection of properties and aquatic resources downstream from land development and land conversion activities from damages due to increases in volume, velocity, frequency, duration and peak flow rate of stormwater runoff;

(3) Establish minimum design criteria for measures to minimize nonpoint source pollution, including nutrients from stormwater runoff which would otherwise degrade water quality;

(4) Establish provisions for the long-term responsibility and maintenance of stormwater management control devices and other techniques specified to manage the quality and quantity of runoff; and

(5) Establish certain administrative procedures for the submission, review, approval and disapproval of stormwater plans, and the inspection of approved projects.

(Code 1992, § 10-22; Ord. No. 2007-4, 11-6-2007)

Sec. 16-52. Applicability.

(a) This article shall be applicable to all subdivision, site plan or land use conversion applications, unless eligible for an exception by the town under the specifications of section 16-62. The article also applies to land development activities that are smaller than the minimum applicability criteria if such activities are part of a larger common plan of development that meets the applicability criteria, even though multiple separate and distinct land development activities may take place at different times on different schedules. In addition, all plans must be reviewed by the town to ensure that established water quality standards will be maintained during and after development of the site and that post construction runoff levels are consistent with any local and regional watershed plans.

(b) To prevent the adverse impacts of stormwater runoff, the town has developed a set of performance standards that must be met at new development sites. These standards apply to any land development, redevelopment or land use conversion activity disturbing 10,000 square feet or more of land. The following activities are exempt from these stormwater performance criteria:

(1) Permitted surface or deep mining operations and projects, or oil and gas operations and projects conducted under the provisions of title 45.1 of the Act;

(2) Tilling, planting or harvesting of agricultural, horticultural or forest crops;

(3) Single-family residences separately built and not part of a subdivision, including additions or modifications to existing single-family detached residential structures;

(4) Land development projects that disturb less than 10,000 square feet of land area; and

(5) Linear development projects, provided that:

a. Less than one acre of land will be disturbed per outfall or watershed;

PROOFS

b. There will be insignificant increases in peak flow rates; and

c. There are no known existing or anticipated flooding or erosion problems downstream of the discharge point.

(c) When a site development plan is submitted that qualifies as a redevelopment project as defined in this article, decisions on permitting and on-site stormwater requirements shall be governed by the stormwater sizing criteria found in the current Virginia Stormwater Management Handbook. This criteria is dependent on the amount of impervious area created by the redevelopment and its impact on water quality. Final authorization of all redevelopment projects will be determined after a review by the town.

(Code 1992, § 10-23; Ord. No. 2007-4, 11-6-2007)

Sec. 16-53. Compatibility with other permit and article requirements.

This article is not intended to interfere with, abrogate or annul any other ordinance, rule or regulation, stature or other provision of law. The requirements of this article should be considered minimum requirements, and where any provision of this article imposes restrictions different from those imposed by any other ~~or~~ ordinance, rule or regulation or other provision of law, whichever provisions are more restrictive or impose higher protective standards for human health or the environment, shall be considered to take precedence.

(Code 1992, § 10-24; Ord. No. 2007-4, 11-6-2007)

[94]~~**Sec. 10-25. Severability.**~~

~~If the provisions of any article, section, subsection, paragraph, subdivision or clause of this Article shall be judged invalid by a court of competent jurisdiction, such order of judgment shall not affect or invalidate the remainder of any article, section, subsection, paragraph, subdivision or clause of this Article.~~

~~(Code 1992, § 10-25; Ord. No. 2007-4, 11-6-07)~~

[95]**Sec. 16-54. Stormwater Management Handbook.**

The town will utilize the policy, criteria and information including specifications and standards of the Virginia Stormwater Management Handbook, latest edition, for the proper implementation of the requirements of this article. This handbook includes a list of acceptable stormwater treatment practices, including the specific design criteria for each stormwater practice. The handbook may be updated and expanded from time to time, based on improvements in engineering, science, monitoring and local maintenance experience. Stormwater treatment practices that are designed and constructed in accordance with these design and sizing criterias will be presumed to meet the minimum water quality performance standards.

(Code 1992, § 10-26; Ord. No. 2007-4, 11-6-2007)

Sec. 16-55. Valid stormwater management plan necessary for building and other permits.

No land owner or land operator shall receive any of the building, grading or other land development permits required for land disturbance activities without first meeting the requirements of this article prior to commencing the proposed activity. Should a land disturbing activity associated with an approved plan in accordance with this article not begin during the 180-

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[94] This section may be deleted as the severability clause in chapter 1 applies to the entire Code. Delete.

[95] Is this section still correct? Yes.

PROOFS

day period following approval or cease for more than 180 days, the town may evaluate the existing approved erosion and sediment control plan and stormwater management plan to determine whether the plan still satisfies town requirements and to verify that all design factors are still valid. If the town finds the previously filed plan to be inadequate, a modified plan shall be submitted and approved prior to the resumption of land disturbing activities.

(Code 1992, § 10-27; Ord. No. 2007-4, 11-6-2007)

Sec. 16-56. Plan submittal requirements.

Unless specifically excluded by this article, any land owner or operator desiring an approved stormwater management plan shall submit to the town a complete plan, sealed and signed by a professional in adherence to all minimum standards and requirements pertaining to the practice of that profession in accordance with chapter 4 (Code of Virginia, § 54.1-400 et seq.) of title 54.1 of the Code of Virginia and attendant regulations certifying that the plan meets all submittal requirements outlined in this article and is consistent with good engineering practice. Unless otherwise excepted by this article, a plan submittal must include, at a minimum:

(1) Stormwater management concept plan in accordance with section 16-57.

(2) Stormwater management final plan in accordance with section 16-67.

(3) Maintenance agreement in accordance with section 16-68.

(4) Performance bond in accordance with section 16-69.

(5) Plan review fee in accordance with section 16-70.

(Code 1992, § 10-28; Ord. No. 2007-4, 11-6-2007)

Sec. 16-57. Stormwater management plan required.

(a) *Application for land development.* No application for land development, land use conversion or land disturbance permit will be approved unless it includes an approved stormwater management plan, as required by this article, detailing how runoff and associated water quality impacts resulting from the activity will be controlled or managed. A stormwater management plan shall consist of a concept plan, when the town deems necessary, to ensure adequate planning for the management of stormwater runoff, and a final plan. Both plans shall be in accordance with the criteria established in this article. No building, grading or sediment control permit shall be issued until a satisfactory final stormwater management plan, or a waiver thereof, shall have undergone a review and been approved by the town, after determining that the plan or waiver is consistent with the requirements of this article.

(b) *Stormwater management concept plan.* A stormwater management concept plan shall be submitted for review and approval, at the town's discretion, to ensure adequate planning for stormwater runoff. A stormwater management concept plan shall include all information from the submittal checklist, Technical Criteria Checklist for Stormwater Management Plans, part 4 of the engineers toolkit, for the state stormwater management program permit regulations. The stormwater management concept plan shall be used to evaluate the environmental characteristics of the project site, the potential impacts of all proposed development of the site, both present and future, on the water resources, and the effectiveness and acceptability of the measures proposed for managing stormwater generated at the project site. The concept plan should be prepared at the time of the preliminary plan of subdivision, in accordance with chapter 40, Subdivisions, or other early step in the development process, to identify the type of stormwater management measures necessary for the proposed project. The intent of this conceptual planning process is to ensure adequate planning for management of stormwater runoff from future development. To accomplish this goal the following information shall be included in the concept plan:

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(1) A map, or maps, indicating the location of existing and proposed buildings, roads, parking areas, utilities, structural stormwater management and sediment control facilities. The maps will also clearly show proposed land use with tabulation of the percentage of surface area to be adapted to various uses; drainage patterns; locations of utilities, roads and easements; and the limits of clearing and grading. A written description of the site plan and justification of proposed changes in natural conditions may also be required.

(2) Sufficient engineering analysis to show that the proposed stormwater management measures are capable of controlling runoff from the site in compliance with this article and the specifications of the Virginia Stormwater Management Handbook.

(3) A written or graphic inventory of the natural resources at the site and surrounding area as it exists prior to the commencement of the project and a description of the watershed and its relation to the project site. This description should include a discussion of soil conditions, forest cover, topography, wetlands and other native vegetative areas on the site. Particular attention should be paid to environmentally sensitive features that provide particular opportunities or constraints for development.

(4) A written description of the required maintenance burden for any proposed stormwater management facility.

(5) The town may also require a concept plan to consider the maximum development potential of a site under existing zoning, regardless of whether the applicant presently intends to develop the site to its maximum potential.

(6) The applicant may be required to include within the stormwater concept plan measures for controlling existing stormwater runoff discharges from development or redevelopment occurring on a previously developed site in accordance with the standards of this article to the maximum extent practicable.

(c) *Stormwater management final plan.* After review of the approved stormwater management concept plan, if the concept plan was required, a final stormwater management plan must be submitted for approval. All stormwater management plans shall be appropriately sealed and signed by a professional in adherence to all minimum standards and requirements pertaining to the practice of that profession in accordance with chapter 4 (Code of Virginia, § 54.1-400 et seq.) of title 54.1 of the Code of Virginia and attendant regulations certifying that the plan meets all submittal requirements outlined in this article and is consistent with good engineering practice. The final stormwater management plan shall include all of the information required in the final stormwater management plan checklist found in the Virginia Stormwater Management Handbook. This includes:

(1) *Contact information.* The name, address and telephone number of all persons having a legal interest in the property and the tax reference number and parcel number of the property or properties affected.

(2) *Topographic base map*. A minimum 1" = 20' to a maximum 1" = 50' topographic base map of the site which extends a minimum of 50 feet beyond the limits of the proposed development and indicates existing surface water drainage including streams, ponds, culverts, ditches and wetlands; current land use including all existing structures; locations of utilities, roads and easements; and significant natural and manmade features not otherwise shown.

(3) *Calculations*. Hydrologic and hydraulic design calculations for the pre-development and post-development conditions for the design storms specified in this article. Such calculations shall include:

PROOFS

a. Description of the design storm frequency, intensity and duration;

b. Time of concentration;

c. Soil curve numbers or runoff coefficients;

d. Peak runoff rates and total runoff volumes for each watershed area;

e. Infiltration rates, where applicable;

f. Culvert capacities;

g. Flow velocities;

h. Data on the increase in rate and volume of runoff for the specified design storms; and

i. Documentation of sources for all computation methods and field test results.

(4) *Soils information*. Geotechnical properties for the hydrologic and structural properties of soils, especially for dam embankments, shall be described in a soils report. The submitted report shall include boring depth, sampling frequency and types and associated laboratory testing with results and conclusions and follow the criteria in the Virginia Stormwater Management Handbook. Soil properties for infiltration facilities shall also conform to the guidance and specification outlined in the Virginia Stormwater Management Handbook.

(5) *Maintenance plan*. The design and planning of all stormwater management facilities shall include detailed maintenance procedures to ensure their continued function. These plans will identify the parts or components of a stormwater management facility that need to be maintained and the equipment and skills or training necessary. Provisions for the periodic review and evaluation of the effectiveness of the maintenance program and the need for revisions or additional maintenance procedures shall be included in the plan.

(6) *Landscaping plan*. The applicant must present a detailed landscaping plan describing the woody and herbaceous vegetative stabilization and management techniques to be used within and adjacent to the stormwater practice. The landscaping plan must also describe who will be responsible for the maintenance of vegetation at the site and what practices will be employed to ensure that adequate vegetative cover is preserved. This plan must be prepared by a qualified individual familiar with the selection of emergent and upland vegetation appropriate for the selected BMP.

(7) *Maintenance agreement*. The applicant must execute and record a formal maintenance agreement binding on all subsequent owners of land served by an on-site stormwater management measure in accordance with the specifications of this article. This agreement shall give the town permission to access the site as the town deems necessary for the inspection and or repair of the stormwater management facilities.

(8) *Other environmental permits*. The applicant is responsible, and shall be able to show to the town's satisfaction, that all other applicable environmental permits have been acquired for the site prior to approval of the final stormwater management plan.

(Code 1992, § 10-29; Ord. No. 2007-4, 11-6-2007)

Sec. 16-58. Stormwater facility maintenance agreements.

(a) Prior to the approval of any plan or the issuance of any permit for a development that has a stormwater management facility, as one of the requirements of plan approval, the applicant or owner of the site must execute a formal maintenance agreement that shall be binding on all subsequent owners of land served by the stormwater management facility. A copy of the recorded agreement shall be submitted to the town prior to plan approval.

PROOFS

(b) Maintenance of all stormwater management facilities shall be ensured through the execution and recording of a formal maintenance agreement that shall be recorded by the clerk of the circuit court in the ~~Montgomery~~ the county courthouse records prior to final plan approval. The town shall provide the owner a form for this agreement. The agreement shall identify by name or official title the persons responsible for carrying out the maintenance. Responsibility for the operation and maintenance of stormwater management facilities, unless assumed by a governmental agency, shall remain with the property owner and shall pass to any successor or owner. If portions of the land are to be sold, legally binding arrangements shall be made to pass the basic responsibility to successors in title. These arrangements shall designate for each property owner, governmental agency or other legally established entity to be permanently responsible for maintenance. As part of the agreement, a schedule shall be developed for when and how often maintenance will occur to ensure proper function of the stormwater management facility. The agreement shall also include plans for annual inspections to ensure proper performance of the facility between scheduled maintenance and should also include failure to maintain provisions. In the event that maintenance or repair is neglected, or the stormwater management facility becomes a danger to public health or safety, the town reserves the authority to perform the work and to recover the costs from the owner. The town, in lieu of a maintenance agreement, may accept dedication of any existing or future stormwater management facility for maintenance, provided such facility meets all the requirements of this article and includes adequate and perpetual access and sufficient area, by easement or otherwise, for inspection and regular maintenance.

(Code 1992, § 10-30; Ord. No. 2007-4, 11-6-07)

Sec. 16-59. Performance bonds.

The town may, at its discretion, require the submittal of a performance security or bond with surety, cash escrow, letter of credit, or such other acceptable legal arrangement, prior to plan approval in order to insure that the stormwater practices are installed by the permit holder, as required by the approved stormwater management plan.

(1) The amount of the installation performance security shall be the total estimated construction cost of the stormwater management practices approved under the plan, plus 25 percent.

(2) The performance security shall contain forfeiture provisions for failure, after proper notice, to complete work within the time specified, or to initiate or maintain appropriate actions which may be required of the applicant in accordance with the approved stormwater management plan.

(3) If the town takes such action upon such failure by the applicant, the town may collect from the applicant for the difference, should the amount of the reasonable cost of such action exceed the amount of the security held.

(4) Within 60 days of the completion of the requirements of the approved stormwater management plan in the form of a professionally certified as-built report and survey, such bond, cash escrow, letter of credit or other legal arrangement, except for the landscaping survivability, shall be refunded to the applicant or terminated.

(5) The landscaping portion of the stormwater management plan shall be inspected one year after installation with replacement in accordance with the final plans and specifications prior to final release.

(6) These requirements are in addition to all other provisions of town ordinances relating to the approval of such plans, and are not intended to otherwise affect the requirements for such plans.

PROOFS

(Code 1992, § 10-31; Ord. No. 2007-4, 11-6-2007)

Sec. 16-60. Stormwater management plan review fees.

Applicants shall submit a ~~$1,000~~ stormwater management plan review fee to the town when stormwater quality treatment is required, as set forth herein or as established in the latest edition of the town development fee schedule, which may be amended from time to time by town council. This fee shall be submitted when the stormwater management final plan is submitted for review and approval. This fee is in addition to, and does not replace or supersede the town's existing plan review fees and procedures, as outlined in chapter 40, Subdivisions, and chapter 42, Zoning.

(Code 1992, § 10-32; Ord. No. 2007-4, 11-6-2007)

Sec. 16-61. Stormwater management plan submittal procedure.

(a) Stormwater management plans shall be submitted to the town on any regular business day.

(b) Plan submittals shall include the following:

(1) One copy of the stormwater management final plan;

(2) One copy of the maintenance agreement; and

(3) Any required review fees.

The town may also require, at its discretion, submittal of a signed checklist stating that the submittal is complete, and all plans and calculations are consistent with good engineering judgment.

(c) Within a maximum of 60 calendar days of the receipt of a complete stormwater management plan, including all documents, as required by this article, the town shall inform the applicant whether the plan and maintenance agreement are approved or disapproved.

(d) If the stormwater management plan or maintenance agreement is disapproved, the town shall communicate the decision to the applicant, in writing. The applicant may then revise the stormwater management plan or maintenance agreement. If additional information is submitted, the town shall have 30 calendar days from the date the additional information is received to inform the applicant that the plan and maintenance agreement are either approved or disapproved.

(e) If the final stormwater management plan and maintenance agreement are approved by the town, the following conditions apply:

(1) The applicant shall comply with all applicable requirements of the approved plan and this article and shall certify that all land clearing, construction, land development and drainage will be done according to the approved plan.

(2) The land development project shall be conducted only within the area specified in the approved plan.

(3) The town shall be allowed, after giving notice to the owner, occupier or operator of the land development project, to conduct periodic inspections of the project.

(4) The person responsible for implementing the approved plan shall conduct monitoring and submit reports, as the town may require, to ensure compliance with the approved plan and to determine whether the plan provides effective stormwater management.

(5) No changes may be made to an approved plan without review and written approval by the town.

PROOFS

(6) A professionally certified inspection of all aspects of the BMP, including surface as-built surveys, and geotechnical inspections during subsurface or backfilling and compaction activities shall be required.

(Code 1992, § 10-33; Ord. No. 2007-4, 11-6-2007)

Sec. 16-62. Exceptions for providing stormwater management.

(a) Every applicant shall provide for stormwater management, unless they file a written request to waive this requirement. Requests to waive the stormwater management plan requirements shall be submitted, in writing, to the town for approval. An exception from the stormwater management regulations may be granted, provided that exceptions to the criteria are the minimum necessary to afford relief and reasonable and appropriate conditions shall be imposed as necessary upon any exception granted so that the intent of the law and this article are preserved. The minimum requirements for stormwater management may be waived in whole or in part upon written request of the applicant, provided that at least one of the following conditions applies:

(1) It can be demonstrated to the town's satisfaction that the proposed development is not likely to impair attainment of the objectives of this article.

(2) Alternative minimum requirements for on-site management of stormwater discharges have been established in a stormwater management plan that has been approved by the town and that is required to be implemented by local ordinance.

(3) Provisions are made to manage stormwater by an off-site facility. The off-site facility is required to be in place, to be designed and adequately sized to provide a level of stormwater control that is equal to, or greater than, that which would be afforded by on-site practices and has a legally obligated entity responsible for long-term operation and maintenance of the stormwater practice.

(4) The town finds that meeting the minimum on-site management requirements is not feasible due to the natural or existing physical characteristics of a site.

(5) Economic hardship is not sufficient reason to grant an exception from the requirements of this article.

(b) In instances where one of the conditions above applies, the town may grant a waiver from strict compliance with stormwater management provisions that are not achievable, provided that acceptable mitigation measures are provided. However, to be eligible for a variance, the applicant must demonstrate to the satisfaction of the town that the immediately downstream waterways will not be subject to:

(1) Deterioration of existing culverts, bridges, dams and other structures;

(2) Deterioration of biological functions or habitat;

(3) Accelerated streambank or streambed erosion or siltation; or

(4) Increased threat of flood damage to public health, life or property.

(Code 1992, § 10-34; Ord. No. 2007-4, 11-6-2007)

Sec. 16-63. General criteria for stormwater management.

(a) Determination of flooding and channel erosion impacts to receiving streams due to land development projects shall be measured at each point of discharge from the development project and such determination shall include any runoff from the balance of the watershed which also contributes to that point of discharge.

PROOFS

(b) The specified design storms shall be defined as either a 24-hour storm using the rainfall distribution recommended by the U.S. soil conservation service when using U.S. soil conservation service methods or as the storm of critical duration that produces the greatest required storage volume at the site when using a design method such as the modified rational method. Pre-development and post-development runoff rates shall be verified by calculations that are consistent with good engineering practices.

(c) For purposes of computing runoff, all pervious lands in the site shall be assumed prior to development to be in good condition (if the lands are pastures, lawns or parks), with good cover (if the lands are woods), or with conservation treatment (if the lands are cultivated); regardless of conditions existing at the time of computation.

(d) Construction of stormwater management facilities or modifications to channels shall comply with all applicable laws and regulations. Evidence of approval of all necessary permits, such as U.S. Army Corps of Engineers and Virginia Department of Environmental Quality Wetland Permits, National Department of Environmental Quality Virginia Pollution Discharge Elimination System (NPDES) Permits, Virginia Department of Environmental Quality Virginia Pollution Discharge Elimination System (VPDES) Permits, etc., shall be presented.

(e) Impounding structures that are not covered by the impounding structure regulations (4 VAC 50-20-10 et seq.) shall be engineered for structural integrity during the 100-year storm event.

(f) Pre-development and post-development runoff rates shall be verified by calculations that are consistent with good engineering practices.

(g) Outflows from a stormwater management facility shall be discharged to an adequate channel, and velocity dissipaters shall be placed at the outfall of all stormwater management facilities and along the length of any outfall channel, as necessary, to provide a non-erosive velocity of flow from the basin to a channel.

(h) Proposed residential, commercial or industrial subdivisions shall apply these stormwater management criteria to the land development as a whole. Individual lots in new subdivisions shall not be considered separate land development projects, but rather the entire subdivision shall be considered a single land development project. Hydrologic parameters shall reflect the ultimate land development and shall be used in all engineering calculations.

(i) All stormwater management facilities shall have a maintenance plan which identifies the owner and the responsible party for carrying out the maintenance plan.

(j) Construction of stormwater management impoundment structures within a Federal Emergency Management Agency (FEMA) designated 100-year floodplain shall be avoided to the extent possible. When this is unavoidable, all stormwater management facility construction shall be in compliance with all applicable regulations under the National Flood Insurance Program, 44 CFR Part 59.

(k) Natural channel characteristics shall be preserved to the maximum extent practicable.

(l) Land development projects shall comply with the state erosion and sediment control law and attendant regulations.

(m) Non-structural stormwater practices designed to reduce the volume of stormwater runoff are encouraged to reduce the amount of stormwater runoff that must be managed. This will help to minimize the reliance on structural practices which require ongoing maintenance in order to be effective.

(Code 1992, § 10-35; Ord. No. 2007-4, 11-6-2007)

PROOFS

Sec. 16-64. Structural stormwater management practices.

(a) *Minimum control requirements.* All stormwater management practices shall be designed so that the specific storm frequency storage volumes (e.g., water quality, channel protection, ten-year, 100-year), as identified in the current Virginia Stormwater Management Handbook, are met, unless the town grants the applicant a waiver or the applicant is exempt from such requirements. In addition, if hydrologic or topographic conditions warrant greater control than that provided by the minimum control requirements, the town reserves the right to impose any and all additional requirements deemed necessary to protect downstream properties and aquatic resources from damage due to increased volume, frequency and rate of stormwater runoff.

(b) *Site design feasibility.* Stormwater management practices for a site shall be chosen based on the physical conditions of the site. The factors that should be considered include topography, maximum drainage area, depth to water table, soils, slopes, terrain, hydraulic head and location in relation to environmentally sensitive features or ultra-urban area. Applicants shall consult the Virginia Stormwater Management Handbook for guidance on the factors that determine site design feasibility when selecting a stormwater management practice.

(c) *Conveyance issues.* All stormwater management practices shall be designed to convey stormwater to allow for the maximum removal of pollutants and reduction in flow velocities. This shall include, but not be limited to:

(1) Maximizing of flowpaths from inflow points to outflow points.

(2) Protection of inlet and outfall structures.

(3) Elimination of erosive flow velocities.

(4) Providing of underdrain systems, where applicable.

The Virginia Stormwater Management Handbook provides detailed guidance on the requirements for conveyance for each of the approved stormwater management practices.

(d) *Pretreatment requirements.* Every stormwater treatment practice shall have an acceptable form of water quality pretreatment, in accordance with the pretreatment requirements found in the current Virginia Stormwater Management Handbook. Stormwater infiltration practices, or practices having an infiltration component, as specified in the Virginia Stormwater Management Handbook, are prohibited, even with pretreatment, in the following circumstances:

(1) Where stormwater is generated from highly contaminated source areas known as hotspots.

(2) Where stormwater is carried in a conveyance system that also carries contaminated, non-stormwater discharges.

(3) Where stormwater is being managed in a designated groundwater recharge area.

(4) Under certain geologic conditions (e.g., karst) that prohibit the proper pretreatment of stormwater.

(e) *Treatment/geometry conditions.* All stormwater management practices shall be designed to capture and treat stormwater runoff according to the specifications outlined in the Virginia Stormwater Management Handbook. These specifications will designate the water quality treatment and water quantity criteria that apply to an approved stormwater management practice (see sections 16-66 through 16-68 for specific criteria).

(f) *Landscaping plan required.* All stormwater management practices must have a landscaping plan detailing both the vegetation to be in the practice and how and who will manage and maintain this vegetation. This plan must be prepared by a qualified individual familiar with the selection of emergent and upland vegetation appropriate for the selected BMP.

PROOFS

(g) *Maintenance agreements.* A legally binding agreement specifying the parties responsible for the proper maintenance of all stormwater treatment practices shall be secured prior to plan approval. In addition, all stormwater treatment practices shall have an enforceable operation and maintenance agreement to ensure the system functions as designed. This agreement will include provisions for the town to access and inspect the stormwater treatment practices. (See section 16-58 for specific maintenance provisions).

(Code 1992, § 10-36; Ord. No. 2007-4, 11-6-2007)

Sec. 16-65. Water quality.

Unless judged by the town for a project to be exempt, the following criteria shall be addressed for stormwater management at all sites:

(1) All stormwater runoff generated from land development and land use conversion activities shall not discharge untreated stormwater runoff directly into a jurisdictional wetland or local water body without adequate treatment. Where such discharges are proposed, the impact of the proposal on wetland functions shall be assessed using a method acceptable to the town. In no case shall the impact on functions be any less than allowed by the Army Corp of Engineers (ACE) or the department of environmental quality.

(2) Annual groundwater recharge rates shall be maintained, by promoting infiltration through the use of structural and non-structural methods. At a minimum, annual recharge from the post-development site shall mimic the annual recharge from pre-development site conditions.

(3) Land development projects shall comply with the water quality performance-based or technology-based criteria in accordance with the following:

a. *Performance-based criteria.* For land development, the calculated post-development nonpoint source pollutant runoff load shall be compared to the calculated pre-development load based upon the average land cover condition or the existing site condition. A BMP shall be located, designed and maintained to achieve the target pollutant removal efficiencies specified in ~~Table 1~~ the Virginia Stormwater Management Handbook, latest edition, to effectively reduce the pollutant load to the required level based upon the following four applicable land development situations for which the performance criteria apply.

1. *Situation 1.* Situation 1 consists of land development where the existing percent impervious cover is less than, or equal to, the average land cover condition and the proposed improvements will create a total percent impervious cover which is less than the average land cover condition.

   Requirement: No reduction in the after development pollutant discharge is required.

2. *Situation 2.* Situation 2 consists of land development where the existing percent impervious cover is less than or equal to the average land cover condition and the proposed improvements will create a total percent impervious cover which is greater than the average land cover condition.

   Requirement: The pollutant discharge after development shall not exceed the existing pollutant discharge based on the average land cover condition.

3. *Situation 3.* Situation 3 consists of land development where the existing percent impervious cover is greater than the average land cover condition.

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Requirement: The pollutant discharge after development shall not exceed the pollutant discharge based on existing conditions less ten percent or the pollutant discharge based on the average land cover condition, whichever is greater.

4. Situation 4 consists of land development where the existing percent impervious cover is served by an existing stormwater management BMP that addresses water quality.

   Requirement: The pollutant discharge after development shall not exceed the existing pollutant discharge based on the existing percent impervious cover while served by the existing BMP. The existing BMP shall be shown to have been designed and constructed in accordance with proper design standards and specifications, and to be in proper functioning condition.

[96]~~Table 1, from Virginia Stormwater Management Handbook, First Edition, 1999~~

~~Water Quality BMP~~	~~Target Phosphorus Removal Efficiency~~	~~Percent Impervious Cover~~
~~Vegetated filter strip~~	~~10%~~	~~16--21%~~
~~Grassed swale~~	~~15%~~	
~~Constructed wetlands~~	~~30%~~	
~~Extended detention (2 x WQV)~~	~~35%~~	~~22--37%~~
~~Retention basin I (3 x WQV)~~	~~40%~~	
~~Bioretention basin~~	~~50%~~	
~~Bioretention filter~~	~~50%~~	
~~Extended detention enhanced~~	~~50%~~	~~38--66%~~
~~Retention basin II (4 x WQV)~~	~~50%~~	
~~Infiltration (1 x WQV)~~	~~50%~~	
~~Sand filter~~	~~65%~~	
~~Infiltration (2 x WQV)~~	~~65%~~	~~67--100%~~
~~Retention basin III (4 x WQV with aquatic bench)~~	~~65%~~	

~~*Innovative or alternate BMPs not included in this table may be allowed at the discretion of the local program authority. Innovative or alternate BMPs not included in this table which target appropriate nonpoint source pollution other than phosphorous (such as petroleum, hydrocarbons, sediment, etc.) may be allowed at the discretion of the local program authority.~~

[96] This table is dated 1999. Was it ever updated? Changed reference.

PROOFS

b. *Technology-based criteria.* For land development, the post-developed stormwater runoff from the impervious cover shall be treated by an appropriate BMP, as required by the post-developed condition percent impervious cover as specified in ~~Table 1~~ the Virginia Stormwater Management Handbook, latest edition. The selected BMP shall be located, designed and maintained to perform at the target pollutant removal efficiency specified in ~~Table 1~~ the Virginia Stormwater Management Handbook, latest edition. Design standards and specifications for the BMPs in ~~Table 1~~ the Virginia Stormwater Management Handbook, latest edition, which meet the required target pollutant removal efficiency, shall be consistent with those provided in the Virginia Stormwater Management Handbook.

(4) Stormwater discharges to critical areas with sensitive resources (i.e., cold water fisheries, shellfish beds, swimming beaches, recharge areas, water supply reservoirs) may be subject to additional criteria, or may need to utilize or restrict certain stormwater management practices at the discretion of the town.

(5) All National Pollutant Discharge Elimination System (NPDES) or Virginia Pollutant Discharge Elimination System (VPDES) permit holders are required to prepare and implement a stormwater pollution prevention plan, and shall file a notice of intent (NOI) under the provisions of the NPDES or VPDES general permit. The stormwater pollution prevention plan requirement applies to both existing and new industrial sites.

(6) Stormwater discharges from land uses or activities with higher potential pollutant loadings, known as hotspots, may require the use of specific structural BMPs and pollution prevention practices.

(7) Prior to design, applicants are required to consult with the town to determine if they are subject to additional stormwater design requirements.

(Code 1992, § 10-37; Ord. No. 2007-4, 11-6-2007)

Sec. 16-66. Stream channel erosion.

To protect stream channels from degradation, specific channel protection criteria shall be provided as prescribed in the Virginia Stormwater Management Handbook and state sediment and erosion control regulations.

(1) Properties and receiving waterways downstream of any land development project shall be protected from erosion and damage due to increases in volume, velocity and frequency of peak flow rate of stormwater runoff in accordance with the minimum design standards set out in this article.

(2) The plan approving authority shall require compliance with subdivision 19 of 4 VAC 50-30-40 of the erosion and sediment control regulations, promulgated pursuant to article 4 (Code of Virginia, § 10.1-560 et seq.) of chapter 5, title 10.1 of the Code of Virginia.

(3) The plan approving authority may determine that some watersheds or receiving stream systems require enhanced criteria in order to address the increased frequency of bankfull flow conditions brought on by land development projects. Therefore, in lieu of the reduction of the two-year post-developed peak rate of runoff as required in subsection (2) of this section, the land development project being considered shall provide 24-hour extended detention of the runoff generated by the one-year, 24-hour duration storm.

(4) In addition to subsections (2) and (3) of this section, the town may, by ordinance, adopt more stringent channel analysis criteria or design standards to ensure that the natural level of channel erosion, to the maximum extent practicable, will not increase due to the land development projects. These criteria may include, but are not limited to, the following:

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a. Criteria and procedures for channel analysis and classification.

b. Procedures for channel data collection.

c. Criteria and procedures for the determination of the magnitude and frequency of natural sediment transport loads.

d. Criteria for the selection of proposed natural or manmade channel linings.

(Code 1992, § 10-38; Ord. No. 2007-4, 11-6-2007)

Sec. 16-67. Flooding.

(a) The calculations for determining peak flows, as found in the Virginia Stormwater Management Handbook, shall be used for sizing all stormwater management practices.

(b) Downstream properties and waterways shall be protected from damages from localized flooding due to increases in volume, velocity and peak flow rate of stormwater runoff in accordance with the minimum design standards set out in this article.

(c) The ten-year post-developed peak rate of runoff from the development site shall not exceed the ten-year pre-developed peak rate of runoff.

(d) In lieu of subsection (c) of this section, the town may, by ordinance, adopt alternate design criteria based upon geographic, land use, topographic, geologic factors or other downstream conveyance factors as appropriate.

(e) Linear development projects shall not be required to control post-developed stormwater runoff for flooding, except in accordance with a watershed or regional stormwater management plan.

(Code 1992, § 10-39; Ord. No. 2007-4, 11-6-2007)

Sec. 16-68. Regional stormwater management plans.

Applicants are directed to communicate with the town prior to submitting an application for stormwater management plan approval to determine if a regional stormwater management plan has been developed for the applicable watershed. If such a plan is in existence, the applicant must provide stormwater management water quality treatment on-site in accordance with the provisions of the regional plan, and other management provisions as specified by the town.

(Code 1992, § 10-40; Ord. No. 2007-4, 11-6-2007)

Sec. 16-69. Construction inspection in general.

Stormwater management construction inspection shall utilize the final approved plans and specifications for compliance. In addition, the inspection shall comply with the latest version of the erosion and sediment control regulations, promulgated pursuant to article 4 (Code of Virginia, § 10.1-566) of chapter 5, title 10.1 of the Code of Virginia.

(Code 1992, § 10-41; Ord. No. 2007-4, 11-6-2007)

Sec. 16-70. Notice of construction commencement.

(a) The applicant must notify the town in advance before the commencement of construction. In addition, the applicant must notify the town in advance of construction of critical components of the SWM facility. Periodic inspections of the stormwater management system construction shall be conducted by the town. Upon completion, the applicant is responsible for certifying that the completed project is in accordance with the approved plans and specifications (refer to as-built plans – section 16-71) and shall provide regular inspections sufficient to adequately document compliance. All inspections shall be documented and written reports prepared that contain the date and location of the inspection, whether construction is in compliance with the approved

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stormwater management plan, variations from the approved construction specifications and any violations that exist.

(b) If any violations are found, the property owner shall be notified, in writing, of the nature of the violation and the required corrective actions. No additional work shall proceed until any violations are corrected and all work previously completed has received approval by the town.

(c) In addition, the person responsible for carrying out the plan may be required to provide inspection monitoring and reports to ensure compliance with the approved plan and to determine whether the measures required in the plan provide effective stormwater management.

(d) If the town determines that there is a failure to comply with the plan, notice shall be served upon the permittee or person responsible for carrying out the plan.

(Code 1992, § 10-42; Ord. No. 2007-4, 11-6-2007)

Sec. 16-71. Post-construction final inspection and as-built plans.

All applicants are required to submit actual as built plans for any stormwater management practices located on-site after final construction is completed. The plans must show the final design specifications for all stormwater management facilities and must be certified by a professional engineer. A final inspection by the town is required before the release of any performance securities can occur. A certified inspection of all aspects of the BMP construction is required, including surface as-built surveys, and geotechnical inspections during subsurface or backfilling, riser and principal spillway installation, bioretention soil placement and compaction activities.

(Code 1992, § 10-43; Ord. No. 2007-4, 11-6-2007)

Sec. 16-72. Maintenance inspection of stormwater facilities.

All stormwater management facilities must undergo inspections to document maintenance and repair needs and ensure compliance with the requirements of this article and accomplishment of its purposes. These needs may include: removal of silt, litter and other debris from all catch basins, inlets and drainage pipes, grass cutting and vegetation removal, and necessary replacement of landscape vegetation and any repair or replacement of structural features. At a minimum, a stormwater management facility shall be inspected on an annual basis by the town. In the event that the stormwater management facility has not been maintained and/or becomes a danger to public safety or public health, the town shall notify the person responsible for carrying out the maintenance plan by registered or certified mail to the address specified in the maintenance agreement. The notice shall specify the measures needed to comply with the plan and shall specify the time within which such measures shall be completed. If the responsible party fails or refuses to meet the requirements of the maintenance agreement, the town, after reasonable notice, may correct a violation of the design standards or maintenance needs by performing all necessary work to place the facility in proper working condition, and recover the costs from the owner.

(Code 1992, § 10-44; Ord. No. 2007-4, 11-6-2007)

Sec. 16-73. Records of maintenance and repair activities of stormwater facilities.

Parties responsible for the operation and maintenance of a stormwater management facility shall make records of the installation and of all maintenance and repairs, and shall retain the records for at least eight years. These records shall be made available to the town during inspection of the facility and at other reasonable times upon request.

(Code 1992, § 10-45; Ord. No. 2007-4, 11-6-2007)

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Sec. 16-74. Violations.

Any development activity that is commenced or is conducted contrary to this article or the approved plans and permit may be subject to the enforcement actions outlined in this article and state stormwater management law.

(Code 1992, § 10-46; Ord. No. 2007-4, 11-6-2007)

Sec. 16-75. Notice of violation.

When the town determines that an activity is not being carried out in accordance with the requirements of this article, it shall issue a written notice of violation delivered in person or by registered or certified mail to the applicant. The notice of violation shall contain:

(1) The name and address of the applicant;

(2) The address, when available, or a description of the building, structure or land upon which the violation is occurring;

(3) A statement specifying the nature of the violation;

(4) A description of the remedial measures necessary to bring the development activity into compliance with this article and a time schedule for the completion of such remedial action;

(5) A statement of the penalty, or penalties, that shall or may be assessed against the person to whom the notice of violation is directed;

(6) A statement that the determination of violation may be appealed to the municipality by filing a written notice of appeal within ~~thirty (~~30~~)~~ days of service of notice of violation.

(Code 1992, § 10-47; Ord. No. 2007-4, 11-6-2007)

Sec. 16-76. Stop work orders.

Persons receiving a notice of violation will be required to halt all construction activities. This stop work order will be in effect until the town confirms that the development activity is in compliance and the violation has been satisfactorily addressed. Upon failure to comply within the time specified, the permit may be revoked and the applicant shall be deemed to be in violation of this article and, upon conviction, shall be subject to the penalties provided by this article.

(Code 1992, § 10-48; Ord. No. 2007-4, 11-6-2007)

Sec. 16-77. Civil and criminal penalties.

Any person who violates any provision of this program, adopted pursuant to the authority of this article, shall be guilty of a Class 1 misdemeanor and shall be subject to a fine not exceeding $1,000.00 and/or up to 30 days imprisonment, for each violation. In addition, the town may pursue the following actions:

(1) The town may apply to the circuit court to enjoin a violation or a threatened violation of the provisions of this article without the necessity of showing that an adequate remedy at law does not exist.

(2) Without limiting the remedies which may be obtained in this article, the town may bring a civil action against any person for violation of this article or any condition of a permit. The action may seek the imposition of a civil penalty of not more than $2,000.00 against the person for each violation.

(3) With the consent of any person who has violated or failed, neglected or refused to obey this article or any condition of a permit, the town may provide, in an order issued by town against such person, for the payment of civil charges for violations in specific sums, not to

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exceed the limit specified in subsection (2) of this section. Such civil charges shall be instead of any appropriate civil penalty which could be imposed under subsection (2).

(Code 1992, § 10-49; Ord. No. 2007-4, 11-6-2007)

Sec. 16-78. Restoration of lands.

Any violator may be required to restore land to its undisturbed condition or in accordance with a notice of violation, stop work order or permit requirements. In the event that restoration is not undertaken within a reasonable time after notice, the town may take necessary corrective action, the cost of which shall be covered by the performance bond or become a lien upon the property until paid, or both.

(Code 1992, § 10-50; Ord. No. 2007-4, 11-6-2007)

Sec. 16-79. Hold on occupancy permits.

Occupancy permits shall not be granted until corrections to all stormwater practices have been made in accordance with the approved plans, notice of violation, stop work order or permit requirements, and accepted by town.

(Code 1992, § 10-51; Ord. No. 2007-4, 11-6-2007)

Secs. 16-80—16-105. Reserved.

ARTICLE IV. ILLICIT DISCHARGE

State law reference—Stormwater nonpoint nutrient offsets, Code of Virginia, § 10.1-603.8:1.

Sec. 16-106. In general.

The town finds that the discharge of pollutants to the town's storm sewer system has an adverse impact on the water quality of the receiving waters. Illicit discharges of substances other than stormwater could result in a significant source of pollutants to the town's storm sewer system. Amendments to the Federal Water Pollution Control Act, commonly known as the Clean Water Act, established the National Pollutant Discharge Elimination System (NPDES) Program, which requires permits for discharges from municipal storm sewer systems into the waters of the United States. The United States Environmental Protection Agency (EPA) has promulgated regulations implementing the NPDES program. Moreover, the EPA has authorized the commonwealth of the state to issue NPDES permits under the Virginia Pollutant Discharge Elimination System (VPDES) permit system. The VPDES regulations for stormwater discharges require certain municipalities, including the town, to control the contribution of pollutants to its storm sewer system, to prohibit illicit discharges to its storm sewer system, and to inspect, monitor and enforce the prohibitions of illicit discharges to its storm sewer system.

(Code 1992, § 10-60; Ord. No. 2007-5, 11-6-2007)

Sec. 16-107. Intent and purpose.

The intent and purpose of this article is to promote the public health, safety and welfare of persons in the town through the regulation of stormwater discharges to the town's storm sewer system and to prohibit the illicit discharge of nonstormwater to the town's storm sewer system, subject to certain exceptions. This article is also intended to prohibit illicit connections and illicit discharges to the town's storm sewer system, and to establish inspections and monitoring procedures to ensure compliance with this article.

(Code 1992, § 10-61; Ord. No. 2007-5, 11-6-2007)

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Sec. 16-108. Definitions.

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

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

Best management practices (BMPs) means the schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce pollutants from entering the storm sewer system or being improperly discharged from the storm sewer system. BMPs include, but are not limited to, treatment methods and practices to control the discharge of pollutants.

Building official means the town building official, or his~~/her~~ designee.

Clean Water Act (CWA) means the Federal Clean Water Act (33 USC § 1251 et seq.), formerly referred to as the Federal Pollution Control Act.

Discharge means to dispose, deposit, spill, pour, inject, dump, pump, leak or place, by any means, or that which is disposed, deposited, spilled, poured, injected, dumped, pumped, leaked or placed, by any means.

Gray water means wastewater discharged from lavatories, bathtubs, showers, clothes washers and laundry sinks.

Groundwater means all subsurface water, including, but not limited to, that part within the zone of saturation.

Illicit connection means any connection to the town's storm sewer system which is not authorized by the town, by a valid NPDES or VPDES permit, or as may otherwise be authorized by law.

Illicit discharge means any discharge to any storm sewer system, public or private, or to the waters of the United States that is not composed entirely of stormwater, except discharges which are exempt pursuant to section 16-109(b). Any discharge in violation of an NPDES, VPDES or other stormwater discharge permit shall constitute an illicit discharge.

Industrial wastes means any liquid or wastes resulting from any process of industry, manufacture, trade or business, or from the development of any natural resource.

Inspection shall mean and include, but is not limited to, any on-site physical examination of all facilities and grounds which may discharge to a storm sewer system or the waters of the United States; a review of all records on the operation and maintenance of facilities and the results of any monitoring performed for compliance with state, federal and local regulations or permit requirements.

Landscaping chemicals means chemicals for maintaining lawns and landscapes. This includes, but is not limited to, fertilizers, lime and pesticides, which include herbicides, insecticides and fungicides, when used in accordance with the manufacturer's recommendations. If not used in accordance with manufacturer's recommendations, any release to the environment is considered an illicit discharge.

National Pollutant Discharge Elimination System (NPDES) means the federal program for issuing, modifying, revoking, reissuing, terminating, monitoring and enforcing permits, and imposing and enforcing pretreatment requirements under the CWA.

Other wastes means wastes that may adversely affect waters of the United States when discharged into those waters, including, but not limited to, sewage, garbage, refuse, lime, fertilizer, ashes, offal, tar, paint, solvents, petroleum products, antifreeze, pesticides and chemicals.

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Person means any individual, firm, corporation, partnership, association, organization or other entity, including governmental entities, or any combination thereof, or any agent or employee of any such entity.

Private storm sewer system means all facilities, conveyances, structures and other items located within the town not owned and/or operated by the town which are designed or used for collecting, storing, treating or conveying stormwater. These include, but are not limited to, catchbasins, drop inlets, curbs, gutters, ditches, pipes, ponds, manmade channels, storm drains, retention basins, detention basins and infiltration basins and other facilities.

Sanitary sewer means a system of pipes, conduits or other devices that collect and/or convey sewage to a wastewater treatment or pumping facility.

Sewage means the sanitary wastewater from residences, buildings, industrial establishments or other places, together with such industrial wastes and other water that may be present.

Storm sewer system means all facilities, conveyances, structures and other items located within the town and owned or operated by the town which are designed or used for collecting, storing, treating or conveying stormwater. These include, but are not limited to, catchbasins, drop inlets, curbs, gutters, ditches, pipes, ponds, manmade channels, storm drains, retention basins, detention basins and infiltration basins and other facilities.

Stormwater means precipitation that is discharged across the land surface or through conveyances to one or more waterways and that may include stormwater runoff, snow melt runoff and surface runoff and drainage.

Town means the Town of Christiansburg, Virginia.

Town manager means the town manager of the town, or his designee.

Virginia Pollution Discharge Elimination System (VPDES) means the program issued by the commonwealth of the state for imposing and enforcing pretreatment requirements pursuant to the CWA.

(Code 1992, § 10-62; Ord. No. 2007-5, 11-6-2007)

Sec. 16-109. Prohibited discharges or connections to the storm sewer system.

(a) It shall be unlawful and a violation of this article to do any of the following, except as may be allowed in subsection (b) of this section:

(1) Cause or allow any illicit discharges, including, but not limited to, the discharge of sewage, gray water, industrial wastes or other wastes into the storm sewer system, or any component thereof, or onto driveways, sidewalks, parking lots or any other areas draining to the storm sewer system.

(2) Connect, or cause or allow to be connected, any sanitary sewer to the storm sewer system, including any unauthorized sanitary sewer connected to the storm sewer system as of the date of the adoption of this article.

(3) Connect, or cause or allow to be connected, to the storm sewer system, without a valid VPDES or NPDES permit, or unless otherwise authorized by law, any structure that conveys any liquid or items other than stormwater or those discharges listed in subsection (b) of this section. Such illicit connections include, but are not limited to, pipes, drains, sanitary sewer lines, washing machine drains or floor drains.

(4) Discharge any materials or items other than stormwater to the storm sewer system by spill, dumping or disposal of any type without a valid federal and/or state permit, or unless otherwise authorized by law.

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(5) Throw, place or deposit, or cause to be thrown, placed or deposited, in the storm sewer system anything that impedes or interferes with the free flow of stormwater therein.

(6) Failure by any property owner to notify the town manger of an illicit connection on, or from, such owner's property to the town's storm sewer system.

(7) Violate any condition or provision of this article or any permit granted for stormwater discharges.

(8) To enter in any stormwater retention pond, storm sewer or drain, except that this shall not apply to any town personnel or others authorized to perform work in such areas.

(b) Subject to the provisions of subsection (c) of this section, the following activities shall not be unlawful or a violation of this article:

(1) Water line flushing;

(2) Landscape irrigation;

(3) Diverted stream flows or rising groundwater;

(4) Infiltration of uncontaminated groundwater;

(5) Pumping of uncontaminated groundwater;

(6) Discharge from potable water sources, foundation drains, irrigation water, springs, water from crawl spaces or footing drains;

(7) Air conditioning condensation;

(8) Lawn watering and maintenance with landscaping chemicals in accordance with the manufacturer's recommendations;

(9) Residential car washing;

(10) Dechlorinated swimming pool discharge;

(11) Street, right-of-way and storm system construction/maintenance activities employing BMPs;

(12) Discharge or flows from emergency firefighting activities and emergency response activities employing BMPs; or

(13) Any activity authorized by a valid Virginia Stormwater Program permit (VSMP), a valid VPDES or NPDES permit or a valid Virginia Pollution Abatement (VPA) permit, or as may be otherwise permitted by law.

(c) In the event any of the activities listed in subsection (b) of this section are found to cause pollutants to be discharged into the storm sewer system, the building official shall so notify the person performing such activities, and shall order that such activities cease or be conducted in such a manner as to avoid the discharge of pollutants into the storm sewer system. The failure to comply with any such order shall constitute a violation of the provisions of this article.

(Code 1992, § 10-63; Ord. No. 2007-5, 11-6-2007)

Sec. 16-110. Inspections and monitoring.

(a) The building official shall have the authority to carry out inspections of buildings, vessels and other storage structures. The town manager shall have the authority to carry out all other inspections and monitoring procedures necessary to determine compliance and/or noncompliance with this article. The town manager shall have the authority to determine compliance or noncompliance and to enforce this article, including the prohibition of illicit discharges to the storm sewer system. The town manager may monitor stormwater outfalls or other components of

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the storm sewer system, as may be appropriate in the administration and enforcement of this article.

(b) The town manager shall have the authority to require a stormwater pollution prevention plan from any person whose discharges cause, or may cause, a violation of the town's (VSMP) permit or any other permit required of the town relating to stormwater discharges.

(c) The building official, town manager and/or duly authorized employees, agents or representatives of the town shall be authorized to enter any public or private property at any reasonable time for the purpose of enforcing this article, including, but not limited to, taking samples of discharges, inspecting monitoring equipment, inspecting and copying documents relevant to the enforcement of this article and such other items as may be deemed necessary for the enforcement of this article.

(d) The town manager shall have the authority to require any person responsible for a discharge to the storm sewer system to document that such discharge meets, and is in compliance with, the requirements of this article. This includes, but is not limited to, the ability of the town manager to require such person to provide monitoring reports, test results to show that the discharge meets the requirements of this article and such other matters as may be deemed necessary to show that such discharge is in compliance with the requirements of this article. The cost of any required documentation shall be the responsibility of the person responsible for the discharge.

(e) The failure of any person to comply with any of the requirements of this section shall constitute a violation of this article.

(Code 1992, § 10-64; Ord. No. 2007-5, 11-6-2007)

Sec. 16-111. Enforcement of article and penalties.

(a) Any person who violates any of the provisions of this article shall be guilty of a Class 1 misdemeanor~~ and upon conviction is subject to punishment by a fine of not more than two~~ [97]~~thousand five hundred dollars ($2,500.00) per violation per day and confinement in jail for not more than twelve (12) months, either or both~~.

(b) Each day during which a violation of this article occurs or continues shall be deemed a separate and distinct violation of this article.

(c) Any person who commits any of the acts prohibited by this article or violates any of the provisions of this article, shall be liable to the town for all costs of testing, containment, cleanup, abatement, removal, disposal and any other related costs or expenses that the town may incur in connection with the enforcement of this article and/or the prohibition and/or correction of a violation of this article and/or the abatement of any illicit discharge to the storm sewer system.

(d) The town may bring legal action to enjoin a violation of this article and the existence of any other remedy shall be no defense to any such action.

(e) In addition to any of the remedies set forth above, the town may seek to impose, or have imposed by the appropriate authority, any of the remedies provided ~~for~~ by Code of Virginia, § 10.1-603.14, as amended, which are incorporated herein by reference.

(f) In any court action that may result from enforcement of this article, a judge hearing the case may direct the person responsible for the violation or the property owner to correct the violation and each day that the violation continues shall constitute a separate violation of this article.

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[97] Change to class 1 misdemeanor punishable as provided in chapter 1 general penalty? changed.

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(g) Any person who knowingly makes any false statements, representations or certifications in any record, report or other document, either filed or requested pursuant to this article, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required or used by the town under this article in monitoring discharges, shall be guilty of a violation of this article.

(h) The remedies set forth in this article shall be cumulative, not exclusive, and it shall be no defense to any action that one or more of the remedies set forth in this article has been sought or granted.

(Code 1992, § 10-65; Ord. No. 2007-5, 11-6-2007)

Sec. 16-112. Compliance with other laws and regulations.

This article supplements the provisions of other federal, state and town laws, codes, ordinances, rules and regulations and all applicable federal, state and town laws, codes, ordinances, rules and regulations shall be complied with as well as the provisions of this article.

(Code 1992, § 10-66; Ord. No. 2007-5, 11-6-2007)

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Chapter 17

RESERVED

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Chapter ~~11~~ 18

FINANCE AND TAXATION*

***Charter reference**—Management of fiscal affairs, § 2.25; taxes and finances, §§ 2.27, 3.01 et seq.; powers of the Treasurer, § 2.29.

~~**Cross reference**—Administration, ch. 2; advertising, ch. 3; alcoholic beverages, ch. 4; buildings, ch. 9; licenses generally, ch. 15; procurement, ch. 20.~~

State law reference—Local taxes, Code of Virginia, § 58.1-2900 et seq.

~~Article I. In General~~

~~Sec. 11-1. Tax year.~~

~~Sec. 11-2. Approval of bills and accounts.~~

~~Sec. 11-3. Tax on real estate, tangible personal property, machinery and tools.~~

~~Sec. 11-4. Purpose; definitions; relation to other ordinances for personal property tax relief.~~

~~Sec. 11-5. Method of computing and reflecting personal property tax relief.~~

~~Sec. 11-6. Allocation of relief among personal property taxpayers.~~

~~Sec. 11-7. Transitional provisions for personal property tax relief.~~

~~Sec. 11-8. Bank franchise tax--Generally.~~

~~Sec. 11-9. Same--Penalty upon bank for failure to comply.~~

~~Sec. 11-10. Exemptions from personal property tax.~~

~~Secs. 11-11--11-25. Reserved.~~

~~Article II. Deposits and Disbursements~~

~~Sec. 11-26. Designation of depositories.~~

~~Sec. 11-27. Authority of Treasurer.~~

~~Sec. 11-28. Authority of Mayor.~~

~~Sec. 11-29. Report of disbursements.~~

~~Secs. 11-30--11-45. Reserved.~~

~~Article III. Utility Tax~~

~~Sec. 11-46. Definitions.~~

~~Sec. 11-47. Collection--Duties of Treasurer.~~

~~Sec. 11-48. Records.~~

~~Sec. 11-49. Telephone Utility Consumer Tax.~~

~~Sec. 11-50. Electric Utility Consumer Tax.~~

~~Sec. 11-51. Local Natural Gas Utility Consumer Tax.~~

~~Secs. 11-52--11-70. Reserved.~~

~~Article IV. Special Assessment for Land Preservation~~

~~Sec. 11-71. Finding; land use plan; taxation of certain land.~~

~~Sec. 11-72. Application by owner.~~

~~Sec. 11-73. Qualification of property.~~

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~~Sec. 11-74. Use value, fair market value; effect.~~
~~Sec. 11-75. Change to nonqualifying use.~~
~~Sec. 11-76. Roll-back taxes generally; misstatements.~~
~~Sec. 11-77. Applicability of law.~~
~~Secs. 11-78--11-95. Reserved.~~

~~Article V. Transient Lodging Tax~~

~~Sec. 11-96. Definitions.~~
~~Sec. 11-97. Tax imposed; amount.~~
~~Sec. 11-98. Collection from transients; when payable.~~
~~Sec. 11-99. Report of collection and remittance of tax.~~
~~Sec. 11-100. Discount.~~
~~Sec. 11-101. Penalty and interest for nonremittance.~~
~~Sec. 11-102. Failure to collect and report tax.~~
~~Sec. 11-103. Records; inspection by Treasurer.~~
~~Sec. 11-104. Cessation of business; tax due immediately.~~
~~Sec. 11-105. Exceptions for governmental employees on official business.~~
~~Sec. 11-106. Exceptions for transients at places of lodging at public institutions.~~
~~Sec. 11-107. Violations; how punishable.~~
~~Secs. 11-108--11-125. Reserved.~~

~~Article VI. Meals Tax~~

~~Sec. 11-126. Definitions.~~
~~Sec. 11-127. Levy.~~
~~Sec. 11-128. Collection of tax by seller.~~
~~Sec. 11-129. Discount.~~
~~Sec. 11-130. Penalty and interest.~~
~~Sec. 11-131. Exemptions; limits on application.~~
~~Sec. 11-132. Duty of person going out of business.~~
~~Sec. 11-133. Advertising payment or absorption of tax prohibited.~~
~~Sec. 11-134. Gratuities and service charges.~~
~~Sec. 11-135. Enforcement.~~
~~Sec. 11-136. Report of taxes collected; remittance; preservation of records.~~
~~Sec. 11-137. Procedure when tax not reported or collected.~~
~~Sec. 11-138. Penalty for violation of article.~~
~~Secs. 11-139--11-160. Reserved.~~

~~Article VII. E-911 Emergency Telephone System Tax on Purchases~~

~~Sec. 11-161. Definitions.~~

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~~Sec. 11-162. Levy of tax.~~

~~Sec. 11-163. Collection; duties of seller.~~

~~Sec. 11-164. Records.~~

~~Sec. 11-165. Exemptions.~~

~~Sec. 11-166. Discount.~~

~~Sec. 11-167. Penalty.~~

~~Sec. 11-168 – 11-185. Reserved.~~

~~Article VIII. Tax Exemptions and Deferrals for the Elderly and Totally Disabled~~

~~Sec. 11-186. Purpose.~~

~~Sec. 11-187. Definitions.~~

~~Sec. 11-188. Eligibility determination.~~

~~Sec. 11-189. Restrictions and conditions.~~

~~Sec. 11-190. Period of exemption.~~

~~Sec. 11-191. Exemption rate.~~

~~Sec. 11-192. Limitations and recapture of deferred taxes.~~

~~Sec. 11-193. Duties of Treasurer.~~

~~Sec. 11-194 – 11-210. Reserved.~~

~~Article XI. Cigarette Tax~~

~~Sec. 11-211. Definitions.~~

~~Sec. 11-212. General powers of the Treasurer under the ordinance.~~

~~Sec. 11-213. Levied; amount.~~

~~Sec. 11-214. Method of payment; appointment of agents to affix stamps.~~

~~Sec. 11-215. Preparation and sale of stamps generally.~~

~~Sec. 11-216. General duties of dealers, agents and sellers with respect to stamps.~~

~~Sec. 11-217. Visibility of stamps or meter markings.~~

~~Sec. 11-218. Cancellation of stamps.~~

~~Sec. 11-219. Redemption of stamps; refund for destroyed stamps.~~

~~Sec. 11-220. Dealer's and seller's records generally.~~

~~Sec. 11-221. Examination of books, records, etc.~~

~~Sec. 11-222. Seizure of unstamped cigarettes.~~

~~Sec. 11-223. Administration of oaths, examination of witnesses, etc., for enforcement of ordinance.~~

~~Sec. 11-224. Remedies.~~

~~Sec. 11-225. Criminal penalties.~~

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ARTICLE I. IN GENERAL

[98]Sec. 18-1. Tax year.

The tax year of the town shall begin on January 1 of each year and end on December 31 of each year.

(Code 1972, § 11-1; Code 1992, § 11-1)

State law reference—Tax year defined, Code of Virginia, § 58.1-1.

[99]Sec. 18-2. Approval of bills and accounts.

No bill or account shall be allowed or paid by the council unless the same shall be approved by the majority of those present.

(Code 1972, § 11-2; Code 1992, § 11-2)

Secs. 18-3--18-22. Reserved.

ARTICLE II. PROPERTY TAX

DIVISION 1. GENERALLY

Sec. 18-23. Tax on real estate, tangible personal property, machinery and tools.

(a) Every person owning real estate, tangible personal property or machinery and tools shall pay a tax which shall be set by the town council annually with the adoption of the budget, on real estate, tangible property and machinery and tools.

(b) Real estate, tangible personal property and machinery and tools taxes are due December 5 of each year, and if not paid on or before December 5 of each year, a penalty of ten percent is added. On all taxes remaining unpaid on January 1 of the following year, interest at the rate of ten percent per annum is charged from January 1 until the time of payment.

(Code 1972, § 18-19; Code 1992, § 11-3)

State law reference—Annual tax levies, Code of Virginia, § 58.1-3005; town may levy tax on fiscal year basis, Code of Virginia, §§ 58.1-3010, 58.1-3011.

Secs. 18-24--18-49. Reserved.

DIVISION 2. PERSONAL PROPERTY TAX

State law reference—Personal property tax relief act, Code of Virginia, § 58.1-3523 et seq.

Sec. 18-50. Purpose; definitions; relation to other ordinances of personal property tax relief.

(a) The purpose of this division is to provide for the implementation of the changes to the Personal Property Tax Relief Act ("PPTRA") affected by legislation adopted during the 2004 special session I and the 2005 regular session of the general assembly of the state.

(b) Terms used in this division that have defined meanings set forth in PPTRA shall have the same meanings as set forth in Code of Virginia, § 58.1-3523, as amended.

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[98] Code of Virginia, § 58.1-1 defines the tax year for property tax assessment and other purposes, but the due dates and tax year of the various other taxes levied by the town are not January 1. Delete as covered in state law. The town has adopted the July 1 tax year in section 11-3 pursuant to Code of Virginia, § 58.1-3011.No, it is correct - leave as is.

[99] Does the town council still approve all bills, etc. other than adoption of the budget Yes and they also adopt the budget.

PROOFS

(c) To the extent that the provisions of this division conflict with any prior Ordinance or provision of the town code, this division shall control.

(Code 1992, § 11-4; Ord. No. 2005-5, 12-6-2005)

Sec. 18-51. Method of computing and reflecting personal property tax relief.

(a) For tax years commencing in 2006, the town adopts the provisions of Item 503.E of the 2005 Appropriations Act, providing for the computation of tax relief as a specific dollar amount to be offset against the total taxes that would otherwise be due but for the personal property tax relief act (PPTRA) and the reporting of such specific dollar relief on the tax bill.

(b) Town council shall, by resolution, set the percentage of tax relief at such a level that it is anticipated fully to exhaust PPTRA relief funds provided to the town by the commonwealth. Any amount of PPTRA relief not used within the town's fiscal year shall be carried forward and used to increase the funds available for personal property tax relief in the following fiscal year.

(c) Personal property tax bills shall set forth on their face the specific dollar amount of relief credited with respect to each qualifying vehicle, together with an explanation of the general manner in which relief is allocated.

(Code 1992, § 11-5; Ord. No. 2005-5, 12-6-2005)

Sec. 18-52. Allocation of relief among personal property taxpayers.

(a) Allocation of the personal property tax relief act (PPTRA) relief shall be provided in accordance with the general provisions of this section, as implemented by the specific provisions of the town's annual resolution relating to PPTRA relief.

(b) Relief shall be allocated in such a manner as to eliminate personal property taxation of each qualifying vehicle with an assessed value of $1,000.00 or less.

(c) Relief with respect to qualifying vehicles with assessed values of more than $1,000.00 shall be provided at a percentage, annually fixed by town resolution and applied to the first $20,000.00 in value of each such qualifying vehicle, that is estimated fully to use all available state PPTRA relief.

(Code 1992, § 11-6; Ord. No. 2005-5, 12-6-2005)

[100]**Sec. 18-53. Transitional provisions for personal property tax relief.**

(a) Pursuant to authority conferred in Item 503.D of the 2005 Appropriations Act, the town treasurer is authorized to issue a supplemental personal property tax bill, in the amount of 100 percent of tax due without regard to any former entitlement to state PPTRA relief, plus applicable penalties and interest, to any taxpayer whose taxes, with respect to a qualifying vehicle for tax year 2005 or any prior tax year, remain unpaid on September 1, 2006, or such date as state funds for reimbursement of the state share of such bill have become unavailable, whichever earlier occurs.

(b) Penalty and interest with respect to bills issued pursuant to subsection (a) of this section shall be computed on the entire amount of tax owed. Interest shall be computed at the rate provided in section 18-23 ~~of this Code of the town~~ from the original due date of the tax.

(Code 1992, § 11-7; Ord. No. 2005-5, 12-6-2005)

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[100] Delete this section on the personal property tax relief reimbursement for 2005? No.

PROOFS

Sec. 18-54. Exemptions from personal property tax.

Antique motor vehicles, as defined in Code of Virginia, § 46.2-100, which may not be used for general transportation purposes, are exempted from personal property taxation.

(Code 1992, § 11-10; Ord. No. 2005-6, 12-20-2005)

Secs. 18-55--18-81. Reserved.

ARTICLE III. BANK FRANCHISE TAX

State law reference—Bank franchise tax, Code of Virginia, § 58.1-1200.

Sec. 18-82. ~~Bank franchise tax—generally~~ Levied.

(a) On each bank located within the corporate limits of the town, there shall be a tax of 80 percent of the state rate of taxation on each $100.00 of net capital.

(b) On any bank maintaining a branch within the corporate limits of the town which also has offices outside the corporate limits, the tax imposed in this section on such branch shall be upon such proportion of the taxable net capital as the deposits through the branch so located within the corporate limits bear to the total deposits of the bank as of the end of the preceding year.

(c) Every bank, on or before June 1 of each year, shall pay to the town treasurer all taxes as shall be due under this section.

(Code 1972, § 18-21; Code 1992, § 11-8; Ord. No. 2005-5, § 11-14, 12-6-2005)

State law reference—Town bank franchise tax, Code of Virginia, § 58.1-1209; tax on branch banks, Code of Virginia, § 58.1-1211.

Sec. 18-83. ~~Same~~—Penalty upon bank for failure to comply.

Any bank which fails to file a return or pay the tax required by section 18-82, or fails to comply with any other provision of such section, shall be subject to a penalty of five percent of the tax due. If the town treasurer is satisfied that such failure is due to providential or other good cause, such return and payment of tax shall be accepted exclusive of such penalty, but with interest determined in accordance with Code of Virginia, § 58.1-15.

(Code 1992, § 11-9; Ord. of 1-5-1993; Ord. No. 2005-5, § 11-5, 12-6-2005)

State law reference—Penalty, Code of Virginia, § 58.1-1216.

Secs. 18-84--18-109. Reserved.

ARTICLE ~~II~~ IV. DEPOSITS AND DISBURSEMENTS*

***State law reference**—Security for public deposits, Code of Virginia, § ~~2.1-359~~ 2.2-4400 et seq.

Sec. 18-110. Designation of depositories.

A local bank, or banks, as designated by the council, will be the sole depositories for all money or funds of the town and all money or funds handled by the town.

(Code 1972, § 11-3; Code 1992, § 11-26)

State law reference—Town funds to be deposited in qualified depositories, Code of Virginia, § 2.2-4407.

[101]**Sec. 18-111. Authority of treasurer, signatories and issuance of checks.**

The town treasurer is authorized to issue, from time to time, upon the bank accounts of the town ~~voucher warrants or voucher~~ checks in the name of the town, signed by the treasurer or

[101] Is this section correct? See corrections, ask Council.

PROOFS

assistant town treasurer and countersigned by the town manager, or assistant town manager or other counter signers as approved by town council, in payment of regularly recurring expenses such as salaries and wages of employees, payments to sinking funds, social security, group insurance, rents, lights, telephone expenses, freight, postage and sundry incidentals as well as payments to avoid penalties or to take advantage of discounts, and to make such other disbursements as are first authorized by the council.

(Code 1972, § 11-4; Code 1992, § 11-27)

[102]Sec. 18-112. Authority of mayor and vice-mayor.

The mayor and vice-mayor are ~~is~~ authorized to countersign ~~voucher warrants and voucher~~ checks of the town in the event of the absence or inability to act of the town manager, assistant town manager, town treasurer or assistant town treasurer.

(Code 1972, § 11-5; Code 1992, § 11-28)

[103]Sec. 18-113. Report of disbursements.

The town treasurer shall ~~make to~~ prepare, for the council, a monthly report of all disbursements.

(Code 1972, § 11-6; Code 1992, § 11-29)

Secs. 18-114--18-139. Reserved.

ARTICLE ~~III~~ V. UTILITY TAX*

~~***Cross reference**—Public utilities, ch. 21.~~

***State law reference**—Consumer utility taxes, Code of Virginia, § 58.1-3814 et seq.

Sec. 18-140. Definitions.

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

CCF means the volume of gas at standard pressure and temperature in units of 100 cubic feet.

Commercial or industrial service means any utility service furnished by the owner or tenant of property used for commercial or industrial purposes, including the owner of master metered apartment buildings who pays for such utility service for such property.

Consumer means every person who, individually or through agents, employees, officers, representatives or permitees, makes a taxable purchase of telephone, electricity or natural gas services in the town.

Gas utility means a public utility authorized to furnish natural gas service in the state.

Kilowatt hours (kWh) delivered means 1000 watts of electricity delivered in a one-hour period by an electric provider to an actual consumer, except that in the case of eligible customer-generators (sometimes called co-generators), as defined in Code of Virginia, § 56-594, it means kWh supplied from the electric grid to such customer-generators, minus the kWh generated and fed back to the electric grid by such customer-generators.

Person means any individual, corporation, company or other entity.

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[102] Is this section correct? See corrections.
[103] Is this section correct? Yes.

PROOFS

Pipeline distribution company means a person, other than a pipeline transmission company, which transmits, by means of a pipeline, natural gas, manufactured gas or crude petroleum and the products or byproducts thereof to a purchaser for purposes of furnishing heat or light.

Residential consumer means the owner or tenant of property used primarily for residential purposes, including, but not limited to, apartment houses and other multiple-family dwellings.

Service provider means a person who delivers telephone service to a consumer, or a person who delivers electricity to a consumer, or a gas utility or pipeline distribution company which delivers natural gas to a consumer.

Used primarily relates to the larger portion of the use for which electric or natural gas utility service is furnished.

Utility services means local telephone service, electric service and gas service, excluding bottled or liquid gas service, whether generally termed a utility service or not, furnished in the corporate limits of the town.

(Code 1972, § 11-7; Code 1992, § 11-46; Ord. No. 2000-6, 9-19-2000)

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

Sec. 18-141. Collection duties of treasurer.

The town treasurer shall be charged with the power and duty of collecting the taxes levied and imposed hereunder and shall cause the same to be paid into the treasury of the town.

(Code 1972, § 11-10; Code 1992, § 11-47; Ord. No. 2000-6, § 11-49, 9-19-2000)

Sec. 18-142. Records.

Each and every service provider shall keep complete records showing all purchases in the town, which records shall show the price charged against each consumer with respect to each purchase, the date thereof and the date of payment thereof and the amount of tax imposed hereunder; and such record shall be kept open for inspection by the duly authorized agents of the town during regular business hours and the duly authorized agents of the town shall have the right, power and authority to make such transcripts thereof during such time.

(Code 1972, § 11-11; Code 1992, § 11-48; Ord. No. 2000-6, § 11-50, 9-19-2000)

~~[104]**Sec. 11-49. Telephone utility consumer tax.**~~

~~A. Levied; rate. There is hereby imposed and levied by the Town upon each and every consumer of telephone utility service a tax in the amount of twenty percent of the charge, effective May 1, 1993, exclusive of any federal tax thereon, made by the service provider against the consumer with respect to each telephone utility service, which tax in every case shall be collected by the service provider from the consumer and shall be paid by the consumer to the service provider for the use of the Town at the time the purchase price or such charge shall become due and payable under the agreement between the consumer and the service provider.~~

~~Provided, that in case any monthly bill submitted by any service provider for residential telephone utility service shall exceed $10.00 for a residential consumer, there shall be no tax computed on so much of such bill as shall exceed $10.00; in case any monthly bill submitted by any service provider for a commercial or industrial consumer of telephone utility service shall exceed $100.00, there shall be no tax computed on so much of such bill as shall exceed $100.00. In case a bill is submitted by the service provider for purchases made by the consumer during periods of~~

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[104] Code of Virginia, § 58.1-3812 which authorized this tax was repealed in 2006. Is the city still collecting this tax? Delete.

PROOFS

~~greater than one month, then the amount of such bill subject to taxation hereunder shall be the amount in which a bill for the subject utility would be taxed in a single month multiplied by the number of months for which such bill is submitted.~~

~~B. Collection--Duties of service provider. It shall be the duty of every service provider in acting as the tax collecting medium or agency for the Town to collect from the consumer for the use of the Town the tax imposed and levied by this article at the time of collecting the purchase price charged therefor. The taxes collected during each calendar month shall be reported by each service provider to the Town Treasurer, and each service provider shall remit the amount of tax shown by such report to have been collected to the Town Treasurer on or before the last day of the second calendar month thereafter, together with the name and address of any consumer who has refused to pay his tax. The required reports shall be in the form prescribed by the Town Treasurer.~~

~~C. Applicability to pay phones. The tax hereby imposed and levied on purchasers with respect to local exchange telephone service shall apply to all charges made for local exchange telephone service, except local calls or messages which are paid for by inserting coins in coin-operated telephones.~~

~~D. Exemptions. The United States, the State and the political subdivisions, boards, commissions and authorities thereof as well as churches are hereby exempt from the payment of the tax imposed and levied by this article with respect to the purchase of utility services used by such governmental agencies.~~

~~E. Mobile local telecommunication service.~~

~~*[Levied; definitions.]* There is hereby imposed and levied by the Town a tax equal to ten percent of the monthly gross charge to a consumer of mobile local telecommunication, which shall not be applicable to any amount so charged in excess of $30.00 per month for each mobile service consumer. For the purposes of this section, the following words and phrases shall have the meanings [ascribed to them below] and be governed by the following:~~

~~*Affiliated group* shall have the same meaning ascribed to it in § 58.1-3703 B 10 of the Code of Virginia, except, for purposes of this section, the word "entity" shall be substituted for the word "corporation" whenever it is used in that section.~~

~~*Bad debt* means any portion of a debt related to a sale of local telecommunication services, the gross charges for which are not otherwise deductible or excludable, that has become worthless or uncollectible, as determined under applicable federal income tax standards. If the portion of the debt deemed to be bad is subsequently paid, the service provider shall report and pay the tax on that portion during the reporting period in which the payment is made.~~

~~*Consumer* means a person who, individually or through agents, employees, officers, representatives, or permittees, makes a taxable purchase of local telecommunication services.~~

~~*Enhanced services* means services that employ computer processing applications to act on the format, code, or protocol or similar aspects of the information transmitted; provide additional, different, or restructured information; or involve interaction with stored information.~~

~~*Gross charges* means, subject to the exclusions of this section, the amount charged or paid for the taxable purchase of local telecommunication services; however, "gross charges" shall not include the following:~~

PROOFS

- ~~Charges or amounts paid that vary based on the distance and/or elapsed transmission time of the communication that are separately stated on the consumer's bill or invoice.~~
- ~~Charges or amounts paid for customer equipment, including such equipment that is leased or rented by the customer from any source, if such charges or amounts paid are separately identifiable from other amounts charged or paid for the provision of local telecommunication services on the service provider's books and records.~~
- ~~Charges or amounts paid for administrative services, including, without limitation, service connection and reconnection, late payments, and roamer daily surcharges.~~
- ~~Charges or amounts paid for special features that are not subject to taxation under Section 4251 of the Internal Revenue Code of 1986, as amended.~~
- ~~Charges or amounts paid that are the tax imposed by Section 4251 of the Internal Revenue Code of 1986, as amended, or any other tax or surcharge imposed by statute, ordinance or regulatory authority.~~
- ~~Bad debts.~~

~~*Mobile local telecommunication service* means any two-way mobile or portable local telecommunication service, including cellular mobile radio telecommunication service and specialized mobile radio.~~

~~*Mobile service consumer* means a person having a telephone number for mobile local telecommunication service who has made a taxable purchase of such service or on whose behalf another person has made a taxable purchase of such service.~~

~~*Mobile service provider* means every person engaged in the business of selling mobile local telecommunication services to consumers.~~

~~*Public safety agency* means a functional division of a public agency which provides firefighting, police, medical, or other emergency services or a private entity which provides such services on a voluntary basis.~~

~~*Service address* means the location of the subscriber's primary use of the telecommunication equipment within the licensed service area. A mobile service provider may obtain a signed statement from a consumer indicating which county, city or town within the licensed service area is the location of the consumer's primary use of the telecommunication equipment. A mobile service provider shall be entitled to rely absolutely on a consumer's signed statement and shall remit the taxes collected to the Town if the location of the consumer's primary use of the telecommunication equipment is identified by the consumer as located in the Town. In the absence of a signed statement by a consumer, a mobile service provider shall determine if the Town is the location of the consumer's primary use and shall remit the tax to the Town based on any other reasonable method, including, without limitation, the consumer's billing address, service address, or telephone number within the licensed service area.~~

~~*Service provider* means every person engaged in the business of selling local telecommunication services to consumers.~~

~~*Taxable purchase* means the acquisition of telecommunication services for consumption or use; however, "taxable purchase" does not include the provision of telecommunications among members of an affiliated group of entities by a member of the group for their own exclusive use and consumption and the purchase of telecommunications for resale in the subsequent provision telecommunications,~~

PROOFS

~~including, without limitation, carrier access charges, right of access charges, and charges for use of intercompany facilities; however, the acquisition of telecommunications by a provider of enhanced services is not the purchase of telecommunications for resale, even when the cost of the telecommunications is separately stated to the purchaser of the enhanced services, as long as the primary object of the purchase of the telecommunications by the provider is for the provision of enhanced services and not telecommunications. A person may make tax-free purchases of telecommunications for resale if the person provides to the service provider a sworn affidavit indicating that the person's purchases are nontaxable sales for resale.~~

~~*[Collection.]* A service provider of local telecommunication services shall collect the tax from the consumer by adding the tax to the monthly gross charge for such services. The tax shall, when collected, be stated as a distinct item separate and apart from the monthly gross charge. Until the consumer pays the tax to the service provider, the tax shall constitute a debt of the consumer to the Town. If any consumer refuses to pay the tax, the service provider shall notify the Town. After the consumer pays the tax to the service provider, the taxes collected shall be deemed to be held in trust by the service provider until remitted to the Town.~~

~~*[Remittance.]* A service provider shall remit monthly to the Town the amount of tax billed during the preceding month to consumers with a service address in the Town.~~

~~*Exemptions.* There is exempted from the operation hereof any public safety agency, as defined herein, and the United States, the State and the political subdivisions, boards, commissions and authorities thereof, as well as churches, are hereby exempt from the payment of the tax imposed and levied by this section with respect to the purchase of utility services used by such governmental agencies.~~

~~(Code 1972, § 11-12--11-13; Code 1992, § 11-49; Ord. of 4-18-95; Ord. No. 2000-6, § 11-51--11-53, 9-19-2000)~~

Sec. 18-143. Electric utility consumer tax.

(a) *Levied; rate.* In accordance with Code of Virginia, § 58.1-3814, [105]~~effective January 1, 2001,~~ there is hereby imposed and levied a monthly tax on each purchase of electricity delivered to consumers by a service provider, classified as determined by such provider, as follows:

(1) *Residential consumers.* Such tax shall be $0.00 plus the rate of $0.01490 on each kWh delivered monthly to residential consumers by a service provider not to exceed $2.00 monthly.

(2) *Non-residential consumers.* Such tax on non-residential consumers shall be at the rates per month for the classes of non-residential consumers as set forth in subsections (3) and (4) of this subsection.

(3) *Commercial consumers.* Such tax shall be $0.00 plus the rate of $0.01250 on each kWh delivered monthly to commercial consumers, not to exceed $20.00 monthly.

(4) *Industrial consumers.* Such tax shall be $0.00 plus the rate of $0.01250 on each kWh delivered monthly to industrial consumers, not to exceed $20.00 monthly.

The conversion of tax pursuant to this article to monthly kWh delivered shall not be effective before the first meter reading after December 31, 2000, prior to which time the tax previously imposed by this jurisdiction shall be in effect.

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[105] Delete effective date? Yes.

PROOFS

(b) *Exemptions.* The following consumers of electricity are exempt from the tax imposed by this section:

(1) Any ~~public safety agency as defined in Code of Virginia § 58.1-3813~~ public safety answering point which is defined in Code of Virginia, § 56-484.19.

(2) Any church or religious body entitled to exemption pursuant to article 4 of chapter 36 of title 58.1 of the Code of Virginia (Code of Virginia, § 58.1-3650 et seq.).

(3) The United States of America, the commonwealth and the political subdivisions thereof, including this jurisdiction.

(c) *Billing, collection and remittance of tax.* The service provider shall bill the electricity consumer tax to all users who are subject to the tax and to whom it delivers electricity and shall remit the same to this jurisdiction on a monthly basis. Such taxes shall be paid by the service provider to this jurisdiction in accordance with Code of Virginia, § 58.1-3814~~, paragraphs~~ (F. and G.), and Code of Virginia, § 58.1-2901. If any consumer receives and pays for electricity but refuses to pay the tax imposed by this section, the service provider shall notify this jurisdiction of the name and address of such consumer. If any consumer fails to pay a bill issued by a service provider, including the tax imposed by this section, the service provider must follow its normal collection procedures and upon collection of the bill or any part thereof must apportion the net amount collected between the charge for electric service and the tax and remit the tax portion to this jurisdiction. Any tax paid by the consumer to the service provider shall be deemed to be held in trust by such provider until remitted to this jurisdiction.

(d) *Computation of bills not on monthly basis.* Bills shall be considered as monthly bills for the purposes of this article if submitted 12 times per year of approximately one month each. Accordingly, the tax for a bimonthly bills (approximately 60 days) shall be determined as follows:

(1) The kWh will be divided by 2;

(2) A monthly tax will be calculated using the rates set forth above;

(3) The tax determined by subsection (d)(2) of this section shall be multiplied by 2;

(4) The tax in subsection d(3) of this section may not exceed twice the monthly maximum tax.

(Code 1992, § 11-50; Ord. No. 2000-6, §§ 11-47, 11-48, 11-52, 9-19-2000)

State law reference—Consumer utility tax authorized, Code of Virginia, § 58.3814; authority to exempt entities pursuant to Art. X, § 6(a)(2) or Art. X § 6(a)(6) of the Virginia Constitution, Code of Virginia, § 58.1-3816.2.

Sec. 18-144. Local natural gas utility consumer tax.

(a) *Levied rate.* In accordance with Code of Virginia, § 58.1-3814, there is hereby imposed and levied a monthly tax on each purchase of natural gas delivered to consumers by pipeline distribution companies and gas utilities classified by class of consumers, as such term is defined in Code of Virginia, § 58.1-3814J, as follows:

(1) *Residential consumers.* Such tax on residential consumers of natural gas shall be $0.00 plus the rate of $0.0946 on CCF delivered monthly to residential consumers, not to exceed [106]$2.00 per month.

[106] Code of Virginia, § 58.1-3814 K states it may not exceed $3 per month. Thanks, we may change in the future.

PROOFS

(2) *Non-residential consumers.* Such tax on non-residential consumers shall be at the rates per month shown for each CCF delivered by a pipeline distribution company or a gas utility for the classes as set forth in subsections (3) and (4) of this subsection:

(3) *Commercial consumers.* Such tax shall be $0.00 plus the rate of $0.0766 on each CCF delivered monthly to commercial consumers, not to exceed $20.00 monthly.

(4) *Industrial consumers.* Such tax shall be $0.00 plus the rate of $0.0225 on each CCF delivered monthly to industrial consumers, not to exceed $20.00 monthly.

~~[107]The conversion of tax pursuant to this ordinance to monthly CCF delivered shall not be effective before the first meter reading after December 31, 2000, prior to which time the tax previously imposed by this jurisdiction shall be in effect.~~

(b) *Exemptions.* The following consumers of natural gas shall be exempt from the tax imposed by this section:

(1) Any ~~public safety agency as defined in Code of Virginia § 58.1-3813~~ public safety answering point which is defined in Code of Virginia, § 56-484.19.

(2) Any church or religious body entitled to exemption pursuant to ~~Article 4 of Chapter 36 of Title 58.1 of the~~ Code of Virginia, § 58.1-3650 et seq.

(3) The United States of America, the commonwealth and the political subdivisions thereof, including this jurisdiction.

(c) *Billing, collection and remittance of tax.* The service provider shall bill the natural gas consumer tax to all users who are subject to the tax and to whom it delivers natural gas and shall remit the same to this jurisdiction on a monthly basis. Such taxes shall be paid by the service provider to this jurisdiction in accordance with Code of Virginia § 58.1-3814~~, paragraphs~~ (H. and I.), and Code of Virginia, § 58.1-2901. If any consumer receives and pays for natural gas billed but refuses to pay the tax imposed by this section, the service provider shall notify this jurisdiction of the name and address of such consumer. If any consumer fails to pay a bill issued by a service provider, including the tax imposed by this section, the service provider must follow its normal collection procedures, and upon collection of the bill or any part thereof, must apportion the net amount collected between the charge for natural gas service and the tax and remit the tax portion to this jurisdiction. Any tax paid by the consumer to the service provider shall be deemed to be held in trust by such provider until remitted to this jurisdiction.

(d) *Computation of bills not on monthly basis.* Bills shall be considered as monthly bills for the purposes of this article if submitted 12 times per year of approximately one month each. Accordingly, the tax for a bimonthly bill (approximately 60 days) shall be determined as follows:

(1) The CCF will be divided by 2;

(2) A monthly tax will be calculated using the rates set forth above;

(3) The tax determined by subsection (2) of this subsection shall be multiplied by 2;

(4) The tax in subsection (3) of this subsection may not exceed twice the monthly "maximum tax."

(Code 1992, § 11-51; Ord. No. 2000-6, §§ 11-47, 11-48, 11-52, 9-19-2000)

State law reference—Consumer utility tax authorized, Code of Virginia, § 58.3814; authority to exempt entities pursuant to Art. X, § 6(a)(2) or Art. X § 6(a)(6) of the Virginia Constitution, Code of Virginia, § 58.1-3816.2.

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[107] Delete as obsolete? Yes.

PROOFS

Secs. 18-145--18-173. Reserved.

ARTICLE ~~IV~~ VI. SPECIAL ASSESSMENT FOR LAND PRESERVATION*

***State law reference**—Special assessment for land preservation, Code of Virginia, § 58.1-3229 et seq.

Sec. 18-174. Finding; land use plan; taxation of certain land.

The council finds that the preservation of real estate devoted to agricultural, horticultural, forest and open space uses within its boundaries is in the public interest. The council has adopted a land use plan. Therefore, such real estate shall be taxed in accordance with the provisions of Code of Virginia, ~~Title 58.1, Chapter 32, Article 4 (~~§ 58.1-3229 et seq.~~)~~, and of this article.

(Code 1992, § 11-71; Ord. of 5-15-1979, § 1)

Sec. 18-175. Application by owner.

(a) The owner of any real estate meeting the criteria set forth in Code of Virginia, §§ 58.1-3230 and 58.1-3233, may, at least 60 days preceding the tax year for which such taxation is sought, apply to the commissioner of the revenue of the county for the classification, assessment and taxation of such property for the next succeeding tax year on the basis of its use under the procedures set forth in Code of Virginia, § 58.1-3236, as amended. Such application shall be on forms provided by the state department of taxation and supplied by the commissioner of the revenue of the county and shall include such additional schedules, photographs and drawings as may be required by the commissioner of the revenue. An individual who is the owner of an undivided interest in a parcel of land may apply on behalf of himself and the other owners of such parcel upon submitting an affidavit that such other owners are minors or cannot be located. An application shall be submitted whenever the use or acreage of such land previously approved changes; provided, however, that such property owner must revalidate annually with the commissioner of the revenue of the county any applications previously approved. An application fee of $10.00 per application, plus $0.10 per acre, shall accompany each application.

(b) A separate application shall be filed for each parcel on the land book.

(Code 1992, § 11-72; Ord. of 5-15-1979, § 2)

Sec. 18-176. Qualification of property.

Promptly upon receipt of any application under this article, the commissioner of the revenue of the county shall determine whether the subject property meets the criteria for taxation hereunder. If the commissioner of the revenue of the county determines that the subject property does meet such criteria, he shall determine the value of such property for its qualifying use, as well as its fair market value. In determining whether the real estate meets the criteria set forth in Code of Virginia, § 58.1-3230 and the standards prescribed thereunder to qualify for one of the classifications set forth therein, the commissioner of the revenue of the county may request an opinion from the director of the state department of conservation and recreation, the state forester or the state commissioner of agriculture and consumer services. Upon the refusal of any of such officials to issue an opinion, or in the event of an unfavorable opinion which does not comport with standards set forth by the respective official, the party aggrieved may seek relief from any court of record wherein the real estate in question is located. If the court finds in his favor, it may issue an order which shall serve in lieu of an opinion for the purposes of this article.

(Code 1992, § 11-73; Ord. of 5-15-1979, § 3)

Sec. 18-177. Use value, fair market value; effect.

The use value and fair market value of any qualifying property shall be placed on the land book before delivery to the treasurer and the tax for the next succeeding tax year shall be extended from the use value.

PROOFS

(Code 1992, § 11-74; Ord. of 5-15-79, § 4)

Sec. 18-178. Change to nonqualifying use.

There is hereby imposed a roll-back tax, and interest thereon, in such amounts as may be determined under Code of Virginia, § 58.1-3237, upon any property as to which the use changes to a nonqualifying use.

(Code 1992, § 11-75; Ord. of 5-15-1979, § 5)

Sec. 18-179. Roll-back taxes generally; misstatements.

(a) The owner of any real estate liable for roll-back taxes or rezoned, as provided in Code of Virginia, § 58.1-3237(D), shall, within 60 days following a change in use, report such change to the commissioner of the revenue of the county on such forms as may be prescribed. The commissioner shall forthwith determine and assess the roll-back tax, which shall be paid to the treasurer within 30 days of assessment. On failure to report within 60 days following such change in use and/or failure to pay within 30 days of assessment, such owner shall be liable for an additional penalty equal to ten percent of the amount of the roll-back tax and interest, which penalty shall be collected as a part of the tax. In addition to such penalty, there is hereby imposed interest of one-half percent of the amount of the roll-back tax, interest and penalty for each month or fraction thereof during which the failure continues.

(b) Any person making a material misstatement of fact in any application filed pursuant hereto shall be liable for all taxes, in such amounts and at such times as if such property had been assessed on the basis of fair market value as applied to other real estate in the taxing jurisdiction, together with interest and penalties thereon, and he shall be further assessed with an additional penalty of 100 percent of such unpaid taxes.

(Code 1992, § 11-76; Ord. of 5-15-1979, § 6)

Sec. 18-180. Applicability of law.

The provisions of Code of Virginia, title 58.1, applicable to local levies and real estate assessment and taxation, shall be applicable to assessments and taxation under this article mutatis mutandis including, without limitation, provisions relating to tax liens and the correction of erroneous assessments, and for such purposes the roll-back taxes shall be considered to be deferred real estate taxes.

(Code 1992, § 11-77; Ord. of 5-15-1979, § 7)

Secs. 18-181--18-198. Reserved.

ARTICLE ~~V~~ VII. TRANSIENT LODGING TAX*

***State law reference**—Excise tax on transient rooms, Code of Virginia, §§ 58.1-3819, 58.1-3840.

Sec. 18-199. Definitions.

~~For the purpose of this article, the following words and phrases shall have the meanings respectively ascribed to them by this section unless the context clearly indicates a different meaning:~~

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

Hotel means any public or private hotel, inn, hostelry, tourist home or house, motel, roominghouse or other lodging place within the town offering lodging, as defined in this section, for compensation to any transient, as defined in this section.

Lodging means room or space furnished by any transient.

PROOFS

Transient means any person who, for a period of not more than [108]~~90~~ 30 consecutive days, either at his own expense or at the expense of another, obtains lodging or the use of any space at any hotel for which lodging or use of space a charge is made.

Treasurer means the treasurer of the town and any of his duly authorized agents.

(Code 1992, § 11-96; Ord. of 6-19-1984, § 11-14)

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

Sec. 18-200. Tax imposed; amount.

There is hereby levied and imposed, in addition to all other taxes and fees of every kind imposed by law, on each transient obtaining lodging or the use of space at any hotel, a tax equal to ~~seven~~ nine percent of the total amount paid for such lodging or the use of space by, or for, any such transient to any hotel. Such tax shall be collected from such transient at the time and in the manner provided by other provision in said section.

(Code 1992, § 11-97; Ord. of 6-5-1990, § 11-15; Ord. No. 2003-4, 6-17-2003; Ord. No. 2005-3, 6-07-2005; Ord. No. 2012-5, § 11-97, 6-5-2012)

Sec. 18-201. Collection from transients; when payable.

Every person receiving any payment for lodging or the use of space with respect to which a tax is levied under this article shall collect the amount of such tax so imposed from the transient on whom such tax is levied, or from the person paying for such lodging, at the time payment for such lodging is made. The taxes required to be collected under this article shall be deemed to be held in trust by the person required to collect such taxes until the same shall have been remitted to the treasurer.

(Code 1992, § 11-98; Ord. of 6-19-1984, § 11-16)

Sec. 18-202. Report of collection and remittance of tax.

The person collecting any tax, as provided in this article, shall make out a report thereof upon such forms setting forth such information as the treasurer may prescribe and require, showing the amount of lodging charges collected and the tax required to be collected and shall sign and deliver such reports with the remittance of such tax to the treasurer. Such reports and remittances shall be made on or before the 20th day of each month, covering the amount of tax due and collected during the preceding month.

(Code 1992, § 11-99; Ord. of 6-19-1984, § 11-17)

Sec. 18-203. Discount.

For the purpose of compensating the owner of any hotel collecting the tax imposed by this article, such owner shall be allowed three percent of the amount of the tax due and accounted for in the form of a deduction on his monthly return, provided the amount due is not delinquent at the time of payment.

(Code 1992, § 11-100; Ord. of 6-19-1984, § 11-18)

Sec. 18-204. Penalty and interest for nonremittance.

(a) If any person shall fail or refuse to report and remit to the treasurer the tax required to be collected and paid under this article within the time and in the amount as provided for in this

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[108] Code of Virginia, § 58.1-3819 B. states the tax shall not apply to rooms rented and continuously occupied by the same individuals for 30 days or more. Change to 30 consecutive days? Yes.

PROOFS

article, there shall be added to such tax by the treasurer a penalty in the amount of ten percent thereof and interest thereon at the rate of ten percent per annum, which shall be computed upon the tax and penalty from the date such taxes were due and payable.

(b) Any failure to timely file and pay the transient lodging tax when due shall constitute a Class 1 misdemeanor.

(Code 1992, § 11-101; Ord. of 6-19-1984, § 11-19)

Sec. 18-205. Failure to collect and report tax.

If any person shall fail or refuse to collect the tax imposed under this article and to make within the time provided herein any report and remittance required, the treasurer shall proceed in such manner as he may deem best to obtain facts and information on which to base the tax due. As soon as the treasurer shall secure such facts and information as he is able to obtain upon which to base the assessment of any tax due and payable by any person who has failed or refused to collect such tax and to make such report and remittance, he shall proceed to determine and assess against such person such tax and penalty and interest as provided for in this article and shall notify such person by registered mail, sent to his last place of known address, the amount of such tax and penalty and interest, and the total amount thereof shall be payable within ten days of mailing of such notice. The treasurer shall have the power to examine such records for the purpose of administering and enforcing the provisions of this article as are provided by law.

(Code 1992, § 11-102; Ord. of 6-19-1984, § 11-20)

Sec. 18-206. Records; inspection by treasurer.

It shall be the duty of every person liable for the collection and payment to the town of any tax imposed by this article to keep and preserve for a period of two years such suitable records as may be necessary to determine the amount of such tax as he may have been responsible for collecting and paying to the town. The treasurer shall have the right to inspect such records at all reasonable times.

(Code 1992, § 11-103; Ord. of 6-19-1984, § 11-21)

Sec. 18-207. Cessation of business; tax due immediately.

Whenever any person required to collect and pay to the town a tax imposed by this article shall cease to operate, go out of business or otherwise dispose of his business, any tax then payable to the town shall become immediately due and payable, and such person shall immediately make a report and pay the tax due to the treasurer.

(Code 1992, § 11-104; Ord. of 6-19-1984, § 11-22)

Sec. 18-208. Exceptions for governmental employees on official business.

No tax shall be payable under this article with respect to any payment for lodging or the use of space paid by, or for, any federal, state or local official or employee when on official business.

(Code 1992, § 11-105; Ord. of 6-19-1984, § 11-23)

[109]~~**Sec. 11-106. Exceptions for transients at places of lodging at public institutions.**~~

~~With respect to those places of lodging at public institutions whose operating costs are financed by legislative appropriations, no tax shall be payable hereunder with respect to any payment for lodging or the use of space paid by or for:~~

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[109] Are these exceptions correct? Yes, but delete.

PROOFS

~~Any person obtaining lodging at such places in connection with or as a part of any bona fide educational conference or program arranged by such public institution; or~~

~~Any person who is an invited guest of the public institution where such payment was made by the public institution.~~

~~(Code 1992, § 11-106; Ord. of 6-19-84, § 11-24)~~

Sec. 18-209. Violations; how punishable.

Any person violating or failing to comply with any of the provisions of this article shall, upon conviction thereof, be guilty of a Class 1 misdemeanor, punishable as provided in section 1-11. Conviction shall not relieve any person from the payment, collection or remittance of the tax as provided in this article. Each violation or failure shall be a separate offense.

(Code 1992, § 11-107; Ord. of 6-19-1984, § 11-25)

Secs. 18-210--18-228. Reserved.

ARTICLE ~~VI~~ VIII. MEALS TAX*

***State law reference**—Excise tax on meals, Code of Virginia, §§ 58.1-3700, 58.1-3833, 58.1-3840 et seq., 58.1-3906.

Sec. 18-229. Definitions.

~~The following words and phrases, when used in this article, shall have, for the purposes of this article, the following respective meanings except where the context clearly indicates a different meaning:~~

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

Cater means the furnishing of food, beverages, or both, on the premises of another, for compensation.

Collector means the treasurer or designee.

Food means all food, beverages, or both, including alcoholic beverages, purchased in or from a food establishment, whether prepared in such food establishment or not, and whether consumed on the premises or not, and without regard to the manner, time or place of service.

Food establishment means any place in or from which food or food products are prepared, packaged, sold or distributed in the town, including, but not limited to, any restaurant, dining room, grill, coffee shop, cafeteria, café, snack bar, lunch counter, convenience store, movie theater, delicatessen, confectionery, bakery, eating house, eatery, drugstore, ice cream/yogurt shops, lunch wagon or truck, pushcart or other mobile facility from which food is sold, public or private club, resort, bar, lounge or similar establishment, public or private, and shall include private property outside of and contiguous to a building or structure operated as a food establishment at which food or food products are sold for immediate consumption.

Meal means any prepared food or drink offered or held out for sale by a food establishment for the purpose of being consumed by any person to satisfy the appetite and is ready for immediate consumption. All such food and beverage, unless otherwise specifically exempted or excluded herein, shall be included, whether intended to be consumed on the seller's premises or elsewhere, whether designated as breakfast, lunch, snack, dinner, supper or by some other name, and without regard to the manner, time or place of service.

Prepare means the application of labor to food to make it ready or available for immediate consumption.

Purchaser means any person who purchases a meal.

PROOFS

Seller means any person or caterer who sells meals.

Treasurer means the treasurer of the town and any of his duly authorized agents.

(Code 1992, § 11-126; Ord. of 6-19-1984, § 11-26; Ord. of 6-5-1990, § 11-26; Ord. No. 2000-5, 6-20-2000)

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

Sec. 18-230. Levy.

There is hereby levied and imposed by the town on each person a tax at the rate of ½ percent on the amount paid for meals purchased from any food establishment, whether prepared in such food establishment or not, and whether consumed on the premises or not.

(Code 1992, § 11-127; Ord. of 6-5-1990, § 11-27; Ord. No. 2000-5, 6-20-2000; Ord. No. 2003-5, 6-17-2003; Ord. No. 2005-3, 6-07-2005; Ord. No. ~~2010-4~~ 2010-3, 7-06-2010; Ord. No. 2012-5, § 11-127, 6-5-2012)

Sec. 18-231. Collection of tax by seller.

(a) Every person receiving any payment for food with respect to which tax is levied hereunder shall collect and remit the amount of the tax imposed by this article from the person on whom the same is levied or from the person paying for such food at the time payment for such food is made; provided, however, no blind person operating a vending stand or other business enterprise under the jurisdiction of the department for the visually handicapped and located on property acquired and used by the United States for any military or naval purpose shall be required to collect or remit such taxes.

(b) All tax collections shall be deemed to be held in trust for the town.

(Code 1992, § 11-128; Ord. of 6-19-1984, §§ 11-28, 11-29; Ord. No. 2000-5, §§ 11-128, 11-129, 6-20-2000)

Sec. 18-232. Discount.

For the purpose of compensating sellers for the collection of the tax imposed by this article, every seller shall be allowed three percent of the amount of the tax due and accounted for in the form of a deduction on his monthly return; provided, the amount due is not delinquent at the time of payment.

(Code 1992, § 11-129; Ord. of 6-19-1984, § 11-31; Ord. No. 2000-5, § 11-131, 6-20-2000)

Sec. 18-233. Penalty and interest.

(a) If any person whose duty it is to do so shall fail or refuse to make the report ~~or remit the tax~~ required by this article within the time ~~and in the amount~~ required, there shall be added to the tax by the treasurer a penalty in the amount of ten percent of the tax, or $10.00, whichever is greater; provided, however, that the penalty shall, in no case, exceed the amount of the tax assessable. ~~and interest thereon at the rate of ten percent per annum, which shall be computed upon the tax and penalty from the date such were due and payable.~~

(b) In the case of delinquent remittance of meals tax a penalty shall be imposed of ten percent for the first month the taxes are past due, and five percent for each month thereafter, up to a maximum of 25 percent of the taxes collected but not remitted; or ~~(v)~~ $10.00, whichever is greater, provided, however, that the penalty shall, in no case, exceed the amount of the tax assessable.

(c) The assessment of such penalty shall not be deemed a defense to any criminal prosecution for failing to make the report required by this article. Penalty for failure to file the report may be assessed on the day after such report is due; penalty for failure to pay any tax may be assessed on the day after the first installment is due. Any such penalty, when so assessed, shall become a part of the tax.

PROOFS

(d) Interest shall also be imposed upon the delinquent tax and penalty at a rate of ten percent per annum and computed from the date such were due and payable.

(Code 1992, § 11-130; Ord. of 6-19-1984, § 11-32; Ord. No. 2000-5, § 11-132, 6-20-2000; Ord. No. 2012-1, § 11-130, 2-7-2012)

Sec. 18-234. Exemptions; limits on application.

(a) The tax imposed under this article shall not be levied on the following items when served exclusively for off-premises consumption:

(1) Factory-prepackaged candy, gum, nuts and other items of essentially the same nature.

(2) Factory-prepackaged donuts, ice cream, crackers, nabs, chips, cookies and items of essentially the same nature.

(3) Food sold in bulk. For the purposes of this provision, a bulk sale shall mean the sale of any item that would exceed the normal, customary and usual portion sold for on-premises consumption (e.g. a whole cake, a gallon of ice cream); a bulk sale shall not include any food or beverage that is catered or delivered by a food establishment for off-premises consumption.

(4) Alcoholic and non-alcoholic beverages sold in factory sealed containers.

(5) Any food, or food product, purchased with food coupons issued by the United States Department of Agriculture under the food stamp program or drafts issued through the state special supplement food program for women, infants and children.

(6) Any food, or food product, purchased for home consumption, as defined in the Federal Food Stamp Act of 1977, 7 U.S.C. § 2012, as amended, except hot food or hot food products ready for immediate consumption. For the purposes of administering the tax levied hereunder, the following items, whether or not purchased for immediate consumption, are excluded from the said definition of food in the Federal Food Stamp Act: sandwiches, salad bar items sold from a salad bar, prepackaged single-serving salads consisting primarily of an assortment of vegetables, and nonfactory sealed beverages. This subsection shall not affect provisions set forth in subsections (c)(3), (4) and (5) of this section.

(b) A grocery store, supermarket or convenience store shall not be subject to the tax except for any portion or section therein designated as a delicatessen or designated for the sale of prepared food and beverages.

(c) The tax imposed hereunder shall not be levied on the following purchases of food and beverages:

(1) Food and beverages furnished by food establishments to employees as part of their compensation when no charge is made to the employee.

(2) Food and beverages sold by day care centers, public or private elementary or secondary schools or food sold by any college or university to its students or employees.

(3) Food and beverages for use or consumption and which are paid for directly by the commonwealth, any political subdivision of the commonwealth or the United States.

(4) Food and beverages furnished by a hospital, medical clinic, convalescent home, nursing home, home for the aged, infirm, handicapped, battered women, narcotic addicts or alcoholics, or other extended care facility to patients or residents thereof, <u>day care centers or age-restricted apartment complexes or residences with restaurants, not open to the public, where meals are served and fees are charged for such food and beverages and are included in rental fees.</u>

PROOFS

(5) Food and beverages furnished by a public or private non-profit charitable organization or establishment or a private establishment that contracts with the appropriate agency of the commonwealth to offer meals at concession prices to elderly, infirm, blind, handicapped or needy persons in their homes or at central locations.

(6) Food and beverages sold on an occasional basis, not exceeding ~~four (4)~~ three times per calendar year, by a volunteer fire department and rescue squad, a nonprofit educational, charitable or benevolent organization, church, or religious body as a fundraising activity, the gross proceeds of which are to be used by such organization exclusively for nonprofit educational, charitable, benevolent or religious purposes.

(7) Food and beverages sold through vending machines.

(8) Churches that serve meals for their members as a regular part of their religious observances.

(9) Public or private elementary or secondary schools, or public or private colleges and universities, to their students or employees.

(Code 1992, § 11-131; Ord. of 6-19-1984, § 11-38; Ord. No. 2000-5, § 11-138, 6-20-2000)

Sec. 18-235. Duty of person going out of business.

Whenever any person required to collect and remit to the town any tax imposed by this article shall cease to operate or otherwise dispose of his business, the tax shall immediately become due and payable, and the person shall make to the treasurer a report and remittance thereof by the first day of the month following which the business was terminated or disposition made thereof.

(Code 1992, § 11-132; Ord. of 6-19-1984, § 11-35; Ord. No. 2000-5, § 11-135, 6-20-2000)

Sec. 18-236. Advertising payment or absorption of tax prohibited.

No seller shall advertise or hold out to the public in any manner, directly or indirectly, that all or any part of a tax imposed under this article will be paid or absorbed by the seller or by anyone else, or that the seller or anyone else will relieve any purchaser of the payment of all or any part of the tax.

(Code 1992, § 11-133; Ord. of 6-19-1984, § 11-36; Ord. No. 2000-5, § 11-136, 6-20-2000)

Sec. 18-237. Gratuities and service charges.

(a) Where a purchaser provides a gratuity for an employee of a seller, and the amount of the gratuity is wholly in the discretion of the purchaser, the gratuity is not subject to the tax imposed by this article, whether paid in cash to the employee or added to the bill and charged to the purchaser's account, provided in the latter case, the full amount of the gratuity is turned over to the employee by the seller.

(b) An amount or percent in excess of 20 percent of the sales price, whether designated as a gratuity, tip or service charge, that is added to the price of the food and beverages by the seller, and required to be paid by the purchaser, as a part of the selling price of the food and beverages, is subject to the tax imposed by this article.

(Code 1992, § 11-134; Ord. of 6-19-1984, § 11-37; Ord. No. 2000-5, § 11-137, 6-20-2000; Ord. No. 2012-1, § 11-134, 2-7-2012)

Sec. 18-238. Enforcement.

(a) It shall be the duty of the treasurer to ascertain the name of every seller in the town who is liable for the collection of the tax imposed by this article and any person who fails, refuses or neglects to collect such tax or to make the reports and remittances required by this article. The treasurer may have issued a summons for such person, and the summons may be served upon such

PROOFS

person by any town police officer in the manner provided by law. The treasurer may seek a conviction in the general district court or circuit court of the county or other civil remedy, including injunction, against such person.

(b) If the purchaser of any meal refuses to pay the tax imposed by this article, the seller may call upon the police department for assistance; and the investigating officer may, when probable cause exists, issue the purchaser a summons for his violation returnable to the general district court, as provided by law.

(Code 1992, § 11-135; Ord. of 6-19-1984, § 11-39; Ord. No. 2000-5, § 11-139, 6-20-2000; Ord. No. 2012-1, § 11-135, 2-7-2012)

Sec. 18-239. Report of taxes collected; remittance; preservation of records.

It shall be the duty of every person required by this article to pay the town the taxes imposed by this article to make a report thereof setting forth such information as the treasurer may prescribe and require, including all purchases taxable under this article, the amount charged the purchaser for each such purchase, the date thereof, the taxes collected thereon and the amount of tax required to be collected by this article. Such records shall be kept and preserved for a period of five years. The treasurer, or his duly authorized agents, shall have the power to examine such records, at reasonable times and without unreasonable interference with the business of such person, for the purpose of administering and enforcing the provisions of this article, and to make transcripts of all or any parts thereof.

(Code 1992, § 11-136; Ord. of 6-19-1984, § 11-30, § 11-34; Ord. No. 2000-5, §§ 11-130, 11-134, 6-20-2000)

Sec. 18-240. Procedure when tax not reported or collected.

If any person whose duty it is to do so shall fail or refuse to collect the tax imposed under this article and make timely report and remittance thereof, the treasurer shall proceed in such manner as is practicable to obtain facts and information on which to base an estimate of the tax due. As soon as the treasurer has procured whatever facts and information may be obtainable, upon which to base the assessment of any tax payable by any person who has failed to collect, report or remit such tax, the treasurer shall proceed to determine and assess against such person the tax, penalty and interest provided in this article and shall notify the person by registered mail sent to his last known address, of the amount of such tax, penalty and interest. The total amount thereof shall be payable ten days after the date such notice is sent.

(Code 1992, § 11-137; Ord. of 6-19-1984, § 11-33; Ord. No. 2000-5, § 11-133, 6-20-2000)

Sec. 18-241. Penalty for violation of article.

(a) Any person willfully failing or refusing to file a return as required under this article shall, upon conviction thereof, be guilty of a Class 1 misdemeanor, except that any person failing to file such a return shall be guilty of a Class 3 misdemeanor if the amount of tax lawfully assessed in connection with the return is $1,000.00 or less. Any person violating or failing to comply with any other provision of this article shall be guilty of a Class 1 misdemeanor.

(b) Except as provided in subsection (a) of this section, any corporate or partnership officer, as defined in Code of Virginia, § 58.1-3906, or any other person required to collect, account for, or pay over the meals tax imposed under this article, who willfully fails to collect, ~~or~~ truthfully account for, or pay over such tax, or who willfully evades or attempts to evade such tax or payment thereof, shall, in addition to any other penalties imposed by law, be guilty of a Class 1 misdemeanor.

(c) Each violation of, or failure to comply with, this article shall constitute a separate offense. Conviction of any such violation shall not relieve any person from the payment, collection or remittance of the tax provided in this article.

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(d) The wrongful and fraudulent use of meals tax collections other than remittance of the same, as provided by law, shall constitute embezzlement pursuant to Code of Virginia, § 18.2-111, as amended.

(e) Whenever a license is required by ordinance, pursuant to the town code, and whenever the town shall impose a license fee or levy a license tax on any business subject to the meals tax, it shall be unlawful to engage in such business without first obtaining the required license. No business license shall be issued until the applicant has produced satisfactory evidence that all delinquent business license, personal property, meals, transient occupancy, severance and admissions taxes owed by the business to the town have been paid which have been properly assessed against the applicant by the town. Any person who engages in a business without obtaining a required local license, or after being refused a license, shall not be relieved of the tax imposed by the article.

(Code 1992, § 11-137; Ord. of 6-19-1984, § 11-40; Ord. No. 2000-5, § 11-141, 6-20-2000; Ord. No. 2012-1, § 11-138, 2-7-2012)

Secs. 18-242--18-271. Reserved.

[110]**~~ARTICLE VII. E-911 EMERGENCY TELEPHONE SYSTEM TAX ON PURCHASES*~~**

~~***State law reference**—Local tax for enhanced emergency telephone service, Code of Virginia, § 58.1-3813.~~

~~Sec. 11-161. Definitions.~~

~~When used in this article, the following words shall have the following meanings, except where the context clearly indicates that a different meaning is intended:~~

~~*E-911 system* means a telephone service which utilizes a computerized system to automatically route emergency telephone calls placed by dialing the digits "911" to the proper public safety answering point serving the jurisdiction from which the emergency telephone call was placed. An E-911 system includes selective routing of telephone calls, automatic telephone number identification, and automatic location identification performed by computers and other auxiliary control center communications equipment.~~

~~*Local telephone service* shall mean switched local exchange access service.~~

~~*Public safety agency* means a functional division of a public agency which provides firefighting, police, medical or other emergency services or a private entity which provides such services on a voluntary basis.~~

~~*Public safety answering point* means a communications facility operated on a 24-hour basis which first receives E-911 calls from persons in an E-911 service area and which may, as appropriate, directly dispatch public safety services or extend, transfer, or relay E-911 calls to appropriate public safety agencies.~~

~~*Seller* means a seller of local telephone service.~~

~~(Code 1992, § 11-161; Ord. of 3-17-87, §§ 11-42, 11-43)~~

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

~~Sec. 11-162. Levy of tax.~~

~~There is hereby imposed and levied upon every purchaser of local telephone service in the Town a tax in the amount of $2.00 per month. This tax shall be paid by the purchaser to the seller of local telephone service for the use of the Town to pay the initial capital, installation and~~

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[110] The authority for this tax was repealed. Is the city still collecting this tax? Delete article? Yes.

PROOFS

~~maintenance costs of its E-911 system. The tax will be used exclusively to pay the recurring maintenance costs of the E-911 system.~~

~~(Code 1992, § 11-162; Ord. of 3-17-87, § 11-43; Ord. No. 2004-3, 6-15-04; Ord. No. 2005-3, 6-7-05)~~

~~Sec. 11-163. Collection; duties of seller.~~

~~It shall be the duty of every seller in acting as the tax collecting medium or agency for the Town to add the amount of the tax imposed under Section 11-162 to all periodic bills it renders to nonexempt purchasers of local telephone service. The seller shall accept remittances of tax from purchasers at the time it collects the charges for local telephone service and shall report and pay over all tax collected in any calendar month to the Town Treasurer on or before the last day of the first calendar month thereafter. At this time, the seller shall notify the Town Treasurer of the name and address of all purchasers who refuse to pay the tax imposed by this article.~~

~~(Code 1992, § 11-163; Ord. of 3-17-87, § 11-44)~~

~~Sec. 11-164. Records.~~

~~Each and every seller shall keep records showing all purchases of local telephone service in the Town. These records shall show the dates of bills for local telephone service and the amount of tax appearing on each bill. These records shall be kept at the seller's offices for a period of three years for examination by the duly authorized agents of the Town during normal business hours. The duly authorized agents of the Town shall have the right, power and authority to make copies thereof.~~

~~(Code 1992, § 11-164; Ord. of 3-17-87, § 11-45)~~

~~Sec. 11-165. Exemptions.~~

~~The United States of America, the State and the political subdivisions, agencies, boards, commissions and authorities of the United States and the State are hereby exempted from payment of the tax imposed and levied by this article.~~

~~This tax shall not apply to any local telephone service where a periodic bill is not rendered.~~

~~(Code 1992, § 11-165; Ord. of 3-17-87, § 11-46)~~

~~Sec. 11-166. Discount.~~

~~Whenever the tax levied by this article is collected by the seller acting as a tax collecting medium or agency of the Town in accordance with Section 11-163, such seller shall be allowed, as compensation for the collection and remittance of this tax, three percent of the amount of the tax so collected and accounted for. The seller shall deduct this compensation from the payments made to the Town in accordance with Section 11-163.~~

~~(Code 1992, § 11-166; Ord. of 3-17-87, § 11-47)~~

~~Sec. 11-167. Penalty.~~

~~Any purchaser who willfully fails, refuses or neglects to pay the tax hereby imposed; and any seller, or any officer, agent or employee thereof, who with full knowledge, willfully refuses to perform the duties imposed on it by Sections 11-162 and 11-163 with the intent of preventing the collection of the tax imposed by this article shall upon conviction thereof be subject to the punishment as provided for a class 3 misdemeanor under the laws of the State. Each failure, refusal or neglect and each day's continuance thereof shall constitute a separate offense.~~

~~(Code 1992, § 11-167; Ord. of 3-17-87, § 11-48)~~

PROOFS

~~**Secs. 18-261–18-283. Reserved.**~~

ARTICLE ~~VIII~~ IX. PROPERTY TAX EXEMPTIONS AND DEFERRALS FOR THE ELDERLY AND TOTALLY DISABLED

State law reference—Property tax exemption for elderly and disabled, Code of Virginia, § 58.1-3210.

Sec. 18-272. Purpose.

The purpose of this article is to provide for the exemption from, or deferral of, taxation of real estate and manufactured homes, as defined in Code of Virginia, § 36-85.3, or any portion thereof, owned by and occupied as the sole dwelling of a person not less than 65 years of age, and providing the same exemption for such property of a person who is determined to be permanently and totally disabled, as provided for within this article.

(Code 1992, § 11-186; Ord. of 3-18-1997)

Sec. 18-273. Definitions.

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

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

Affidavit means the real estate tax exemption or deferral affidavit, a sworn statement in writing.

Commissioner of the revenue means the commissioner of the revenue for Montgomery County, Virginia, or the commissioner's duly designated representative.

Deferral means a deferral from the town real estate tax, according to the provisions of this division.

Dwelling means the full-time residence of the person, or persons, claiming an exemption or ~~deferrala~~ deferral.

Exemption means an exemption from the town real estate tax, according to the provisions of this division.

Property means real property.

Taxable year means the calendar year, from January 1 until December 31, for which an exemption or deferral is claimed.

Title, title to real property means the record title ascertainable from the records of the clerk of the circuit court, but which shall not include leasehold estates.

Treasurer means the treasurer of the town, or the treasurer's duly designated representative.

(Code 1992, § 11-187; Ord. of 3-18-1997)

Sec. 18-274. Eligibility determination.

(a) Eligibility for the exemption from, or deferral of, taxation of real estate and manufactured homes, as defined in Code of Virginia, § 36-85.3, or any portion thereof, owned by and occupied as the sole dwelling of a person not less than 65 years of age, and providing the same exemption for such property of a person who is determined to be permanently and totally disabled for the town shall be determined by the commissioner of the revenue using the restrictions and conditions for such exemptions or deferrals established for the office of the commissioner of the revenue, as enumerated within section 18-275.

PROOFS

(b) For the purpose of this article, a person is permanently and totally disabled if he is so certified as required in subsection (a) of this section and is found by the commissioner of the revenue under subsection (a) of this section to be unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment or deformity which can be expected to result in death or can be expected to last for the duration of such person's life.

(Code 1992, § 11-188; Ord. of 3-18-97)

State law reference—Eligibility, Code of Virginia, § 58.1-3210; permanently and totally disabled defined, Code of Virginia, § 58.1-3217.

Sec. 18-275. Restrictions and conditions.

Exemption from, or deferral of, taxation of real estate and manufactured homes within the town shall be subject to the following restrictions and conditions:

(1) That the total combined income during the immediately preceding calendar year from all sources of the owners of the dwelling living therein and of the owners' relatives living in the dwelling does not exceed ~~$45,000.00~~ $51,000.00, provided that the first $10,000.00 of income of each relative other than the spouse of the owner who is living in the dwelling and [111]the first $10,000.00 ~~$5,000 of any permanent or temporary disability benefit, from whatever source,~~ of income for an owner who is permanently disabled shall not be included in such total. ~~Subject to subdivision b. of this subsection, except for bona fide tenants or bona fide paid caregivers of the owner, the total combined income received from all sources during the preceding calendar year by owners of the dwelling who use it as their principal residence, and owners' relatives who live in the dwelling shall not exceed the greater of $50,000, or the income limits based upon family size for the respective metropolitan statistical area, annually published by the Department of Housing and Urban Development for qualifying for federal housing assistance pursuant to § 235 of the National Housing Act (12 U.S.C. § 1715z).~~ As an alternative option, a county, city or town may provide that the total combined income received from all sources during the preceding calendar year by:

a. Owners of the dwelling who use it as their principal residence;

b. Owners' relatives who live in the dwelling; and

c. At the option of each locality, nonrelatives of the owner who live in the dwelling except for bona fide tenants or bona fide paid caregivers of the owner,

shall not exceed the county's or city's median adjusted gross income of its married residents. Each county's or city's median adjusted gross income of its married residents means the most recent median adjusted gross income of individual income tax returns of the married residents of the county or city for a taxable year, as published by the Weldon Cooper Center for Public Service of the University of Virginia. A town's median adjusted gross income of its married residents shall equal the applicable county's median adjusted gross income of its married residents.

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[111] Change to conform to Code of Virginia, § 58.1-3211? *No, we match the County (so keep as written) Code of Virginia, § 58.1-3211 was repealed in 2011. This entire section should be reviewed. Does this subsection read correctly with the underlined changes that are not stricken through?

PROOFS

Any amount up to $10,000.00 of income of each relative who is not the spouse of an owner living in the dwelling and who does not qualify for the exemption provided by [112]subdivision 1 b hereof, and any amount up to $10,000.00 of income of each nonrelative who is not the bona fide tenant or bona fide paid caregiver of an owner living in the dwelling and who does not qualify for the exemption provided by [113]subdivision 1 b, may be excluded in determining total combined income.

~~b.Notwithstanding subdivision a. of this subsection, if an owner qualifies for an exemption or deferral under this article, and if the owner can prove by clear and convincing evidence that his physical or mental health has deteriorated to the point that the only alternative to permanently residing in a hospital, nursing home, convalescent home or other facility for physical or mental care is to have a person move in and provide care for the owner, and if a person does then move in for that purpose, then none of the income of the person or of the person's spouse shall be counted towards the income limit, provided the owner of the residence has not transferred assets in excess of $10,000 without adequate consideration within a three-year period prior to or after the person moves into such residence.~~

(2) That ~~the net combined financial worth, including the present value of all equitable interest, as of December 31 of the immediately preceding calendar year, of the owners and of the spouse of any owner, excluding the value of the dwelling and furnishings in the dwelling including furniture, household appliances and other items typically used in a home and the land, not exceeding one acre, upon which it is situated, shall not exceed $125,000.00 $150,000.~~ the net combined financial worth, including the present value of all equitable interests, as of December 31 of the immediately preceding calendar year, of the owners and of the spouse of any owner, excluding the value of the dwelling and furnishings and the land, not exceeding ten acres, upon which it is situated shall not exceed $200,000.00. The furnishings shall include furniture, household appliances and other items typically used in a home. [114]The local government may also elect to annually increase the net combined financial worth limit by an amount equivalent to the percentage increase in the consumer price index for the 12-month period ending September 30 of the year immediately preceding the affected tax year.

(3) That the person ~~or persons~~ claiming such exemption files annually after the first day of January, but no later than the first day of March of the taxable year with the commissioner of the revenue, on forms prepared by the commissioner of the revenue and supplied by the town treasurer or county commissioner of the revenue, an affidavit or written statement setting forth the names of the related persons occupying such real estate; that the total combined net worth, including equitable interests, and the combined income from all sources of the person as specified in subsection (1) of this section does not exceed the limits prescribed in this section. If such person is under 65 years of age, such form shall have attached thereto a certification by the social security administration, the department of veterans affairs, or the railroad retirement board, or if such person is not eligible for certification by any of these agencies, a sworn affidavit by

PROOFS

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[112] Section 1b was stricken through. How should this subsection read?

[113] Section 1b was stricken through. How should this subsection read?

[114] Include? *No, we match the County (so keep as it was) Does this subsection read correctly with the underlined changes that are not stricken through? This subsection should be reviewed. I was not sure how you wanted it to be corrected.

two medical doctors who are either licensed to practice medicine in the commonwealth or who are military officers on active duty who practice medicine with the United States Armed Forces, to the effect that such person is permanently and totally disabled as defined in section 18-274(b); however, a certification pursuant to 42 U.S.C. 4-23(d) by the social security administration, so long as the person remains eligible for such social security benefits, shall be deemed to satisfy such definition in section 18-274(b); the affidavit of at least one of the doctors shall be based upon a physical examination by such doctor. The affidavit of one of the doctors may be based upon medical information contained in the records of the civil service commission which is relevant to the standards for determining permanent and total disability as defined in section 18-274(b). Such certification, written statement, or affidavit shall be filed after ~~first day of~~ January 1 of each year, but before ~~the first day of~~ March 1 of each year, for the permanently and totally disabled, for hardship cases and for the first-time applicants. The commissioner of the revenue has the discretion to accept late filings of first-time applicants or for hardship cases until ~~the 31st day of~~ December 31 of the taxable year. The commissioner of the revenue for the county shall make such further ~~[~~and/or~~]~~ any other reasonable necessary inquiry of persons seeking such exemption, requiring answers under oath to determine qualifications as specified in this section, including qualification as permanently and totally disabled as defined in section 18-274(b) and qualification for the exclusion of life insurance benefits paid upon the death of an owner of a dwelling. The commissioner of the revenue is hereby empowered, in addition, to require the production of certified tax returns to establish the income or financial worth of any applicant for tax relief or deferral.

(Code 1992, § 11-189; Ord. of 3-18-1997; Ord. No. 2004-1, 2-17-2004; Ord. No. 2004-5, 12-7-2004; Ord. No. 2006-5, 11-7-2006; Ord. No. 2008-2, 3-18-2008; Ord. No. 2009-1, 1-6-2009; Ord. No. 2009-9, 11-17-2009; Ord. No. ~~2010-7~~ 2010-6, 11-02-2010; Ord. No. 2011-6, § 11-189, 12-6-2011; Ord. No. 2012-2011, § 11-189, 12-4-2012)

[115]Sec. 18-276. Period of exemption.

Such exemptions may be granted for any year following the date that the qualifying individual occupying such dwelling and owning title, or partial title, thereto reaches the age of 65 years or for any year following the date the disability occurred. Changes in respect to income, financial worth, ownership of property or other factors occurring during the taxable year for which the affidavit is filed, and having the effect of exceeding or violating the limitations and conditions provided in this section, shall nullify any exemption or deferral for the remainder of the current taxable year and the taxable year immediately following.

(Code 1992, § 11-190; Ord. of 3-18-1997)

Sec. 18-277. Exemption rate.

(a) The amount of exemption of the real estate tax for qualified persons residing within the town shall be determined by the following table:

Annual Income Per Calendar Year	*Percentage of Tax That May Be Exempted*
$0—~~28,800~~ 32,600	100
$~~28,801~~ 32,601—~~36,000~~ 40,800	60
$~~36,001~~ 40,801—~~45,000~~ 51,000	40

[115] Are the remaining sections of this article still correct? Yes.

PROOFS

(b) The town council hereby deems those persons falling within limits and conditions provided in section 18-274 and subsection (a) of this section to bearing an extraordinary tax burden on the real estate described in this article in relation to their income and financial worth.

(Code 1992, § 11-191; Ord. of 3-18-1997; Ord. No. 2004-1, 2-17-2004; Ord. No. 2004-5, 12-7-2004; Ord. No. 2006-5, 11-7-2006; Ord. No. 2008-2, 3-18-2008; Ord. No. 2009-1, 1-6-2009; Ord. No. 2009-9, 11-17-2009; Ord. No. ~~2010-7~~ 2010-6, 11-02-2010; Ord. No. 2011-6, § 11-191, 12-6-2011; Ord. No. 2012-11, § 11-191, 12-4-2012)

Sec. 18-278. Limitations and recapture of deferred taxes.

The person, or persons, qualifying for and claiming deferral shall be relieved of real estate tax liability levied on the qualifying dwelling and land up to an amount equal to 100 percent of this liability, the amount to be deferred to be elected by the claimant. If a deferral of real estate taxes, the accumulated amount of taxes deferred shall be paid without penalty or interest to the town by the vendor upon the sale of the dwelling, or from the estate of the decedent within one year after the death of the last owner thereof who qualified for tax deferral by the provisions of this section. Such deferred real estate taxes shall constitute a lien upon such real estate as if they had been assessed without regard to the deferral permitted by this section. Any such lien shall, to the extent that it exceeds in the aggregate ten percent of the price for which such real estate may be sold, be inferior to all other liens of record.

(Code 1992, § 11-192; Ord. of 3-18-1997)

Sec. 18-279. Duties of treasurer.

(a) The treasurer of the town shall obtain each year from the commissioner of the revenue a list of each person and/or properties so declared by the commissioner of the revenue to be eligible for exemption or deferral of taxation of real estate as described within this article. In the event such list omits an eligible person or property when transmitted to the treasurer, the town and its employees shall be held harmless for such omission or monetary loss of tax exemption.

(b) In situations involving doubt of eligibility, the treasurer shall transmit to the commissioner of the revenue a statement of such doubt with any supporting evidence, if any, for investigation of eligibility by the commissioner of the revenue.

(Code 1992, § 11-193; Ord. of 3-18-1997)

Secs. 18-280--18-315. Reserved.

ARTICLE ~~IX~~ X. CIGARETTE TAX*

***State law reference**—Authority, ~~similar provisions,~~ Code of Virginia, § 58.1-3830 et seq.

[116]Sec. 18-316. Definitions.

~~The following words and phrases, when used in this ordinance, shall have the following respective meanings, except where the context clearly indicates a different meaning:~~

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

Agent ~~shall~~ means and includes every dealer, seller or other person who shall be authorized by the treasurer to purchase and affix stamps to packages of cigarettes under the provisions of this article.

Authorized holder means:

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[116] Conform definitions to Code of Virginia, § 58.1-1000? Yes.

PROOFS

(1) A manufacturer;

(2) A wholesale dealer;

(3) A stamping agent;

(4) A retail dealer;

(5) An exclusive distributor;

(6) An officer, employee or other agent of the United States or a state or any department, agency or instrumentality of the United States, a state or a political subdivision of a state having possession of cigarettes in connection with the performance of official duties;

(7) A person properly holding cigarettes that do not require stamps or tax payment pursuant to Code of Virginia, § 58.1-1010; or

(8) A common or contract carrier transporting cigarettes under a proper bill of lading or other documentation indicating the true name and address of the consignor or seller and the consignee or purchaser of the brands and the quantities being transported.

Carton means ten packs of cigarettes, each containing 20 cigarettes or eight packs, each containing 25 cigarettes.

Cigarette.

(1) The term "cigarette" means any product that contains nicotine, is intended to be burned or heated under ordinary conditions of use, and consists of or contains:

a. Any roll of tobacco wrapped in paper or in any substance not containing tobacco;

b. Tobacco, in any form, that is functional in the product, which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette; or

c. Any roll of tobacco wrapped in any substance containing tobacco which, because of its appearance, the type of tobacco used in the filler or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in subsection (a) of this definition.

(2) The term "cigarette" includes roll-your-own tobacco, which means any tobacco which, because of its appearance, type, packaging or labeling is suitable for use and likely to be offered to, or purchased by, consumers as tobacco for making cigarettes.

(3) For purposes of this definition, the term "cigarette," 0.09 ounces of roll-your-own tobacco, shall constitute one individual cigarette.

Exclusive distributor means any individual, corporation, limited liability company or limited liability partnership with its principal place of business in the commonwealth that has the sole and exclusive rights to sell to wholesale dealers in the commonwealth a brand family of cigarettes manufactured by a tobacco product manufacturer, as defined in Code of Virginia, § 3.2-4200.

Manufacturer means any tobacco product manufacturer, as defined in Code of Virginia, § 3.2-4200.

Pack means a package containing either 20 or 25 cigarettes.

Purchaser ~~shall~~ means and includes every person to whom the title to any cigarette is transferred by a seller within the corporate limits of the city.

Retail dealer includes every person other than a wholesale dealer, as defined in this section, who sells, or offers for sale, any cigarettes and who is properly registered as a retail trade with the

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commonwealth in accordance with the state department of taxation business registration application (Form R-1).

Retail sale or *sale at retail* includes all sales, except sales by wholesale dealers to retail dealers or other wholesale dealers for resale.

Sale ~~shall~~ means and includes every act or transaction, irrespective of the method or means employed, including the use of vending machines and other mechanical devices, whereby title to any cigarettes shall be transferred from the seller to any other person within the corporate limits of the town.

Seller ~~shall~~ means and includes every person engaged in the business of selling cigarettes who transfers title or in whose place of business title to any cigarettes are transferred within the corporate limits of the town for any purpose other than resale.

Stamping agent shall have the same meaning as provided in Code of Virginia, § 3.2-4204. For the purposes of provisions relating to roll-your-own tobacco, the term "stamping agent" shall include the term "distributor," as that term is defined in Code of Virginia, § 58.1-1021.01.

Stamps means the stamp, or stamps, by the use of which the tax levied under this chapter is paid and shall be officially designated as state revenue stamps. The department is hereby authorized to provide for the use of any type of stamp which will effectuate the purposes of this chapter, including, but not limited to, decalcomania and metering devices.

Storage means any keeping or retention in the commonwealth of cigarettes for any purpose except sale in the regular course of business or subsequent use solely outside the Commonwealth.

Tax-paid cigarettes means cigarettes that:

(1) Bear state stamps to evidence payment of excise taxes; or

(2) Were purchased outside of the commonwealth and either:

a. Bear a valid tax stamp for the state in which the cigarettes were purchased; or

b. When no tax stamp is required by the state, proper evidence can be provided to establish that applicable excise taxes have been paid.

Treasurer ~~shall~~ means the treasurer of the town.

Use means the exercise of any right or power over cigarettes incident to the ownership thereof or by any transaction where possession is given, except that it shall not include the sale of cigarettes in the regular course of business.

Wholesale dealer.

(1) The term "wholesale dealer" includes persons who are properly registered as tobacco product merchant wholesalers with the commonwealth in accordance with the state department of taxation business registration application (Form R-1) and who:

a. Sell cigarettes at wholesale only to retail dealers for the purpose of resale only; or

b. Sell at wholesale to institutional, commercial or industrial users.

(2) The term "wholesale dealer" also includes chain store distribution centers or houses which distribute cigarettes to their stores for sale at retail.

~~*Cigarette* shall mean a roll of finely cut tobacco enclosed in paper.~~

~~*Dealer* shall mean and include every manufacturer, jobber, wholesaler, or other person who supplies a seller with cigarettes.~~

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~~*Package* shall mean and include every package, box, can or other container of any cigarettes, irrespective of the material from which such container is made, facilitating sale of cigarettes to the ultimate consumer or utilized with the sale of cigarettes to the ultimate consumer.~~

~~*Person* shall mean and include any individual, partnership, society, association, joint stock company, corporation, estate, receiver, trustee, assignee, referee or any other person acting in a fiduciary or representative capacity, whether appointed by a court or otherwise, and any combination of individuals.~~

~~*Stamp* shall mean the small, gummed piece of paper or decal to be sold by the Treasurer and to be affixed by an agent to every package of cigarettes sold at retail in the Town. It shall also denote any insignia or symbol printed by a meter machine upon any such package under the authorization of the Town Treasurer.~~

(Code 1992, § 11-211; Ord. No. 2003-2, 6-17-2003)

Sec. 18-317. General powers of the treasurer ~~under the ordinance~~.

In addition to the powers granted to him in other provisions of this ~~ordinance~~ article, the treasurer is hereby authorized and empowered to prescribe, adopt, promulgate and enforce rules and regulations relating to the delegation of any of his powers granted by this ~~ordinance~~ article to his representatives; and any other matter pertaining to the administration and enforcement of the provisions of this ~~ordinance~~ article.

(Code 1992, § 11-212; Ord. No. 2003-2, 6-17-2003)

Sec. 18-318. Levied; amount.

In addition to all other taxes of every kind now imposed by law, there is hereby levied and imposed by the town, upon each and every sale of cigarettes, a tax equivalent to $0.02 per cigarette sold within the town, the amount of such tax to be paid by the seller in the manner and at the time prescribed in this ~~ordinance~~ article.

(Code 1992, § 11-213; Ord. No. 2003-2, 6-17-2003; Ord. No. 2005-3, 6-7-2005; Ord. No. 2008-3, 6-3-2008)

[117]Sec. 18-319. Method of payment; appointment of agents to affix stamps.

(a) The tax imposed by this article shall be paid by a local retail dealer or other agent affixing a stamp, or stamps, or causing a stamp or stamps to be affixed, to each and every package of cigarettes in the manner and at the time, or times, provided for in this article ~~ordinance~~. Every retail dealer in the town shall have the right to buy and affix such stamps as an agent, and the treasurer may appoint, in addition to local retail dealers, such other persons as agents for the purpose of buying and affixing stamps, as he may deem necessary. Every agent shall, at all times, have the right to appoint a person in his employ to affix the stamps to any cigarettes under the agent's control.

(b) The treasurer is hereby authorized and empowered to prescribe the method to be employed and the conditions to be observed in the use of meter machines for printing upon packages of cigarettes insignia to represent the payment of the tax imposed by this article.

(Code 1992, § 11-214; Ord. No. 2003-2, 6-17-2003)

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[117] Are the remaining sections in this article still current and correct? Yes.

PROOFS

Sec. 18-320. Preparation and sale of stamps generally.

For the purpose of making the stamps referred to in section [118]82-243 available for use by local retail dealers and other agents, the treasurer shall prescribe, prepare and furnish ~~to the treasurer~~ stamps for sale of such denominations and quantities as may be necessary for the payment of the tax imposed by this article. In the sale of such stamps to a local dealer or other agent, the treasurer shall allow a discount of seven percent of the denominational or face value thereof to cover the costs which will be incurred by such dealer or agent in affixing the stamps to packages of cigarettes. The treasurer may, from time to time and as often as he deems advisable, provide for the issuance and exclusive use of stamps of a new design and forbid the use of stamps of any other design and he may make and carry into effect such reasonable rules and regulations relating to the preparation, furnishing and sale of stamps as he may deem necessary.

(Code 1992, § 11-215; Ord. No. 2003-2, 6-17-2003)

Sec. 18-321. General duties of retail dealers, agents and sellers with respect to stamps.

(a) Every local retail dealer in cigarettes and every agent appointed under this ~~ordinance~~ article is hereby required, and it shall be his duty, to purchase such stamps at the office of the treasurer as shall be necessary to pay the tax imposed under the provisions of this article, and to affix a stamp, or stamps, of the monetary value prescribed by this article, or cause such stamp, or stamps, to be affixed to each package of cigarettes prior to delivering or furnishing such cigarettes to any seller who is not also an agent. Nothing herein contained shall preclude any dealer from authorizing and employing an agent to purchase and affix such stamps in his behalf or to have a stamp meter machine used in lieu of gummed stamps to effectuate the provisions of this article.

(b) Every seller is hereby required to examine each package of cigarettes prior to exposing it for sale for the purpose of ascertaining whether such package has the proper stamp affixed thereto in compliance with the provisions of this article. If, upon such examination, unstamped or improperly stamped packages of cigarettes are discovered, the seller, when such cigarettes were obtained from a local retail dealer, shall immediately notify such dealer, and upon such notification, such dealer shall forthwith either affix to such unstamped or improperly stamped packages the proper amount of stamps or shall replace such packages with others to which stamps have been properly affixed.

(c) If a seller, who is not also an agent, shall obtain or acquire possession of unstamped or improperly stamped cigarettes from any person other than a local retail dealer, the seller shall forthwith notify the treasurer of such fact and the treasurer shall thereupon designate an agent to affix the proper stamps to such cigarettes, the funds required to purchase such stamps at face value to be advanced to such agent by such seller. The agent so designated shall thereupon affix the appropriate stamps at such agent's place of business.

(Code 1992, § 11-216; Ord. No. 2003-2, 6-17-2003)

Sec. 18-322. Visibility of stamps or meter markings.

Stamps or the printed markings of a meter machine evidencing payment of the tax imposed by this article shall be placed upon each package of cigarettes in such manner as to be readily visible to the purchaser.

(Code 1992, § 11-217; Ord. No. 2003-2, 6-17-2003)

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[118] Is this reference correct?

PROOFS

Sec. 18-323. Cancellation of stamps.

(a) The treasurer is hereby authorized to prescribe, adopt, promulgate and enforce rules and regulations relating to the method and means to be used in the cancellation of stamps provided for in this ~~ordinance~~ article.

(b) In the event that the treasurer shall promulgate rules and regulations so requiring every local dealer, agent or seller is hereby required, and it shall be his duty, to cancel all stamps upon all packages of cigarettes in his possession in accordance with such rules and regulations.

(Code 1992, § 11-218; Ord. No. 2003-2, 6-17-2003)

Sec. 18-324. Redemption of stamps; refund for destroyed stamps.

The treasurer is hereby empowered to make and carry into effect such reasonable rules and regulations relating to the redemption of stamps provided for by this article as he may deem necessary; provided, however, that in redeeming stamps or making refund for destroyed stamps, he shall in no case refund more than 90 percent of the face value of such redeemed or destroyed stamps.

(Code 1992, § 11-219; Ord. No. 2003-2, 6-17-2003)

Sec. 18-325. Dealer's and seller's records generally.

It shall be the duty of every local dealer and seller to maintain and to keep, for a period of two years, such records of cigarettes received and sold by him as may be required by the treasurer, to make all such records available for examination in the town by the treasurer or the license inspector upon demand, and to make available the means, facilities and opportunity for making such examination at all reasonable times.

(Code 1992, § 11-220; Ord. No. 2003-2, 6-17-2003)

Sec. 18-326. Examination of books, records, etc.

The treasurer and the license inspector are hereby authorized and empowered to examine books, records, invoices, papers and any and all cigarettes in and upon any premises where the same are placed, stored, sold, offered for sale or displayed for sale by a seller.

(Code 1992, § 11-221; Ord. No. 2003-2, 6-17-2003)

Sec. 18-327. Seizure of unstamped cigarettes.

(a) In the event the treasurer or the license inspector discovers any cigarettes which are subject to the tax imposed under the provisions of this article, but upon which such tax has not been paid and upon which stamps have not been affixed or evidence of payment shown thereon by the printed markings of a meter machine in compliance with the provisions of this article, such officers, or any of them, are hereby authorized and empowered to seize and take possession forthwith of such cigarettes, which shall thereupon be deemed to be forfeited to the town. The treasurer or his designee (director) shall, after providing notice of such seizure to the known holders of property interests in such property and waiting the required length of time for an appeal as further set forth in this section, destroy any seized cigarettes or other property used in the furtherance of any illegal evasion of the tax. Such seizure shall not be deemed to relieve any person from any of the penalties provided in this article.

(b) Any such notice of seizure shall include procedures for an administrative hearing for return of such property seized, in addition to any affirmative defenses set forth in this section, which may be asserted. Such hearing shall be requested from the treasurer within ten days of the notice of seizure, and shall set forth the reasons why said cigarettes or other property should be returned. Within ten days after receipt of a hearing request, the treasurer shall review the appeal request and shall notify the petitioner via certified mail of a date, time and place for the informal

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presentation of evidence at a hearing or request further evidence, to be within 15 days of the date such notification is mailed. Any request for a hearing shall be denied if the request is received more than ten days from the date of the notice to petitioner of the seizure. Within five days after the hearing, the treasurer shall inform the petitioner of the final decision.

(c) The treasurer shall cause the return of the seized property if convinced by a preponderance of the evidence that the illegal sale of unstamped cigarettes or possession of other property used in the furtherance of illegal evasion of the tax was not intentional on the part of the petitioner and that seized cigarettes were in the possession of a person other than the petitioner without the petitioner's consent at the time said cigarettes or other property was seized, or that petitioner was authorized to possess unstamped cigarettes or other such property. Any petitioner who is unsatisfied with the written decision of the treasurer may, within 30 days of the date of said decision, appeal such decision to the town manager.

(Code 1992, § 11-222; Ord. No. 2003-2, 6-17-2003)

Sec. 18-328. Administration of oaths, examination of witnesses, etc., for enforcement ~~of ordinance~~.

The treasurer and the license inspector are authorized and empowered to administer oaths and to take affidavits in relation to any matter or proceedings in the exercise of their powers and duties relating to the tax imposed by this article, and they shall have power to subpoena and to require the attendance of witnesses and the production of books, papers or documents, and to examine such witnesses, books, papers and documents, for the purpose of securing information pertinent to the performance of such duties.

(Code 1992, § 11-223; Ord. No. 2003-2, 6-17-2003)

Sec. 18-329. Remedies.

(a) If the treasurer has evidence of sale of cigarettes in this town without the payment of the tax, he may perform an assessment of the tax due with respect to the cigarettes, using the best information available. The treasurer shall mail, by certified mail, a notice of summary assessments to the taxpayer. If the tax described in the notice is not paid within ten days after the mailing, the treasurer may collect the tax due by any method authorized by general law.

(b) If the taxpayer shall fail or refuse to pay to the town the tax required to be paid under this article within the time and in the amount as provided for in this article, there shall be added to such tax a penalty in the amount of ten percent of the tax due or the sum of $10.00, whichever is greater; provided, however, that the penalty shall, in no case, exceed the amount of the tax due. The treasurer shall also assess interest on the tax and penalty at the rate of ten percent per year from the day after the tax is due until paid.

(Code 1992, § 11-224; Ord. No. 2003-2, 6-17-2003)

Sec. 18-330. Criminal penalties.

It shall constitute a Class 1 misdemeanor for any person to violate, or fail to comply with, any provision of this article, or to forge, alter, steal or use without paying for any stamped or metered insignia described in this article. Conviction shall not relieve any person from payment of the tax as provided in this article. Each violation or failure shall be a separate offense.

(Code 1992, § 11-22; Ord. No. 2003-2, 6-17-2003)

PROOFS

Secs. 18-331--18-348. Reserved.

~~Chapter 15. FINANCE AND TAXATION~~[119]~~**Article . LICENSE TAXES GENERALLY***~~

~~**Cross reference**—Advertising, ch. 3; sign permits, § 3-61 et seq.; alcoholic beverages, ch. 4; animals, ch. 5; antennas, ch. 6; permit for outdoor receiving or transmitting antenna, § 6-46 et seq.; barbershops and cosmetology salons, ch. 8; buildings, ch. 9; finance and taxation, ch. 11; flea markets and garage and/or yard sales, ch. 13; health and sanitation, ch. 14; precious metals dealers, ch. 19; public utilities, ch. 21; solid waste, weeds, tree trimmings, leaves, ch. 24; subdivisions, ch. 26; taxicabs, ch. 27; traffic and motor vehicles, ch. 28; zoning, ch. 30.~~

~~**State law reference**—Local license taxes, Code of Virginia, § 58.1-3700 et seq.~~

~~Sec. 15-1. Conflicting ordinances; applicability.~~

~~Sec. 15-2. Definitions.~~

~~Sec. 15-3. License required.~~

~~Sec. 15-4. Situs of gross receipts.~~

~~Sec. 15-5. Limitations and extensions.~~

~~Sec. 15-6. Appeals and rulings.~~

~~Sec. 15-7. Recordkeeping and audits.~~

~~Sec. 15-8. Exclusions and deductions from gross receipts.~~

~~Sec. 15-9. License fee and taxes.~~

~~Sec. 15-10. Display of license.~~

~~Sec. 15-11. Transfer of license.~~

~~Sec. 15-12. Revocation of license.~~

~~Sec. 15-13. Proration.~~

~~Sec. 15-14. Compliance with zoning regulations required.~~

~~Sec. 15-15. Miscellaneous license tax rates.~~

~~**ARTICLE I. IN GENERAL**~~

ARTICLE XI. BUSINESS, PROFESSIONAL AND OCCUPATIONAL*

***Charter reference**—Licenses generally, §§ 2.27, 3.07 et seq.

State law reference—Local license taxes, Code of Virginia, § 58.1-3700 et seq.

Sec. 18-349. Conflicting ordinances; applicability.

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

(Code 1992, § 15-1; Ord. of 12-17-1996)

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[119] This chapter should be included in the Taxation chapter as an article as the business, professional and occupational licenses (BPOL) are taxes. Okay.

PROOFS

Sec. 18-350. Definitions.

~~For the purposes of this chapter, unless otherwise required by the context:~~

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

Affiliated group means:

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

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

b. The common parent corporation directly owns stock possessing at least 80 percent of the voting power of all classes of stock and at least 80 percent of each class of the nonvoting stock of at least one of the other includable corporations. As used in this subsection, the term "stock" does not include nonvoting stock, which is limited and preferred as to dividends. The term "includable corporation" means any corporation within the affiliated group [120] ~~irresponsible~~ irrespective of the state or country of its incorporation; and the term "receipts" includes gross receipts and gross income.

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

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

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

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

(3) Two or more entities if such entities satisfy the requirements in subsection (1) or (2) of this definition as if they were corporations and the ownership interests therein were stock.

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

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[120] Incorrect term changed. Okay.

PROOFS

deemed to be filed or paid on the last day specified for the filing of a return or the payment of tax, as the case may be.

Assessor or *assessing official* means the town treasurer or town treasurer's representative.

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

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

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

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

Commission merchant shall have the meaning prescribed in Code of Virginia, § 58.1-3733.

[121]*Commodity* ~~shall~~ means staples, such as wool, cotton, etc., which are traded on a commodity exchange and on which there is trading in futures.

Contractor shall have the meaning prescribed in Code of Virginia, § 58.1-3714.B, as amended, whether such work is done or offered to be done by:

(1) Day labor, general contract or subcontract;

(2) An order or contract to remodel, repair, wreck or demolish a building;

(3) An order or contract to bore or dig a well; or

(4) An order or contract to install, maintain or repair air conditioning apparatus or equipment.

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

[122]*Entity* means a business organization, other than a sole proprietorship, that is a corporation, limited liability company, limited partnership or limited liability partnership duly organized under the laws of the commonwealth or another state.

Financial services means the buying, selling, handling, managing, investing and providing of advice regarding money, credit, securities and other investments. [123]~~and shall include the service for compensation by a credit agency, an investment company, a broker or dealer in securities and commodities or a security or commodity exchange, unless such service is otherwise provided for in~~

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[121] Not included in Code of Virginia, § 58.1-3700.1. Okay.

[122] Included from Code of Virginia, § 58.1-3700.1. Okay.

[123] The remainder of this definition was not included in Code of Virginia, § 58.1=3700.1. Delete.

PROOFS

~~this chapter:~~[124] ~~Furthermore:~~ [125]Those engaged in rendering financial services include, but without limitation, the following:

(1) Buying installing receivables.

(2) Chattel mortgage financing.

(3) Consumer financing.

(4) Credit card services.

(5) Credit unions.

(6) Factors.

(7) Financing accounts receivable.

(8) Industrial loan companies.

(9) Installment financing.

(10) Inventory financing.

(11) Loan or mortgage brokers.

(12) Loan or mortgage companies.

(13) Safety deposit box companies.

(14) Security and commodity brokers and services.

(15) Stockbroker.

(16) Working capital financing.

[126]*Fuel sale* or *fuel sales* ~~shall~~ means retail sales of alternative fuel, blended fuel, diesel fuel, gasohol, or gasoline, as such terms are defined in Code of Virginia, § 58.1-2201.

[127]*Gas retailer* means a person or entity engaged in business as a retailer offering to sell at retail on a daily basis alternative fuel, blended fuel, diesel fuel, gasohol or gasoline, as such terms are defined in Code of Virginia, § 58.1-2201.

~~[128]*Dealer*, for purposes of this chapter, shall mean any person engaged in the business of buying and selling securities for his own account, but does not include a bank, or any person insofar as he buys or sells securities for his own account, either individually or in some fiduciary capacity, but not as part of a regular business.~~

Gross receipts means the whole, entire, total receipts attributable to the licensed privilege, without deduction, [1]except as may be limited by the provisions of Code of Virginia, title 58.1, chapter 37. The term "gross receipts" shall not include dues collected by trade, business,

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[124] There is no text following chapter: or Furthermore:. Is there more to this definition? Delete.

[125] This appears to be out of place and perhaps should be placed after the Furthermore: in the financial services definition? Change.

[126] Included from Code of Virginia, § 58.1-3700.1. Okay.

[127] Included from Code of Virginia, § 58.1-3700.1. Okay.

[128] This definition was not included in Code of Virginia, § 58.1-3700.1. Included security dealer? Okay.

PROOFS

professional service or civic associations or other similar organizations. In this connection, [129]the term "person" shall be construed to include governmental agencies.

[130]*Independent registered representative* means an independent contractor registered with the United States Securities and Exchange Commission.

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

[132]*Person* means any individual, firm, copartnership, corporation, company, association or joint stock association. The term "person" shall include any trustee, receiver, assignee or personal representative thereof carrying on or continuing a business, profession, trade or occupation, but shall not include a court-appointed trustee, receiver or personal representative, in the liquidation of assets for immediate distribution, or a sergeant or sheriff or any deputy, selling under authority of process or writ of court or justice. The term "person," for the purposes of this chapter, shall not include a volunteer fire department, a volunteer rescue squad or a nonprofit organization operating a community center, swimming pool, tennis court or other educational, cultural, recreational and athletic facilities and facilities for the welfare of the residents of the area.

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

Professional services means services performed by architects, attorneys-at-law, certified public accountants, dentists, engineers, land surveyors, surgeons, veterinarians and practitioners of the healing arts (the arts and sciences dealing with the prevention, diagnosis, treatment and cure or alleviation of human physical or mental ailments, conditions, diseases, pain or infirmities) and such occupations, and no others, as the state department of taxation may list in the business, professional and occupational license (BPOL) guidelines promulgated pursuant to Code of Virginia, § 58.1-3701. The department shall identify and list each occupation or vocation in which a professed knowledge of some department of science or learning, gained by a prolonged course of specialized instruction and study, is used by its practical application to the affairs of others, either advising, guiding or teaching them, and in serving their interests or welfare in the practice of an art or science founded on it. The term "profession" implies attainments in professional knowledge as distinguished from mere skill, and the application of knowledge to uses for others rather than for personal profit.

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

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[129] The term person is defined in chapter 1 to include governmental agencies. Repeat definition in this section as a separate entry? See also following definition of person? Keep.

[130] Include this definition from Code of Virginia, § 58.1-3700.1? yes.

[131] Include this definition from Code of Virginia, § 58.1-3700.1? yes.

[132] Not included in Code of Virginia, § 58.1-3700.1. Leave.

[133] Not included in Code of Virginia, § 58.1-3700.1. Leave.

PROOFS

[134]*Real estate services* means ~~rendering~~ providing a service ~~for compensation as lessor, buyer, seller, agent, or broker and providing a real estate service, unless the service is otherwise specifically provided for in this chapter,~~ with respect to the purchase, sale, lease, rental or appraisal of real property and such services include, but are not limited to, the following:

(1) Appraisers of real estate.

(2) Escrow agents, real estate.

(3) Fiduciaries, real estate.

(4) Lessors of real property.

(5) Real estate agents, brokers and managers.

(6) Real estate selling agents.

(7) Rental agents for real estate.

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

[136]*Security*, for purposes of this chapter, shall have the same meaning as in the Securities Act (Code of Virginia, § 13.1-501), or in similar laws of the United States regulating the sale of securities. [137]~~Those engaged in rendering financial services include, but without limitation, the following:~~

~~Buying installing receivables~~

~~Chattel mortgage financing~~

~~Consumer financing~~

~~Credit card services~~

~~Credit unions~~

~~Factors~~

~~Financing accounts receivable~~

~~Industrial loan companies~~

~~Installment financing~~

~~Inventory financing~~

~~Loan or mortgage brokers~~

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[134] This definition differs from Code of Virginia, § 58.1-3700.1 which is: "Real estate services means providing a service with respect to the purchase, sale, lease, rental, or appraisal of real property." Match state.

[135] Not included in Code of Virginia, § 58.1-3700.1. . Leave.

[136] The definition of security is not included in Code of Virginia, § 58.1-3700.1. Did not delete. Leave as is.

[137] This appears to be out of place and will be+ placed after the Furthermore: in the financial services definition? Change.

PROOFS

~~Loan or mortgage companies~~

~~Safety deposit box companies~~

~~Security and commodity brokers and services~~

~~Stockbroker~~

~~Working capital financing~~

[138]*Security broker* ~~shall~~ means ~~an agent of a buyer or a seller who buys or sells stocks, bonds, commodities, or services, usually on a commission basis~~ a broker, as such term is defined under the Securities Exchange Act of 1934 (15 U.S.C. § 78a et seq.), or any successor law to the Securities Exchange Act of 1934, who is registered with the United States Securities and Exchange Commission.

[139]*Security dealer* means a dealer, as such term is defined under the Securities Exchange Act of 1934 (15 U.S.C. § 78a et seq.), or any successor law to the Securities Exchange Act of 1934, who is registered with the United States Securities and Exchange Commission.

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

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

(Code 1992, § 15-2; Ord. of 12-17-1996)

State law reference—Definitions, Code of Virginia, § 58.1-3700.1.

Sec. 18-351. License required.

(a) Conditions for application; separate licenses.

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

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

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

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

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[138] The definition of "broker" is not included in Code of Virginia, § 58.1-3700. Changed to security broker which is defined. Okay.

[139] Included from Code of Virginia, § 58.1-3700.1. Okay.

[140] Not included in Code of Virginia, § 58.1-3700.1. . Leave.

[141] Not included in Code of Virginia, § 58.1-3700.1. . Leave.

PROOFS

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

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

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

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

(b) Due dates and penalties.

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

(2) The tax shall be paid with the application in the case of any license not based on gross receipts. If the tax is measured by the gross receipts of the business, the tax shall be paid on, or before, March 1 of each calendar year or 30 days after commencing business after March 1 of the current calendar year.

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

(4) Failure to file; late payments.

a. A penalty of ten percent of the tax, with a $10.00 minimum, may be imposed upon failure to file an application or the failure to pay the tax by the appropriate due date. Only the late filing penalty shall be imposed by the assessing official if both the application and payment are late; however, both penalties may be assessed if the assessing official determines that the tax payer has a history of noncompliance. In the case of an assessment of additional tax made by the assessing official, if the application and, if applicable, the return were made in good faith and the understatement of the tax was not due to any fraud, reckless or intentional disregard of the law by the taxpayer, there shall be no late payment penalty assessed with the additional tax. If any assessment of tax by the assessing official is not paid within 30 days, the treasurer, treasurer's representative or other collecting official designated by the town council may impose a ten percent late payment penalty. The penalties shall not be imposed, or if imposed, shall be abated by the official who assessed them, if the failure to file or pay was not the fault of the taxpayer. In order to demonstrate lack of fault, the taxpayer must show that he acted responsibly and that the failure was due to events beyond his control.

b. Definitions of terms used in this subsection.

PROOFS

1. The term "acted responsibly" means that:

   (i) The taxpayer exercised the level of reasonable care that a prudent person would exercise under the circumstances in determining the filing obligations for the business; and

   (ii) The taxpayer undertook significant steps to avoid or mitigate the failure, such as requesting appropriate extensions (where applicable), attempting to prevent a foreseeable impediment, acting to remove an impediment once it occurred, and promptly rectifying a failure once the impediment was removed or the failure discovered.

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

(5) Interest at the rate of ten percent per annum, from April 1 of the license year, upon the license tax, plus penalties, shall be charged on the late payment of the tax from the due date until the date paid without regard to fault or other reason for the late payment. The town treasurer shall collect and account for any interest or penalties received by the town. Whenever an assessment of additional omitted tax by the assessing official is found to be erroneous, all interest and penalty charged and collected on the amount of the assessment found to be erroneous shall be refunded, together with interest on the refund from the date of payment or the due date, whichever is later. Interest shall be paid on the refund of any tax paid under this chapter from the date of payment or due date, whichever is later, whether attributable to an amended return or other reason. Interest on any refund shall be paid at the same rate charged under Code of Virginia, § 58.1-3916.

(c) The payment of any penalty or interest under this section shall not relieve any person from prosecution for engaging in any business, occupation, trade, profession or calling without a license.

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

(Code 1992, § 15-3; Ord. of 12-17-1996; Ord. No. 2000-7 of 11-7-2000)

State law reference—Uniform requirements for levy of tax, Code of Virginia, § 58.1-3703.1 A.1.,2.

Sec. 18-352. <u>Situs of gross receipts;</u> each type and place of business to be licensed separately.

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

PROOFS

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

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

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

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

(b) *Apportionment*. If the licensee has more than one definite place of business and it is impracticable or impossible to determine to which definite place of business gross receipts should be attributed under the general rule (and the affected jurisdictions are unable to reach an apportionment agreement), except as to circumstances set forth in Code of Virginia, § 58.1-3709, the gross receipts of the business shall be apportioned between the definite places of businesses on the basis of payroll. Gross receipts shall not be apportioned to a definite place of business unless some activities under the applicable general rule occurred at, or were controlled from, such definite place of business. Gross receipts attributable to a definite place of business in another jurisdiction shall not be attributed to the town solely because the other jurisdiction does not impose a tax on the gross receipts attributable to the definite place of business in such other jurisdiction.

(c) *Agreements*. The assessor may enter into agreements with any other political subdivision of the state concerning the manner in which gross receipts shall be apportioned among definite places of business; however, the sum of the gross receipts apportioned by the agreement shall not exceed the total gross receipts attributable to all of the definite places of business affected by the agreement. Upon being notified by a taxpayer that its method of attributing gross receipts is fundamentally inconsistent with the method of one or more political subdivisions in which the taxpayer is licensed to engage in business and that the difference has, or is likely to, result in taxes on more than 100 percent of its gross receipts from all locations in the affected jurisdictions, the assessor shall make a good faith effort to reach an apportionment agreement with the other political subdivisions involved.[142] If an agreement cannot be reached, either the assessor or taxpayer may seek an advisory opinion from the department of taxation, pursuant to § 58.1-3701; notice of the request shall be given to the other party. Notwithstanding the provisions of § 58.1-

[142] Add from Code of Virginia, § 58.1-3703.1 A.3.c. Yes add.

PROOFS

3993, when a taxpayer has demonstrated to a court that two or more political subdivisions of the state have assessed taxes on gross receipts that may create a double assessment within the meaning of Code of Virginia, § 58.1-3986, the court shall enter such orders pending resolution of the litigation as may be necessary to ensure that the taxpayer is not required to pay multiple assessments even though it is not then known which assessment is correct and which is erroneous.

(Code 1992, § 15-4; Ord. of 12-17-1996)

State law reference—Uniform requirements for levy of tax, Code of Virginia, § 58.1-3703.1 A.3.

Sec. 18-353. Limitations and extensions.

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

(b) Notwithstanding Code of Virginia, § 58.1-3903, the assessing official shall assess the local tax omitted because of fraud or failure to apply for a license for the current license year and the six preceding years.[143]~~for 1997 and future years. For years prior to 1977 [1997, the assessing official shall assess the local license tax omitted because of fraud or failure to apply for a license for the current license year, plus three preceding years.~~

(c) The period for collecting any local license tax shall not expire prior to the period specified in Code of Virginia, § 58.1-3940, two years after the date of assessment if the period for assessment has been extended pursuant to this subsection, two years after the final determination of an appeal for which collection has been stayed pursuant to subsections ~~15-6(b)~~(a) ~~or 15-6(d)(~~) 18-355(b) or 18-355(d) of this chapter, or two years after the final decision in a court application pursuant to Code of Virginia, § 58.1-3984, or similar law for which collection has been stayed, whichever is later.

(Code 1992, § 15-5; Ord. of 12-17-1996)

State law reference—Uniform requirements for levy of tax, Code of Virginia, § 58.1-3703.1 A.4.

[144]**Sec. 18-354. Exclusions and deductions from gross receipts.**

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

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

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

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

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[143] Delete the remainder of this subsection as obsolete. Yes delete.

[144] Is this section still correct and complete? Move to before appeals

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(3) Any amount representing returns and allowance granted by the businesses to its customer.

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

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

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

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

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

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

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

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

(Code 1992, § 15-8; Ord. of 12-17-1996)

[145]~~Sec. 15-6. Appeals and rulings.~~

~~Any person assessed with a licensing tax under this chapter as the result of an audit may apply within 90 days from the date of the assessment to the assessing official for a correction of the assessment. The application must be filed in good faith and sufficiently identify the taxpayer, audit period, remedy sought, each alleged error in the assessment, the grounds upon which the taxpayer relies, and any other facts relevant to the taxpayer's contention. The assessor may hold a~~

[145] This section was the law as it existed in 1996 which differs from the present uniform requirements for ordinances in Code of Virginia, § 58.1-3703.1A.5.—7. which is inserted in underlined format following this section. Yes change.

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~~conference with the taxpayer if requested by the taxpayer, or require submission of additional information and documents, further audit, or other evidence deemed necessary for a proper and equitable determination of the applications. The assessment shall be deemed prima facie correct. The assessor shall undertake a full review of the taxpayer's claims and issue a determination to the taxpayer setting forth its position. Every assessment pursuant to an audit shall be accompanied by a written explanation of the taxpayer's right to seek correction and the specific procedure to be followed within the Town (e.g., the name and address to which an application should be directed).~~

~~__ Provided an application is made within 90 days of an assessment, collection activity shall be suspected until a final determination is issued by the assessor, unless the assessor determines that collection would be jeopardized by delay or that the taxpayer has not responded to a request for relevant information after a reasonable time. Interest shall accrue in accordance with the provisions of subsection 15-3(f) of this chapter, but no further penalty shall be imposed while collection action is suspended. The term "jeopardized by delay" includes a finding that the application is frivilous, or that a taxpayer desires to:~~

~~__ Depart quickly from the Town;~~

~~__ Remove his property therefrom;~~

~~__ Conceal himself or his property therein; or~~

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

~~__ Any person assessed with a license tax under this chapter as a result of an audit may apply within 90 days of the determination by the assessing official on an application pursuant to subsection 15-6(a) above to the Tax Commissioner for a correction of such assessment. The Tax Commissioner shall issue a determination to the taxpayer within 90 days of receipt of the taxpayer's application, unless the taxpayer and the assessing official are notified that a longer period will be required. The application shall be treated as an application pursuant to Code of Virginia, § 58.1-1822. Following such an order, either the taxpayer or the assessing official may apply to the appropriate circuit court pursuant to Code of Virginia, § 58.1-3984; however, the burden shall be on the party making the application to show that the ruling of the Tax Commissioner is erroneous. Neither the Tax Commissioner nor the Department of Taxation shall be made party to an application to correct an assessment merely because the Tax Commissioner has ruled on it.~~

~~__ On receipt of a notice of intent to file an appeal to the Tax Commissioner under subsection 15-6(c) above, the assessing official shall further suspend collection activity until a final determination is issued by the Tax Commissioner, unless the assessor determines that collection would be jeopardized by delay or that the taxpayer has not responded to a request for relevant information after a reasonable time. Interest shall accrue in accordance with the provisions of subsection 15-3(f), but no further penalty shall be imposed while collection action is suspended. The term "jeopardized by delay" shall have the same meaning as set forth in subsection 15-6(b) above.~~

Sec. 18-355. Administrative appeals to the assessing official.

(a) *Definitions*. For purposes of this section:

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

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

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

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

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

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

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

(1) Not well grounded in fact;

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

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

(4) Otherwise frivolous.

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

(1) Depart quickly from the town;

(2) Remove his property therefrom;

(3) Conceal himself or his property therein; or

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

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

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

(d) *Suspension of collection activity during appeal.* Provided a timely and complete administrative appeal is filed, collection activity with respect to the amount in dispute shall be

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suspended until a final determination is issued by the commissioner of the revenue or other assessing official, unless the treasurer or other official responsible for the collection of such tax:

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

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

(3) Is advised by the commissioner of the revenue or other assessing official that the appeal is frivolous, as defined in this section.

Interest shall accrue in accordance with the provisions of section 18-351(b)(5), but no further penalty shall be imposed while collection action is suspended.

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

(Code 1992, § 15-6; Ord. of 12-17-1996)

State law reference—Similar provisions, Code of Virginia, § 58.1-3703.1A.5.

Sec. 18-356. Administrative appeal to the tax commissioner.

(a) *Appeal.* Any person assessed with a local license tax as a result of a determination, upon an administrative appeal to the commissioner of the revenue or other assessing official pursuant to section 18-355, that is adverse to the position asserted by the taxpayer in such appeal may appeal such assessment to the tax commissioner within 90 days of the date of the determination by the commissioner of the revenue or other assessing official. The appeal shall be in such form as the tax commissioner may prescribe and the taxpayer shall serve a copy of the appeal upon the commissioner of the revenue or other assessing official. The tax commissioner shall permit the commissioner of the revenue or other assessing official to participate in the proceedings, and shall issue a determination to the taxpayer within 90 days of receipt of the taxpayer's application, unless the taxpayer and the assessing official are notified that a longer period will be required. The appeal shall proceed in the same manner as an application, pursuant to Code of Virginia, § 58.1-1821, and the tax commissioner may issue an order correcting such assessment pursuant to Code of Virginia, § 58.1-1822.

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

(1) Determines that collection would be jeopardized by delay, as defined in section 18-355(a);

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

(3) Is advised by the commissioner of the revenue or other assessing official that the appeal is frivolous, as defined in section 18-355(a).

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Interest shall accrue in accordance with the provisions of section 18-351(b)(5), but no further penalty shall be imposed while collection action is suspended. The requirement that collection activity be suspended shall cease unless an appeal pursuant to subsection (a) of this section is filed and served on the necessary parties within 30 days of the service of notice of intent to file such appeal.

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

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

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

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

(4) If the determination of the tax commissioner does not set forth a specific amount of refund due, or otherwise requires the commissioner of the revenue or other assessing official to undertake a new or revised assessment that will result in an obligation on the part of the locality to make a refund of taxes previously paid, the commissioner of the revenue or other assessing official shall promptly commence the steps necessary to undertake such new or revised assessment, and provide the same to the taxpayer within 60 days of the date of the determination of the tax commissioner, or within 60 days after receipt from the taxpayer of any additional information requested or reasonably required under the determination of the tax commissioner, whichever is later. The commissioner of the revenue or other assessing official shall certify the new assessment to the treasurer or other official responsible for collection, and the treasurer or other official responsible

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for collection shall issue a refund to the taxpayer for the amount of tax due, together with interest accrued, within 30 days of the date of the new assessment.

(Code 1992, § 15-6; Ord. of 12-17-1996)

State law reference—Similar provisions, Code of Virginia, § 58.1-3703.1A.6.

Sec. 18-357. Judicial review of determination of tax commissioner.

(a) *Judicial review*. Following the issuance of a final determination of the tax commissioner pursuant to section 18-356(a), the taxpayer or commissioner of the revenue or other assessing official may apply to the appropriate circuit court for judicial review of the determination, or any part thereof, pursuant to Code of Virginia, § 58.1-3984. In any such proceeding for judicial review of a determination of the tax commissioner, the burden shall be on the party challenging the determination of the tax commissioner, or any part thereof, to show that the ruling of the tax commissioner is erroneous with respect to the part challenged. Neither the tax commissioner nor the department of taxation shall be made a party to an application to correct an assessment merely because the tax commissioner has ruled on it.

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

(1) On receipt of a notice of intent to file an application for judicial review, pursuant to Code of Virginia, § 58.1-3984, of a determination of the tax commissioner pursuant to section 18-356(a), and upon payment of the amount of the tax that is not in dispute together with any penalty and interest then due with respect to such undisputed portion of the tax, the treasurer or other collection official shall further suspend collection activity while the court retains jurisdiction unless the court, upon appropriate motion after notice and an opportunity to be heard, determines that:

a. The taxpayer's application for judicial review is frivolous, as defined in section 18-355(a);

b. Collection would be jeopardized by delay, as defined in section18-355(a); or

c. Suspension of collection would cause substantial economic hardship to the locality.

For purposes of determining whether substantial economic hardship to the locality would arise from a suspension of collection activity, the court shall consider the cumulative effect of then-pending appeals filed within the locality by different taxpayers that allege common claims or theories of relief.

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

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

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

(5) The suspension of collection activity authorized by this subdivision shall not be applicable to any appeal of a local license tax that is initiated by the direct filing of an action pursuant to Code of Virginia, § 58.1-3984 without prior exhaustion of the appeals provided by ~~subdivisions 5 and 6~~ sections 18-355 and 18-356. .

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

(1) Payment of any refund determined to be due pursuant to the determination of the tax commissioner of an appeal pursuant to section 18-356(a) of this section shall be suspended if the locality assessing the tax serves upon the taxpayer, within 60 days of the date of the determination of the tax commissioner, a notice of intent to file an application for judicial review of the tax commissioner's determination pursuant to Code of Virginia, § 58.1-3984 and pays the amount of the refund not in dispute, including tax and accrued interest. Payment of such refund shall remain suspended while the court retains jurisdiction unless the court, upon appropriate motion after notice and an opportunity to be heard, determines that the locality's application for judicial review is frivolous, as defined in section 18-355(a).

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

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

(d) *Accrual of interest on unpaid amount of tax.* Interest shall accrue in accordance with the provisions of section 18-351(b)(5), but no further penalty shall be imposed while collection action is suspended.

(Code 1992, § 15-6; Ord. of 12-17-1996)

State law reference—Similar provisions, Code of Virginia, § 58.1-3703.1A.7.

Sec. 18-358. Rulings.

~~(a)~~ Any taxpayer, or authorized representative of a taxpayer, may request a written ruling regarding the application of the tax to a specific situation from the assessor. Any person requesting such a ruling must provide all the relevant facts for the situation and may present a rationale for the basis of an interpretation of the law most favorable to the taxpayer. Any misrepresentation or change in the applicable law or the factual situation, as presented in the ruling request, shall invalidate any such ruling issued. A written ruling may be revoked or amended prospectively if there is a change in the law, ~~[and/or]~~ a court decision or the assessor notifies the taxpayer of a change in the policy or interpretation upon which the ruling was based. However, any person who acts on a written ruling which later becomes invalid shall be deemed to have acted in good faith during the period in which such ruling was in effect.

(Code 1992, § 15-6(e); Ord. of 12-17-1996)

State law reference—Uniform requirements for levy of tax, Code of Virginia, § 58.1-3703.1A.8.

Sec. 18-359. Recordkeeping and audits.

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

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(Code 1992, § 15-7; Ord. of 12-17-1996)

State law reference—Uniform requirements for levy of tax, Code of Virginia, § 58.1-3703.1A.9.

Sec. 18-360. License fee and taxes.

(a) Pursuant to Code of Virginia, § 58.1-3703A, every person or business subject to licensure under the chapter shall be assessed and required to pay annually a minimum fee for the issuance of such license in the amount of $30.00.

(b) In addition to the license fee specified in subsection (a) of this section, and except as may be otherwise provided in Code of Virginia, §§ 58.1-3712, 58.1-3712.1 and 58.1-3713, every such person or business shall be assessed and required to pay annually a license tax on all the gross receipts of such persons includable, as provided in this chapter, at a rate set forth below for the class of enterprise listed:

(1) For contractors and persons constructing for their own account for sale, [146]$0.13 per $100.00 of gross receipts.

(2) For retailers, [147]$0.15 per $100.00 of gross receipts.

(3) For financial, real estate and professional services, [148]$0.39 per $100.00 of gross receipts.

(4) For repair, personal and business services including commission merchants and all other businesses and occupations not specifically listed or exempted in this chapter or otherwise by law, [149]$0.28 per $100.00 of gross receipts, [150]except every person trading in junk, rags, metal, paper or other like commodities in the town shall not pay more than $200.00 per annum.

(5) For wholesalers, $0.05 per $100.00 of purchases.

(6) Circus, carnivals, athletic, etc., exhibits and performances as follows, not to exceed the amounts set forth within the Code of Virginia, [151]§ 58.1-37~~18~~28:

a. Every circus or dog and/or pony show exhibiting in the town, or within the jurisdiction thereof, shall pay a license tax of [152]$25.00 per day.

b. Any person who operates exhibits of any kind and who receives compensation from persons viewing the exhibit, either by charging admission or by accepting voluntary contribution within the corporate limits of the town, shall pay a license tax of [153]$25.00 per day.

c. Any person who operates or presents an athletic exhibition by professional athletes and who receives compensation from persons viewing this exhibition, either by

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[146] Code of Virginia, § 58.1-3706 authorizes $.16 per $100 of gross receipts? leave

[147] Code of Virginia, § 58.1-3706 authorizes $.20 per $100 of gross receipts? leave

[148] Code of Virginia, § 58.1-3706 authorizes $.58 per $100 of gross receipts? leave

[149] Code of Virginia, § 58.1-3706 authorizes $.36 per $100 of gross receipts? leave

[150] Is this limitation still in effect? yes

[151] Is this the correct state law citation? See also Code of Virginia, § 58.1-3728 change to 58.1-3728.

[152] Is this amount still correct? yes

[153] Is this amount still correct? yes

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charging admission or by accepting voluntary contributions, shall pay a license tax of [154]$25.00 per day.

d. Any person who operates or presents a musical exhibition by professional musicians or similar forms of amusement and who receives compensation from persons viewing this exhibition, either by charging admission or by accepting voluntary contributions, shall pay a license tax of [155]$25.00 per day.

(7) Every fortuneteller, clairvoyant, phrenologist, spirit medium, spiritualist, astrologist, hypnotist, palmist or numerologist who operates or practices in the town shall pay a license tax of [156]$750.00 per annum. This tax shall not be prorated.

(8) For itinerant or transient merchants or peddlers, [157]$500.00 per year, except as follows:

a. Peddlers who shall carry from place to place any goods, wares or merchandise and offer to sell or barter the same, or actually sell or barter the same, shall be deemed to be peddlers and shall pay a license tax in the amount of $300.00 per annum for each person so engaged or employed, with the following exceptions:

1. The tax on peddlers of ice, wood or coal, not grown or produced by them but purchased for resale, shall be $25.00 for each vehicle used in such peddling.

2. The tax on peddlers of meat, milk, butter, ice cream, sandwiches, candy, eggs, poultry, fish, oysters, game, vegetables, fruits or other family supplies of a perishable nature, and beverages and soft drinks in cans, bottles or otherwise dispensed, not grown or produced by them, shall be $300.00 for each vehicle used in such peddling.

3. The tax on peddlers of seafood who buy the seafood they peddle directly from persons who catch or take the same shall be $10.00.

4. Every person, whether acting for himself or as an agent for another, selling lemonade or like beverages, ice cream, fruits, nuts, popcorn, or flowers upon the streets or public places in the town, except within the storehouse of merchants who have paid a license tax as such, shall pay a license tax of $25.00 for the use of town streets.

5. Nothing contained in ~~either of~~ the foregoing subsections shall be construed as imposing any tax upon a person for selling farm or domestic products within the town (not, however, within the regular store, markets and stalls therein) when the products that are to be sold are grown or produced by such person; provided, that [158]~~peddler at wholesale or to those who sell or offer for sale in person or by their employees ice, wood, charcoal, meats, milk, butter, eggs, poultry, game, vegetables, fruits or other family supplies of a perishable nature or farm products grown or produced by them and not purchased by them for sale. A dairyman who uses upon the streets of any city one or more vehicles may sell and deliver from his vehicles, milk, butter, cream and eggs in such city without~~

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[154] Is this amount still correct? yes

[155] Is this amount still correct? yes

[156] Is this amount still correct? Code of Virginia, § 58.1-3726 maximum is $1,000 per year yes

[157] See a. which states the license tax is $300? leave as is

[158] Included statement from Code of Virginia, § 58.1-3717 D. leave as was (original)

~~procuring a peddler's license.~~ the persons [159]~~not known to the officers of the Town~~ may be required to furnish satisfactory proof that they are entitled to such exemptions.

6. No person licensed under this subsection shall stop his truck, automobile, wagon, cart or vehicle in such a manner as to interfere with the operation of any regularly licensed store, shop or stand from which merchandise is sold, nor shall the person licensed under this subsection park his vehicle, while selling the above-mentioned articles, longer than any prescribed parking limit in the area where such transaction takes place.

7. None of the licenses referred to in subsections (c)(8)a.1 through 5 of this section are to be prorated.

b. Itinerant or transient merchants or peddlers licenses shall not be prorated.

(9) For photographers, $0.28 per $100.00 of gross receipts per year up to a maximum of $30.00 per annum; however, nothing in this subsection shall apply to amateur photographers who expose, develop and finish their own work and who do not part with the same for compensation or receive any compensation for performing any of the processes of photography; nor to coin-operated photograph machines; nor to photographers while in the course of their employment by newspapers, magazines or television stations.

(10) For permanent coliseums, arenas or auditoriums having a maximum capacity in excess of 10,000 persons, open to the public, $0.20 per $100.00 per annum up to a maximum of $1,000.00 per annum.

(11) For savings and loan associations and credit unions, $50.00 per year. This license tax shall not be prorated.

(12) For direct sellers, as defined in Code of Virginia, § 58.1-3719.1, with total annual sales in excess of $4,000.00, $0.20 per $100.00 of total annual retail sales or [160]$0.15 per $100.00 of total annual wholesale sales, whichever is applicable.

(13) Any person having no regularly established place of business in the state upon which is paid a properly levied license tax, who, within the town, personally or through officers, employees, agents or servants, by personal contact, either by telephone or otherwise, solicits or makes appointments for sittings for the purposes of photographic pictures or reproductions, or who sends out cards inviting persons to present themselves for a sitting, or who sets up a place from which contacts are made or pictures taken, or who makes photographs all with the view of selling the same to the person, or persons, contacted, shall first obtain a license for such act or acts performed in the town and shall pay ~~therefor~~ an annual fee of $30.00. This license tax shall apply to each person, agent or officer performing any such acts and such license shall not be prorated.

(Code 1992, § 15-9; Ord. of 12-17-1996; Ord. No. 2004-3, 6-15-2004; Ord. No. 2008-3, 6-3-2008)

State law reference—Authority to charge $30 for issuance of license, Code of Virginia, § 58.1-3702A., exemptions, Code of Virginia, § 58.1-3702B.,C.; rate limitations for taxes on certain entities, Code of Virginia, § 58.1-3706; rate limitations for taxes on wholesalers, Code of Virginia, § 58.1-3716; rate limitations for taxes on public service corporations, Code of Virginia, § 58.1-3731; rate limitations for taxes

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[159] Delete as discriminatory? Yes remove

[160] Code of Virginia, § 58.1-3719.1 establishes a maximum of $.05 per $100 unless there is an exception? We are grandfathered.

PROOFS

on carnivals, circuses, etc., Code of Virginia, § 58.1-3728; rate limitations for taxes on fortunetellers, Code of Virginia, § 58.1-3726; rate limitations for taxes on peddlers, etc., Code of Virginia, § 58.1-3717; rate limitations for taxes on permanent coliseums, etc., Code of Virginia, § 58.1-3729; rate limitations for taxes on savings institutions, etc., Code of Virginia, § 58.1-3730; rate limitations for taxes on photographers, Code of Virginia, § 58.1-3727; rate limitations for taxes on direct sellers, Code of Virginia, § 58.1-3719.1.

Sec. 18-361. Display of license.

The license tax receipts or other certificates showing payment of a license tax, wherever imposed by the town, are to be displayed in a conspicuous place at the regular place of business, profession or calling in order that any police officer of the town may inspect the same at any and all reasonable times. This requirement does not apply to motor vehicles.

(Code 1992, § 15-10; Ord. of 12-17-1996; Ord. No. 2005-4 of 9-20-2005)

Sec. 18-362. Transfer of license.

A license issued under this chapter shall be transferable, except where provided otherwise, only where the business for which the license was issued has been sold or disposed of, but is to be continued by the purchaser or transferred at the same or at some other location within the town. In no case shall the license transfer be legal or valid unless, and until, notice in writing is given to the town treasurer. Such notice shall contain the name, trade name, if any, and the address of the proposed transferee, the proposed new location, if any, and the time of the proposed transfer. Failure to notify the town treasurer of the transfer of the license within 30 days after such transfer shall invalidate such license. The town treasurer shall give written approval of the transfer of a license, if such transfer is approved.

(Code 1992, § 15-11; Ord. of 12-17-1996)

Sec. 18-363. Revocation of license.

The town council may, for just cause, order a license granted under any section of this chapter revoked, and, in such case, the license shall be prorated and the unused portion of the license tax collected shall be returned.

(Code 1992, § 15-12; Ord. of 12-17-1996)

Sec. 18-364. Proration.

Except as otherwise provided in this chapter, all annual license taxes shall be granted at one-half the annual tax on and after October 30 of each year; provided that in any case where a license tax per annum shall not be an exact multiple of $1.00, the fractional part of $1.00 charged for such license shall be considered the fee allowed by the town by the laws of the state for issuance of such license and shall not be prorated with the rest of the license.

(Code 1992, § 15-13; Ord. of 12-17-1996)

State law reference—Proration of license tax, Code of Virginia, § 58.1-3710.

Sec. 18-365. Compliance with zoning regulations required.

The town treasurer shall not issue a license for conducting any business, profession, trade or occupation at a location where the conduct of such business, profession, trade or occupation is prohibited by the zoning regulations of the town. All such licenses shall be subject to verification to ascertain compliance with the zoning regulations. Failure to comply shall be just cause for refusal to issue or immediate revocation by the town treasurer.

(Code 1992, § 15-14; Ord. of 12-17-1996)

PROOFS

Secs. 18-366--18-390. Reserved.

[161]ARTICLE XIII~~V~~. Sec. 15-15. MISCELLANEOUS LICENSE TAXES

Sec. 18-391.Coin operated machines and devices license tax.

For coin-operated machines, the following license taxes shall be charged, except as otherwise provided for within this chapter:

(1) Every amusement operator, as defined by Code of Virginia, § 58.1-3720, as being any person leasing, renting or otherwise furnishing or providing a coin-operated amusement machine in the town, except a person owning less than three such machines and operating such machines on property owned or leased by such person, shall pay a license tax of $25.00 per machine, not to exceed [162]$200.00 per annum; provided however, the term "operator" shall not include a person owning less than three coin-operated machines and operating such machines on property owned or leased by such person, in which case, he shall pay a license tax in the same manner as subsection (2) of this section. The term "amusement machine" ~~shall~~ means any coin-operated machine except weighing machines; automatic baggage or parcel checking machines or receptacles; vending machines which are so constructed as to do nothing but vend goods, wares and merchandise or postage stamps, or provide service only; viewing machines or photomat machines; and devices or machines affording rides to children or for the delivery of newspapers.

(2) In addition, every amusement operator operating or displaying for operation in the town any coin-operated machine or device operated on the coin-in-the-slot principle for amusement purposes shall pay a gross receipts tax on the share of the receipts actually received by such operator from coin-operated machines operated within the town in the same manner as retail merchants.

(3) Any machine vending merchandise ~~or~~ [163] ~~postage stamps~~ shall be deemed receipts from retail sales, and taxed at the same rate as other retail sales (Code of Virginia, § 58.1-3706(A)(2)).

(Code 1992, § 15-15(a); Ord. of 12-17-1996; Ord. of 6-15-1999(2); Ord. No. 2000-7, 11-7-2000; Ord. No. 2002-6, 7-2-2002; Ord. No. 2005-3, 6-7-2005; Ord. No. 2005-4, 9-20-2005)

State law reference—Tax on amusement machines, Code of Virginia, § 58.1-3720; exemption for certain machines, Code of Virginia, § 58.1-3721.

Sec. 18-392. Local vehicle license tax.

The local vehicle license tax shall be applicable to any motor vehicle, [164]commercial trailer or semitrailer required to be licensed by the department of motor vehicles and normally garaged, stored or parked in this town. If it cannot be determined where any vehicle is normally garaged, stored or parked, or if the owner of any vehicle is a student attending an institution of higher

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[161] This section should be split and each category a separate section? Leave as was. This section was converted into an article and each tax a separate section to facilitate indexing and to create a section listing at the beginning of the chapter which is an aid to the user.

[162] The $200 maximum applies to operator's operating ten or more coin operated machines? Leave as was

[163] Is there authority for a tax on postage stamp vending machines? No, deleted.

[164] Delete commercial as it applies to all trailers? Later as it would be a new tax on noncommercial.

PROOFS

education, then the local vehicle license tax shall be applicable if the owner of such vehicle is domiciled in this town.

(1) Rate of license tax. The owner of each motor vehicle, commercial trailer or semitrailer to which the license tax applies shall pay a yearly tax of ~~$27.50~~ $30.00 per vehicle for the calendar year. [165]~~During the transition year of January 1, 2006 through December 31, 2006, the yearly tax per vehicle will be $19.50 because of the new billing cycle.~~ The license tax for each calendar year may be paid beginning November 1 of the prior year and must be paid before January 1 of the year in which the tax applies. The receipt shall serve as the license and shall serve as evidence that the license tax has been paid. The tax shall be billed along with the personal property tax.

a. A license will not be issued to any applicant until such applicant has produced satisfactory evidence that all personal property taxes on the motor vehicle, commercial trailer or semitrailer to be licensed have been paid and satisfactory evidence that any delinquent motor vehicle, commercial trailer or semitrailer personal property taxes owing have been paid which have been properly assessed or are assessable against the applicant by the town.

b. The treasurer will notify the state's department of motor vehicles of the names of persons who have failed to obtain a vehicle license or are delinquent in payment of tangible personal property tax. The department of motor vehicles will refuse to issue or renew any vehicle registration of any applicant therefor who owes the town a vehicle license tax or is delinquent in paying tangible personal property tax. The commissioner of the department of motor vehicles shall charge a reasonable fee to cover the costs of such enforcement action, and the town treasurer will add the cost of this fee to the delinquent tax bill.

(2) Every person operating a bus for hire by picking up and discharging passengers in the town and traveling over the streets of the town on scheduled trips shall pay a license tax in accordance with this section.

(3) Every person operating a taxi or a car for hire in the town shall pay a license tax in accordance with this section and there will be required satisfactory proof that the car or vehicle that is to be operated has complied with all state and town regulations and requirements pertaining to insurance.

(Code 1992, § 15-15(b); Ord. of 12-17-1996; Ord. of 6-15-1999(2); Ord. No. 2000-7, 11-7-2000; Ord. No. 2002-6, 7-2-2002; Ord. No. 2005-3, 6-7-2005; Ord. No. 2005-4, 9-20-2005; Ord. No. 2012-4, § 15-15, 6-5-2012)

State law reference—Motor vehicle license tax, Code of Virginia, § 46.2-752.

~~*Community antenna television systems.* Community antenna television systems (CATV systems) shall be licensed in accordance with Chapter 6, Article III of this Code.~~

~~*Dealers in purchase of secondhand gold, silver, etc.* See Chapter 19 of this Code.~~

~~*Electric power company.* Every firm or corporation doing the business of furnishing heat, light and power by means of electricity in the Town shall collect and remit a consumer utility tax as prescribed in Chapter 11 "Finance and Taxation."~~

~~(Code 1992, § 15-15(c); Ord. of 12-17-96; Ord. of 6-15-1999(2); Ord. No. 2000-7, 11-7-00; Ord. No. 2002-6, 7-2-2002; Ord. No. 2005-3, 6-7-2005; Ord. No. 2005-4, 9-20-2005)~~

[165] Delete this sentence on transition year as obsolete? Deleted, part of tax increase ordinance.

PROOFS

~~*Gas service.* Vendors of gas for heat or power shall collect and remit a consumer utility tax as prescribed in Chapter 11 "Finance and Taxation."~~

~~(Code 1992, § 15-15(f); Ord. of 12-17-96; Ord. of 6-15-1999(2); Ord. No. 2000-7, 11-7-00; Ord. No. 2002-6, 7-2-2002; Ord. No. 2005-3, 6-7-2005; Ord. No. 2005-4, 9-20-2005)~~

[166]Sec. 18-393. ~~*telegraph and*~~ Tax on broadcast companies.

Every person engaged in the business of transmitting messages by ~~telegraphy or~~ radio between the town and other points in the state and who maintains an office within the town shall pay a license tax of $30.00 per annum.

(Code 1992, § 15-15(g); Ord. of 12-17-1996; Ord. of 6-15-1999(2); Ord. No. 2000-7, 11-7-2000; Ord. No. 2002-6, 7-2-2002; Ord. No. 2005-3, 6-7-2005; Ord. No. 2005-4, 9-20-2005)

~~(a) *Telecommunication companies.* Telephone and other telecommunications companies shall pay a license fee for the use of the public rights-of-way in furnishing communications by telephone within the Town and for the privilege of doing business in the Town. Such fee shall be a license tax of one-half of one percent per annum of gross receipts of such flat service rates in the Town, accruing to such firm or corporation from sales to the ultimate consumer in the Town.~~

~~(Code 1992, § 15-15(h); Ord. of 12-17-96; Ord. of 6-15-1999(2); Ord. No. 2000-7, 11-7-00; Ord. No. 2002-6, 7-2-2002; Ord. No. 2005-3, 6-7-2005; Ord. No. 2005-4, 9-20-2005)~~

[167]Sec. 18-394. Wine, beer, mixed alcoholic beverage.

(a) *Wine, beer.* Every person selling, or offering for sale, beer, wine, lager or ales in the corporate limits of the town shall pay a license tax as follows:

Beer and wine:		
	On- and off-premises	$50.00
	Off-premises only	$37.50
	On-premises only	$37.50
Beer only:		
	On- and off-premises	$50.00
	On-premises only	$25.00
	Off-premises only	$25.00

(b) *Mixed alcoholic beverage.* Every person holding a beverage restaurant and caterer's license issued by the state selling or offering for sale mixed beverages, as defined by state law, in the town shall pay a license tax as follows:

(1) Persons operating restaurants, including restaurants located on premises of and operated by hotels or motels:

a. $200.00 per annum for each restaurant with a seating capacity at tables for 50 to 100 persons.

b. $350.00 per annum for each restaurant with a seating capacity at tables for more than 100, but not more than 150 persons.

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[166] Is this tax still in effect? Add television later?, check, leave for now

[167] Are these amounts correct? yes

PROOFS

c. $500.00 per annum for each restaurant with a seating capacity at tables for more than 150 persons.

d. $500.00 per annum for each caterer.

e. Mixed beverage special events licenses, $10.00 for each day of each event.

(2) A private, nonprofit club operating a restaurant located on the premises of such club, $350.00 per annum.

(Code 1992, § 15-15(i); Ord. of 12-17-1996; Ord. of 6-15-1999(2); Ord. No. 2000-7, 11-7-2000; Ord. No. 2002-6, 7-2-2002; Ord. No. 2005-3, 6-7-2005; Ord. No. 2005-4, 9-20-2005)

State law reference—Local alcoholic beverage licenses and taxes, Code of Virginia, §§ 4.1-205, 4.1-211, 4.1-233.

[168]Sec. 18-395. Advertising with loudspeaker.

(a) Every person engaged in advertising and/or attracting attention by loudspeaker, whether such device shall be mounted, stationery or portable, or used on or in any motor vehicle or other vehicle, shall pay a permit tax of $10.00 per day for the conduct of activities within, or amplifying sound into, the public rights-of-way.

(b) Nothing within this section shall be interpreted to prohibit the enforcement of other provisions of this Code.

(Code 1992, § 15-15(j); Ord. of 12-17-1996; Ord. of 6-15-1999(2); Ord. No. 2000-7, 11-7-2000; Ord. No. 2002-6, 7-2-2002; Ord. No. 2005-3, 6-7-2005; Ord. No. 2005-4, 9-20-2005)

[169]Sec. 18-396. Contractor bonding.

In addition to any license taxes required elsewhere, the following bonds or certificates of insurance in a minimum amount of $1,000,000 shall be posted by contractors in accordance with the following:

(1) Every electrical contractor, except Class A contractors examined and currently licensed under the provisions of Code of Virginia, § 54.1-1106, shall give bond in the amount of $5,000.00 with an approved security for the faithful performance of all electrical work in a manner conforming to the ~~National Electrical Code~~ Building Code.

(2) Every plumbing, heating and steam fitting contractor, except Class A contractors examined and currently licensed under the provisions of Code of Virginia, § 54.1-1106, shall give bond in the amount of $5,000.00 with an approved security conditioned to save harmless the town from any damages arising from any plumbing and making connections on the public sewer, drains or water pipes. Nothing within this section shall be interpreted to prohibit the enforcement of other provisions of this Code.

(Code 1992, § 15-15(k); Ord. of 12-17-1996; Ord. of 6-15-1999(2); Ord. No. 2000-7, 11-7-2000; Ord. No. 2002-6, 7-2-2002; Ord. No. 2005-3, 6-7-2005; Ord. No. 2005-4, 9-20-2005)

State law reference—Contractors, Code of Virginia, § 54.1-1100 et seq.

~~**Editor's note**—Ordinance 2000-7 became effective January 1, 2001, therefore the Town of Christiansburg effective rates of one half of one percent of gross receipts formally specified in Sec. 15-15(e) and (f) were in effect on December 31, 2000 in accord with the maximum rates allowed under former Code of Virginia, §~~

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[168] Is this tax still in effect? Yes.

[169] Is this section still correct and should it be in the building chapter? Yes it is correct and leave here, but research bond amount and who is beneficiary and accepting certificate of insurance.

PROOFS

~~58.1-3814. Sec. 15-15(e) and (f) formally specified collection on an annual basis, however amended Code of Virginia, § 58.1-3814 provides for collection on a monthly basis.~~

~~**Cross reference**—Alcoholic beverages, ch. 4; traffic and motor vehicles, ch. 28.~~

Secs. 18-397--18-420. Reserved.

~~Chapter 20~~

ARTICLE XIII. PROCUREMENT*

~~***Editor's note**— The ordinance codified in this chapter became effective on September 15, 1998.~~

~~**Cross reference**—Administration, ch. 2; finance and taxation, ch. 11.~~

***State law reference**—Virginia Public Procurement Act, Code of Virginia, § ~~11-35~~ 2.2-4300 et seq.; acquiring public utilities, rights-of-way, fixtures, etc., Code of Virginia, § 15.2-2109; acceptance or refusal of gifts, donations, bequests or grants, Code of Virginia, § 15.2-1108; purchase, sale, etc., of real property, Code of Virginia, § 15.2-1800 et seq.

~~**Sec. 20-1. Adoption of code of virginia.**~~

[170]Sec. 18-421. Adoption of Code of Virginia.

Chapter 7 of the Virginia Public Procurement Act, Code of Virginia, § ~~11-35~~ 2.2-4300 et seq., ~~of the Code of Virginia of 1950 as amended of July 1, 1998~~ and all future amendments thereof are implemented and adopted by reference where the provisions thereof, are applicable to the town.

(Code 1992, § 20-1; Ord. of 12-21-1982, § 22-05; Ord. of 9-15-1998)

~~**Editor's note**— An ordinanc adopted September 15, 1998, repealed Chapter 20 in its entirety and adopted Chapter 7 of the Virginia Public Procurement Act.~~

PROOFS

[170] Does the town want to include in the Code of Ordinances those provisions of Code of Virginia, § 2.2-4300 et seq. applicable to the town? Leave as is.

Chapter 19

RESERVED

PROOFS

Chapter ~~12~~ 20

FIRE PREVENTION AND PROTECTION*

***Charter reference**—Fire prevention, ch. 5.

~~**Cross reference**—Administration, ch. 2; Town Safety Program, § 2-191 et seq.; certain advertisements or structures prohibited, § 3-44; buildings, ch. 9; fire districts, § 9-1 et seq.; health and sanitation, ch. 14; nuisances, ch. 15; Police Department, ch. 18; rescue and lifesaving, ch. 23; solid waste, weeds, tree trimmings, leaves, ch. 24; closed streets to be reported to Fire Department, § 25-2; general subdivision regulations, § 26-4; traffic and motor vehicles, ch. 28; water and sewers, ch. 29; tampering with fire hydrant, § 29-14.~~

State law reference—Forest resources and the Department of Forestry, Code of Virginia, § 10.1-1100 et seq.; removal, repair, etc., of dangerous structures, Code of Virginia, § ~~15.1-11.2~~ 15.2-906; nuisances, keeping of combustibles, Code of Virginia, § ~~15.1-14(5), (6)~~ 15.2-1115; ~~Town fire prevention and building regulations, Code of Virginia, § 15.1-15(1), (4), (5); making of fires, Code of Virginia, § 15.1-872;~~ false fire or ambulance alarms, Code of Virginia, § 18.2-212; fire protection, Code of Virginia, § 27-1 et seq.; statewide fire prevention code, Code of Virginia, § 27-94 et seq.; explosives, Code of Virginia, § 59.1-137 et seq.; fireworks, Code of Virginia, § 59.1-142 et seq.

~~Article I. In General~~

~~Sec. 12-1. Duties of police at fires.~~

~~Sec. 12-2. Police powers of Fire Chief.~~

~~Sec. 12-3. Establishment and maintenance of fire lines.~~

~~Sec. 12-4. Direction of traffic by firefighters.~~

~~Sec. 12-5. Compliance with command of police officer or firefighter at fire; assistance to Fire Department.~~

~~Sec. 12-6. Obstruction of access to fire hydrants.~~

~~Sec. 12-7. Penalties.~~

~~Secs. 12-8--12-35. Reserved.~~

~~Article II. Volunteer Fire Company~~

~~Sec. 12-36. Establishment.~~

~~Sec. 12-37. Officers.~~

~~Sec. 12-38. Election and certification of officers; roster of members.~~

~~Sec. 12-39. Absence or disability of Chief.~~

~~Sec. 12-40. Apparatus and equipment--Generally.~~

~~Sec. 12-41. Same--Duties of Chief.~~

~~Sec. 12-42. Record and report of fires.~~

~~Secs. 12-43--12-65. Reserved.~~

~~Article III. Fire Prevention Code~~

~~Sec. 12-66. Enforcing agency--Designated.~~

~~Sec. 12-67. Same--Procedure when unsafe conditions found.~~

~~Sec. 12-68. Appeals.~~

~~Sec. 12-69. Administrative practices.~~

PROOFS

~~Sec. 12-70. Viewing of copies.~~

~~Sec. 12-66. Fire Prevention Code.~~

~~Sec. 12-67. Local amendments to Fire Prevention Code - Reserved.~~

~~Sec. 12-68. Appointment of Fire Marshal.~~

~~Sec. 12-69. Appointment of Deputy and Assistant Fire Marshals.~~

~~Sec. 12-70. Authority.~~

~~Sec. 12-71. Investigation of fires.~~

~~Sec. 12-72. Enforcement.~~

~~Sec. 12-73. Right to enter property.~~

~~Sec. 12-74. Local Board of Fire Code Appeals.~~

ARTICLE I. IN GENERAL

Sec. 20-1. Duties of police at fires.

The police shall attend all fires in the town and shall so direct traffic and enforce traffic regulations in the vicinity of the fire as to expedite the approach and work of the fire department. The police shall also safeguard property during the progress of the fire.

(Code 1972, § 12-1; Code 1992, § 12-1)

~~**Cross reference**— Police Department, ch. 18.~~

Sec. 20-2. Police powers of fire chief.

The fire chief shall, for the specific purpose of safeguarding life and property, have police powers during a fire.

(Code 1972, § 12-2; Code 1992, § 12-2)

State law reference—Powers of arrest for certain violations, Code of Virginia, § 27-15.1.

Sec. 20-3. Establishment and maintenance of fire lines.

The fire chief shall establish fire lines, where needed, during any fire, and the police shall be responsible for maintaining such lines until the emergency has passed.

(Code 1972, § 12-3; Code 1992, § 12-3)

Sec. 20-4. Direction of traffic by firefighters.

Officers of the fire department, when at the scene of a fire, may direct or assist in directing traffic thereat or in the immediate vicinity [171]~~until the arrival of a police officer~~.

(Code 1972, § 12-4; Code 1992, § 12-4)

~~**Cross reference**— Traffic and motor vehicles, ch. 28.~~

State law reference—Direct and control traffic in person or by deputy and facilitate the movement of traffic until the arrival of a police officer, Code of Virginia, § 27-15.1.

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[171] Add? No, we want to leave as is because the Fire Dept. may still need to assist in directing traffic after a police officer arrives (i.e. - one officer, but two people needed to direct traffic).

PROOFS

Sec. 20-5. Compliance with command of police officer or firefighter at fire; assistance to fire department.

It shall be unlawful for any person in attendance at a fire to fail, neglect or refuse to comply with the commands of a firefighter or police officer, or, in case of need, for any person to fail, neglect or refuse to render assistance to the fire department upon request or command of the fire chief or other officer in charge.

(Code 1972, § 12-5; Code 1992, § 12-5)

~~**Cross reference--**Police Department, ch. 18.~~

State law reference—Violations are a class 4 misdemeanor, Code of Virginia, § 27-15.1.

[172]Sec. 20-6. Obstruction of access to fire hydrants.

(a) It shall be unlawful for any person to ~~obstruct access to~~ park a vehicle or permit it to stand, whether attended or unattended, within 15 feet of a fire hydrant.

(b) It shall be unlawful for any person to park a vehicle or permit it to stand, whether attended or unattended, in or on a designated fire lane, or in any way to obstruct access to a designated fire lane, including designated fire lanes in any business, commercial or industrial areas located in the town.

(Code 1992, § 12-6; Ord. of 12-2-1986, § 12-6)

~~**Cross reference--**Water and sewers, ch. 29.~~

State law reference—Similar provisions, Code of Virginia, § 46.2-1239.

Sec. 20-7. Penalties.

(a) Any person who shall violate any of the provisions of this chapter, or shall fail to comply therewith, shall be guilty of a Class 4 misdemeanor, punishable as provided for in such cases under the laws of the state. The imposition of one penalty for any violation shall not excuse the violation or permit it to continue. All such persons shall be required to correct or remedy such violations or defects within a reasonable time. When not otherwise specified, each ten days that prohibited conditions are maintained shall constitute a separate offense.

(b) The application of the above penalty shall not be held to prevent the enforced removal of prohibited conditions.

(Code 1992, § 12-7; Ord. of 12-2-1986, § 12-19)

Secs. 20-8--20-32. Reserved.

[173]ARTICLE II. VOLUNTEER FIRE COMPANY*

~~***Cross reference--** Administration, ch. 2.~~

***State law reference**—Fire departments, Code of Virginia, § 27-6.1.

Sec. 20-33. Establishment.

A volunteer fire company has been formed in the town pursuant to Code of Virginia, § 27-6.1 et seq.

(Code 1972, § 12-7; Code 1992, § 12-36)

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[172] This section is contained in Code of Virginia, § 46.2 -1239. Delete or conform? Conform.

[173] Is this article correct? Change 12-37

PROOFS

Sec. 20-34. Officers.

The volunteer fire company shall elect its own officers annually with the exception of the fire chief, who shall be appointed ~~annually~~ by the town manager. Those elected by the volunteer fire company shall consist of an assistant fire chief, captain, engineers and a secretary-treasurer, together with any other officers deemed necessary by the volunteer fire company or the town council.

(Code 1992, § 12-37; Ord. of 5-3-1988, § 12-8)

Sec. 20-35. Election and certification of officers; roster of members.

All officers of the volunteer fire department elected by its members shall be certified to the council immediately after election, together with a complete and corrected roster of the company before they assume the responsibilities of their respective offices.

(Code 1992, § 12-38; Ord. of 5-3-88, § 12-9)

Sec. 20-36. Absence or disability of chief.

In case of absence or disability of the chief of the volunteer fire company, the ranking officer present shall exercise all the powers and assume all the responsibilities of the chief.

(Code 1972, § 12-10; Code 1992, § 12-39)

Sec. 20-37. Apparatus and equipment--Generally.

All apparatus and equipment used and to be used for extinguishing fires and for emergency rescue service employed by the volunteer fire company and purchased by the town shall be the property of the town. The volunteer fire company shall have the right to use the town's fire equipment for the purpose of extinguishing fires and for practicing therewith.

(Code 1972, § 12-11; Code 1992, § 12-40)

Sec. 20-38. Same--duties of chief.

It shall be the responsibility of the chief of the volunteer fire company to keep all apparatus referred to in section 20-37 in proper condition and repair, and to that end to make regular systematic inspections of such apparatus and equipment. It shall be the duty of the chief of the volunteer fire company to report to the town manager at least once each year and as often as may be deemed necessary as to the condition of such apparatus and equipment, with recommendations as to new equipment, additional or replacement, required for the protection of life and property in the town. Such reports shall be submitted, in writing, to the town manager.

(Code 1992, § 12-41; Ord. of 5-3-1988, § 12-12)

Sec. 20-39. Record and report of fires.

The fire chief shall make or cause to be made a careful record of all fires occurring in the town together with the estimated loss resulting therefrom. He shall make a report of the data so collected and submit it in writing to the town manager on or before ~~the first day of~~ August 1 of each year.

(Code 1972, § 12-13; Code 1992, § 12-42)

PROOFS

Secs. 20-40--20-66. Reserved.

[174]ARTICLE III. FIRE PREVENTION CODE

State law reference—Statewide fire prevention code, Code of Virginia, § 27-97.

~~Sec. 12-66. Enforcing agency--designated.~~

~~The Fire Department is hereby designated to act as the enforcing agency for the enforcement of the Statewide Fire Prevention Code duly adopted by the State Board of Housing and Community Development under authority of Code of Virginia, § 27-97.~~

~~(Ord. of 6-7-88, § 12-14; Code 1992, § 12-66)~~

~~**Cross reference**—Administration, ch. 2.~~

~~**State law reference**—Fire prevention code, Code of Virginia, § 27-97.~~

~~Sec. 12-67. Same--procedure when unsafe conditions found.~~

~~The enforcement procedures of the Statewide Fire Prevention Code shall be instituted by the Fire Chief or Fire Marshal when an unsafe condition is discovered by the Fire Chief or Fire Marshal and administered in accordance with the provisions set forth in the Statewide Fire Prevention Code.~~

~~(Ord. of 6-7-88, § 12-15; Code 1992, § 12-67)~~

~~Sec. 12-68. Appeals.~~

~~The Town Fire Board of Appeals is hereby designated as the appeals board to hear appeals arising from the application of the provisions of the Statewide Fire Prevention Code.~~

~~(Ord. of 6-7-88, § 12-16; Code 1992, § 12-68)~~

~~**Cross reference**—Administration, ch. 2.~~

~~Sec. 12-69. Administrative practices.~~

~~The Fire Chief or Fire Marshal shall establish such procedures or requirements as may be necessary for administration and enforcement of this article. The procedures are to be approved by the Council.~~

~~(Ord. of 6-7-88, § 12-17; Code 1992, § 12-69)~~

~~Sec. 12-70. Viewing of copies.~~

~~Copies of the Statewide Fire Prevention Code, current edition, may be viewed at the Office of the Town Manager in the Municipal Building on East Main Street, Christiansburg, Virginia, Monday through Friday (except when any of these days is a legal holiday) between the hours of 8:30 a.m. and 5:00 p.m.~~

~~(Ord. of 6-7-88, § 12-18; Code 1992, § 12-70)~~

Sec. 20-67. Fire Prevention Code.

The town shall enforce the Virginia Statewide Fire Prevention Code promulgated by the board of housing and community development of the commonwealth, pursuant to Code of Virginia, § 27-98. The provisions of the Virginia Statewide Fire Prevention Code and article III of this chapter shall be enforced by the fire marshal, or his duly authorized representative, hereafter referred to as the fire official, at the direction of the chief of the town fire department.

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[174] Is everything in this article correct? Replace as shown.

PROOFS

[175]**Sec. 20-68. Local amendments to the fire prevention code – Reserved.**

Sec. 20-69. Appointment of fire marshal.

There shall be a fire marshal recommended for appointment by the fire chief to the town council. The fire chief may serve as the fire marshal. The fire marshal shall be the town fire official and shall have all the powers and duties set out in title 27, chapter 3 of the Code of Virginia pertaining to local fire marshals, including those powers and duties set out in the Statewide Fire Prevention Code. Deputies and assistants of the fire marshal shall also have those powers and duties, in the absence of the fire marshal and as otherwise directed by the fire marshal, and the term "fire marshal," when used in this article, shall include deputies and assistants of the fire marshal.

Sec. 20-70. Appointment of deputy and assistant fire marshals.

The fire marshal shall, on behalf of the town council and in consultation with the fire chief, appoint, supervise and may terminate deputy or assistant fire marshals, which shall assist in the functions of the department with duties assigned by the fire marshal.

Sec. 20-71. Authority.

The fire marshal shall have the authority and duties set out in title 27, chapter 3 of the Code of Virginia and in the Statewide Fire Prevention Code, including the power to arrest, to procure and serve warrants of arrest and to issue summons in the manner authorized by general law, for violation of fire prevention and fire safety laws and related ordinances. The fire marshal shall have the same police powers as a sheriff, police officer or law enforcement officer and the fire marshal, deputies and assistants shall be responsible for investigation and prosecution of all offenses occurring within the town involving hazardous materials, fires, fire bombings, bombings, attempts or threats to commit such offenses, false alarms relating to such offenses, possession and manufacture of explosive devices, substances and fire bombs.

Sec. 20-72. Investigation of fires.

The fire marshal shall investigate, or cause to be investigated, and determine the origin and cause of every fire and explosion occurring within the town.

Sec. 20-73. Enforcement.

The fire marshal shall enforce the Statewide Fire Prevention Code and fire safety laws and related ordinances and shall conduct inspections and plan reviews as necessary to ensure compliance with the Statewide Fire Prevention Code. The fire marshal shall also have the authority to enforce provisions of this Code pertaining to fires and other related laws and regulations including those laws prohibiting parking in fire lanes, to issue permits with restrictions and conditions and to suspend or revoke permits pursuant to applicable laws.

Sec. 20-74. Right to enter property.

The fire marshal shall have the right, pursuant to title 27, chapter 3 of the Code of Virginia to enter upon any property from which a release of any hazardous material, hazardous waste or regulated substance, as defined in the Code of Virginia, has occurred or is reasonably suspected to have occurred and which has entered into the groundwater, surface water or soils of the county, city or town in order to investigate the extent and cause of any such release. If, in undertaking such an investigation, the fire marshal makes an affidavit under oath that the origin or cause of any such release is undetermined and that he has been refused admittance to the property, or is

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[175] Keep this reserved section? Are there any amendments?

PROOFS

unable to gain permission to enter the property, any magistrate may issue an investigation warrant to the fire marshal authorizing entry upon such property for the purpose of determining the origin and source of the release. If the fire marshal, after gaining access to any property pursuant to such investigation warrant, has probable cause to believe that the release was caused by any act constituting a criminal offense, the investigation shall be discontinued until a search warrant has been obtained or consent to conduct the search has otherwise been given.

Sec. 20-75. Local board of fire code appeals.

The local board of fire code appeals is hereby established. The local board of building code appeals shall also serve as the local board of fire code appeals and is hereby established and shall hear appeals made by any person who has been cited for a violation and is aggrieved by any decision or interpretation of the fire marshal made under the provisions of the Statewide Fire Prevention Code. Such appeals shall be submitted and heard in accordance with the provisions of the Statewide Fire Prevention Code.

PROOFS

Chapter 21

RESERVED

PROOFS

Chapter ~~17~~ 22

MISCELLANEOUS OFFENSES*

~~***Cross reference**— False and misleading signs, § 3-81 et seq.; cruelty to animals, § 5-9; disturbances by dogs, § 5-39; nuisances, ch. 16; impersonating law enforcement officer, § 18-5 et seq.; discarding or abandoning refrigerators, etc., § 24-111.~~

***State law reference**—Crimes and offenses generally, Code of Virginia, § 18.2-1 et seq.

~~Article I. In General~~

~~Sec. 17-1. Adultery and fornication.~~

~~Sec. 17-2. Assault and battery.~~

~~Sec. 17-3. Begging Aggressive solicitation and sales; definitions; prohibited acts and penalties.~~

~~Sec. 17-4. Dancehalls; operation within 200 feet of church or occupied residence.~~

~~Sec. 17-5. Disorderly conduct--Generally.~~

~~Sec. 17-6. Same--At public meeting of Town Council, etc.~~

~~Sec. 17-7. Disorderly houses.~~

~~Sec. 17-8. Disturbing religious worship.~~

~~Sec. 17-9. Disturbing schools, literary societies, etc.~~

~~Sec. 17-10. Gravel shooters, airguns, etc. Pneumatic guns; discharging, penalty.~~

~~Sec. 17-11. Keeping, residing in or frequenting a bawdy place; "bawdy place" defined.~~

~~Sec. 17-12. Loitering.~~

~~Sec. 17-13. Minors; curfew.~~

~~Sec. 17-14. Obstructing flow of streams, creeks, etc.~~

~~Sec. 17-15. Obstructing free passage of others.~~

~~Sec. 17-16. Obstructing justice by threats or force.~~

~~Sec. 17-17. Peeping or spying into structure occupied as dwelling.~~

~~Sec. 17-18. Petit larceny.~~

~~Sec. 17-19. Profane swearing and intoxication in public; penalty; transportation of public inebriates to detoxification center.~~

~~Sec. 17-20. Profane, threatening or indecent language over public airways.~~

~~Sec. 17-21. Property--Injuring, destroying, etc.~~

~~Sec. 17-22. Same--Marking on buildings, walls, fences, etc.~~

~~Sec. 17-23. Soliciting subscriptions, contributions and funds.~~

~~Sec. 17-24. Weapons--Carrying concealed.~~

~~Sec. 17-25. Same--Willfully discharging firearms in public places.~~

~~Sec. 17-26. Discharge and storage of firearms; penalty.~~

~~Sec. 17-27. Archery, urban archery, discharge of bows; exemptions, penalty.~~

~~Secs. 17-26 28--17-50. Reserved.~~

PROOFS

~~Article II. Gambling~~

~~Division 1. Generally~~

~~Sec. 17-51. Definitions.~~

~~Sec. 17-52. Penalty for illegal gambling generally.~~

~~Sec. 17-53. Illegal possession, etc., of gambling device; penalty.~~

~~Sec. 17-54. Owner, etc., of gambling place permitting its continuance; penalty.~~

~~Sec. 17-55. Accessories to gambling activity; penalty.~~

~~Division 2. Bingo Games; Raffles~~

~~Sec. 17-56. Definitions.~~

~~Sec. 17-57. Annual permit required; application fee; form of application.~~

~~Sec. 17-58. Local control of management and operation.~~

~~Sec. 17-59. Requirement for issuance of permit; where valid; duration; permits subject to local regulation.~~

~~Sec. 17-60. Frequency and conduct of bingo games.~~

~~Sec. 17-61. Instant bingo.~~

~~Sec. 17-62. Reports of gross receipts and disbursements required; form of reports; failure to file; certificate of compliance; right of entry upon premises; records; independent accounting procedure.~~

~~Sec. 17-63. Audit of reports; fee.~~

~~Sec. 17-64. Local ordinances.~~

~~Sec. 17-65. Prohibited practices.~~

~~Sec. 17-66. Denial, suspension or revocation of permit; penalties.~~

~~Sec. 17-67. Enforcement of division; injunctive relief.~~

~~Sec. 17-68. Hearings and appeals.~~

~~Sec. 17-69. Joint operation of bingo games; restrictions; special permit required.~~

~~Sec. 17-70. Only raffles, bingo and instant bingo games permitted.~~

~~Sec. 17-71 - 17-79. Reserved.~~

~~Article III. Regulation of Noise~~

~~Sec. 17-80. Short title and application of Article generally.~~

~~Sec. 17-81. Declaration of policy.~~

~~Sec. 17-82. Administration and enforcement.~~

~~Sec. 17-83. Definitions.~~

~~Sec. 17-84. Loud noises prohibited.~~

~~Sec. 17-85. Exemptions from this Article.~~

~~Sec. 17-86. Penalties.~~

~~Sec. 17-87. Undue hardship waiver.~~

~~Sec. 17-88. Other remedies.~~

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~~Sec. 17-89--17-99. Reserved.~~

~~Article IV. False Alarms~~

~~Sec. 17-100. Purpose.~~

~~Sec. 17-101. Definitions.~~

~~Sec. 17-102. Alarm system user registration and permits.~~

~~Sec. 17-103. Duties of alarm system users.~~

~~Sec. 17-104. Duties of alarm company operators.~~

~~Sec. 17-105. Service charges for false alarms.~~

~~Sec. 17-106. Failure to pay service charges; revocation of alarm permit.~~

~~Sec. 17-107. Appeals.~~

~~[176]ARTICLE I. IN GENERAL~~

~~Sec. 17-1. Adultery and fornication.~~

~~(a) Any person, not being married, who voluntarily shall have sexual intercourse with any other person shall be guilty of fornication, punishable as a class 4 misdemeanor.~~

~~(b) Any person, being married, who voluntarily shall have sexual intercourse with any person not his spouse shall be guilty of adultery, punishable as a class 4 misdemeanor.~~

~~(c) Any person who commits adultery or fornication with any person whom he is forbidden by law to marry shall be guilty of a class 1 misdemeanor; this section shall not apply to any act that constitutes a felony under State law.~~

~~(Code 1972, § 21-2; Code 1992, § 17-1)~~

~~**State law reference**—Fornication, Code of Virginia, § 18.2-344; adultery, Code of Virginia, § 18.2-365; adultery and fornication by persons forbidden to marry, Code of Virginia, § 18.2-366.~~

~~Sec. 17-2. Assault and battery.~~

~~It shall be unlawful for any person to commit a simple assault or battery within the Town.~~

~~[177]Any person who commits a simple assault or assault and battery shall be guilty of a Class 1 misdemeanor, and if the person intentionally selects the person against whom a simple assault is committed because of his race, religious conviction, color or national origin, the penalty upon conviction shall include a term of confinement of at least six months, 30 days of which shall be a mandatory minimum term of confinement.~~

~~(Code 1972, § 21-3; Code 1992, § 17-2)~~

~~**State law reference**—Similar provisions, Code of Virginia, § 18.2-57 A.~~

PROOFS

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[176] Most of these offenses are contained in the state law. Conform to state law or delete duplication of state law? Delete 17-1, keep 17-2, change 17-3 to aggressive solicitation

[177] Add from Code of Virginia, § 18.2-57? Yes.

[178]Sec. 22-1. ~~Begging~~ Aggressive solicitation and sales; definitions; prohibited acts and penalties.

~~It shall be unlawful for any person to beg within the Town or to stay in and upon any streets or other places within the Town to beg, or to stay upon the streets or other places in the Town for the purpose of begging after he has been notified to desist therefrom.~~

(a) ~~The following words and phrases, as used herein, shall have the following meanings, unless a different meaning is plainly required by the context.~~ The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Aggressive manner means and includes any of the following:

(1) Intentionally or recklessly making any physical contact with or touching another person in the course of the solicitation without the person's consent;

(2) Following the person being solicited, if that conduct is:

a. Intended to, or is likely to, cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon property in the person's possession; or

b. Intended to, or is reasonably likely to, intimidate the person being solicited into responding affirmatively to the solicitation;

(3) Continuing to solicit the person being solicited after the person has made a negative response, if continuing the solicitation is:

a. Intended to, or is likely to, cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon property in the person's possession; or

b. Intended to, or is reasonably likely to, intimidate the person being solicited into responding affirmatively to the solicitation;

(4) Intentionally or recklessly blocking the safe or free passage of the person being solicited or requiring the person, or the driver of a vehicle, to take evasive action to avoid physical contact with the person making the solicitation;

(5) Intentionally or recklessly using obscene or abusive language or gestures:

a. Intended to, or likely to, cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon property in the person's possession; or

b. Words intended to, or reasonably likely to, intimidate the person into responding affirmatively to the solicitation;

(6) Approaching the person being solicited in a manner that is:

a. Intended to, or is likely to, cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon property in the person's possession; or

b. Intended to, or is reasonably likely to, intimidate the person being solicited into responding affirmatively to the solicitation.

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[178] Even though authority to adopt this section is contained in the Charter, it is of questionable validity to totally prohibit begging without alleging aggressive behavior or interference with traffic or other matters of health, safety or general welfare. Changed to aggressive solicitation.

PROOFS

Automated teller machine means a device, linked to a financial institution's account records, which is able to carry out transactions, including, but not limited to: account transfers, deposits, cash withdrawals, balance inquiries and mortgage and loan payments.

Bank means any banking corporation authorized by statute to accept deposits and hold itself out to the public as engaged in the banking business in the commonwealth of the state.

Public area means an area to which the public, or a substantial group of persons, has access, and includes, but is not limited to, alleys, bridges, buildings, driveways, parking lots, parks, playgrounds, plazas, sidewalks and streets open to the general public, and the doorways and entrances to buildings and dwellings, and the grounds enclosing them.

Solicit means to request an immediate donation of money or other thing of value from another person, regardless of the solicitor's purpose or intended use of the money or the thing of value. The solicitation may be, without limitation, by the spoken, written or printed word, or by other means of communication.

(b) The following will be construed as prohibited acts and it shall be unlawful for any person to solicit money or other things of value, or to solicit the sale of goods or services:

(1) In an aggressive manner in a public area;

(2) In any public transportation vehicle, or bus station or stop, provided, however, that this subsection shall not apply to services rendered in connection with such transportation services;

(3) Within 15 feet of any entrance or exit of any bank during the hours of operation of such bank;

(4) Within 15 feet of any automated teller machine during the hours of operation of such automated teller machine;

(5) On private property if the owner, tenant or lawful occupant has asked the person not to solicit on the property, or has posted a sign clearly indicating that solicitations are not welcome on the property;

(6) From any operator or passenger of a motor vehicle that is in traffic on a public street, whether in exchange for cleaning the vehicle's windows, or for blocking, occupying or reserving a public parking space, or directing the occupant to a public parking space; provided, however, that this subsection shall not apply to services rendered in connection with emergency repairs requested by the operator or passengers of such vehicle;

(7) While standing on, or going into, any street or highway, including medians, on ramps and exit ramps.

(c) Penalties. Any person violating the provisions of this section shall be guilty of a Class 2 misdemeanor.

(Code 1972, § 21-4; Code 1992, § 17-3)

Charter reference—Restraining of street beggars, § 7.03.

[179]**~~Sec. 17-4. Dancehalls; operation within 200 Feet of church or occupied residence.~~**

~~It shall be unlawful for any person to operate a public dancehall in the Town within 200 feet of any church or occupied residence.~~

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[179] Is this restriction still in effect and is it covered in the zoning regulations? Dance halls are a permitted use in the B-2 and B-3 business districts with a conditional use permit. Delete.

PROOFS

~~(Code 1972, § 21-5; Code 1992, § 17-4)~~

~~**Cross reference**—Food establishments, § 14-31 et seq.~~

~~**State law reference**—Regulation of public dancehalls, Code of Virginia, § 18.2-433.~~

~~Sec. 17-5. Disorderly conduct—generally.~~

~~(a) Any person who shall do or engage in any of the following shall be guilty of disorderly conduct:~~

- ~~Any person who shall act in a violent or tumultuous manner toward another, whereby any person is placed in fear of safety of his life, limb or health.~~
- ~~Any person who shall act in a violent or tumultuous manner toward another, whereby public property or property of any other person is placed in danger of being destroyed or damaged.~~
- ~~Any person who shall endanger lawful pursuits of another by acts of violence, angry threats and abusive conduct.~~
- ~~Any person who shall cause, provoke or engage in any fight, brawl or riotous conduct so as to endanger the life, limb, health or property of another or public property.~~
- ~~Any person who shall assemble or congregate with another or others for the purpose of causing, provoking or engaging in any fight or brawl.~~
- ~~Any person who shall be found jostling or roughly crowding or pushing any person in any public place.~~
- ~~Any person who shall collect in bodies or in crowds for unlawful purposes.~~
- ~~Any person who shall assemble or congregate with another or others for the purpose of or with the intent to engage in illegal~~ [180] ~~gaming.~~
- ~~Any person who shall frequent any public place with intent to obtain money from another by an illegal and fraudulent scheme, trick, artifice or device.~~
- ~~Any person who assembles with another or others for the purpose of engaging in any fraudulent scheme, device or trick to obtain any valuable thing in any place or from any person in the Town, or who shall aid or abet therein.~~
- ~~Any person who utters, while in a state of anger, in the presence of another, any lewd or obscene words or epithets.~~
- ~~Any person who frequents any place where illegal~~ [181] ~~gaming or the illegal sale or possession of alcoholic beverages or narcotics or dangerous drugs is practiced, allowed or tolerated.~~
- ~~Any person who shall act in a dangerous manner toward others.~~
- ~~Any person who shall use "fighting words" directed towards any person who becomes outraged and thus creates turmoil.~~
- ~~Any person who shall assemble or congregate with another or others for the purpose of doing bodily harm to another.~~
- ~~Any person who shall, by acts of violence, interfere with another's pursuit of a lawful occupation.~~

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[180] Should this be "illegal" gaming? Yes.

[181] Should this be "illegal" gaming? Yes.

PROOFS

— Any person who shall congregate with another or others in or on any public way so as to halt the flow of vehicular or pedestrian traffic and refuses to clear such public way when ordered to do so by a peace officer or other person having authority.

— Any person who makes any unreasonably loud and unnecessary noise.

— Any person who damages, befouls or disturbs public property or the property of another [182] so as to create a hazardous, unhealthy or physically offensive condition.

[183] (b) Any person convicted of disorderly conduct, as defined in this section, shall be punished as provided in Section 1-6.

(Code 1972, § 21-6; Code 1992, § 17-5)

State law reference—Disorderly conduct, Code of Virginia, § 18.2-415.

Sec. 17-6. Same—at public meeting of town council, etc.

If any person behaves in a riotous or disorderly manner in any public meeting of the Town Council or any division, agency or authority thereof, or causes any unnecessary disturbance therein, by force, shouting or any other action calculated to disrupt such meeting, or shall refuse to obey any ruling of the presiding officer of such meeting relative to the orderly process thereof, he shall be guilty of a class 1 misdemeanor and punished as provided in Section 1-6.

(Code 1972, § 21-7; Code 1992, § 17-6)

Cross reference—Town Council, § 2-31 et seq.

Sec. 17-7. Disorderly houses.

Any person who shall keep a [184] disorderly house to the annoyance or disturbance of any of the citizens of the Town shall be guilty of a class 1 misdemeanor.

(Code 1972, § 21-8)

State law reference—Keeping, frequenting, etc. bawdy places, Code of Virginia, § 18.2-347.

Sec. 17-8. Disturbing religious worship.

It shall be unlawful for any person willfully to interrupt or disturb any assembly met for the religious worship of God [185].

(Code 1972, § 21-9; Code 1992, § 17-8)

Sec. 17-9. Disturbing schools, literary societies, etc.

If any person willfully interrupts, molests or disturbs the exercise of any free school or any other school or of any literary society or, being intoxicated, disturbs the same, whether willfully or not, he shall be punished as provided in Section 1-6.

(Code 1972, § 21-10; Code 1992, § 17-9)

State law reference—Disorderly conduct, Code of Virginia, § 18.2-415.

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[182] Delete the remainder of this sentence to make it a violation to damage, etc. property? Edited.

[183] If a misdemeanor class is not stated they are all class 1 misdemeanors. Insert class? Leave as is.

[184] The term disorderly is vague and should be defined. See § 17-11 and Code of Virginia, § 18.2-347 defining "bawdy place". Leave as is.

[185] Change to "religious worship" to include all religions? Yes, edited.

PROOFS

Sec. 22-2. ~~Gravel shooters, airguns,~~ Pneumatic guns ~~etc.~~; discharging, penalty.

(a) Any person who shall, anywhere in the town, discharge any ~~firearm~~, shot, stone~~s~~, gravel, ~~bullets,~~ BB, pellet, paintball or ~~any~~ similar ~~things~~ object from a ~~gravel shooter, airgun, loaded weapon~~ pneumatic gun or similar implement, except as authorized by this chapter, ~~the Department of Game and Inland Fisheries,~~ shall be guilty of a Class ~~1~~3 misdemeanor, punishable as provided in section 1-11~~, but police officers and other law enforcement officers are excluded~~.

~~The provisions of Section 17-10 shall not apply when discharging an arrow from a bow for the purposes of deer hunting within the Town of Christiansburg limits during the Early Special Urban Archery Season, the Special Early Archery Season, the General Firearms Deer season or during the Special Late Archery Season, as designated in regulations set forth by the Virginia Department of Game and Inland Fisheries, under the following conditions:~~

- ~~On land that is five (5) acres or more of continuous area, approved by the Department of Game and Inland Fisheries, the Town Manager and the Chief of Police, and~~
- ~~The landowner has applied for an annual permit from the Town Manager to use their property for purpose of archery hunting.~~
- ~~All persons participating must register with the Christiansburg Police Department, providing written evidence from the landowner granting permission to use their property for archery hunting.~~
- ~~Any person discharging a bow shall, at all times, while engaged in such activity, have in his possession written permission from the landowner to discharge such a weapon on his premises.~~
- ~~Agreement shall be made between the participant and landowner in reference to field dress.~~
- ~~All participants must abide by all applicable sections of the Virginia State Code and Virginia Hunting Regulations:~~
  - ~~Discharge of a bow must be done from an elevated stand with a minimum height of 12 (twelve) feet.~~
  - ~~No person shall discharge a bow within 100 yards of any dwelling, building, street, sidewalk, alley, roadway, public land or public place within Town limits.~~
  - ~~No person shall discharge a bow from, over or across any street, sidewalk, alley, roadway, or public land or public place within Town limits or toward any building or dwelling in such a manner that an arrow may strike it.~~
  - ~~No person shall hunt deer within the Town limits by use of dog or dogs.~~
  - ~~Special Urban Archery Season is restricted to hunting anterless deer only.~~
  - ~~Any person engaging in deer hunting must dispose of deer carcasses appropriately.~~

(b) For the purpose of this section, the term "pneumatic gun" means any implement designed as a gun that will expel a BB, pellet, paintball or similar object by action of pneumatic pressure.

(c) Pneumatic guns may be used at facilities approved for shooting ranges or paintball courses, on other property where pneumatic guns may be discharged lawfully, or on or within private property with permission of the owner or legal possessor. Commercial operation of shooting ranges, paintball courses and similar forms of public amusement utilizing pneumatic guns shall comply with chapter 42, Zoning, in terms of commercial use as an amusement center.

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(d) Use of pneumatic guns must be conducted with reasonable care to prevent a projectile from crossing the bounds of the property. The term "reasonable care" means that the pneumatic gun is being discharged so that the projectile will be contained on the property by a backstop, earthen embankment or fence. The discharge of projectiles across or over the bounds of the property shall create the rebuttable presumption that the use of the pneumatic gun was not conducted with reasonable care.

(e) Minors may use such implements only under the following conditions:

(1) Minors under the age of 16 must be supervised by a parent, guardian or other adult supervisor approved by a parent or guardian and shall be responsible for obeying all laws, regulations and restrictions governing the use thereof.

(2) Minors 16-18 years of age must have the written or verbal consent of a parent or guardian and shall be responsible for obeying all laws, regulations and restrictions governing the use thereof.

(Code 1972, § 21-13; Code 1992, § 17-10; Ord. No. 2003-7, 9-2-2003; Ord. No. 2011-7, § 17-10, 12-20-2011)

State law reference--Pneumatic guns, Code of Virginia, § 15.2-915.4.

~~**Sec. 17-11. Keeping, residing in or frequenting a bawdy place; "bawdy place" defined.**~~

~~(a) It shall be unlawful for any person to keep any bawdy place, or to reside in or at or visit, for immoral purposes, any such bawdy place. Each and every day such bawdy place shall be kept, resided in or visited shall constitute a separate offense. In a prosecution under this section the general reputation of the place may be proved.~~

~~(b) As used in this section, "bawdy place" means any place within or without any building or structure which is used or is to be used for lewdness, assignation or prostitution.~~

~~(Code 1972, § 21-14; Code 1992, § 17-11)~~

~~**State law reference**--Authority to remove, etc. structures harboring a bawdy place, Code of Virginia, § 15.2-908.1; keeping, residing in, etc. a bawdy house, Code of Virginia, § 18.2-347.~~

Sec. 22-3. Loitering.

(a) *Definitions.* As used in this section:

Loitering means remaining idle in essentially one location and includes the concept of spending time idly; being dilatory; lingering; staying; sauntering; delaying; or standing around; or occupying a parked vehicle in a public parking lot or street spending time idly; and shall also include the colloquial expression "hanging around."

Public place means any place to which the general public has access and a right to resort for business, entertainment or other lawful purpose but does not necessarily mean a place denoted solely to the use of the public. It shall also include the front or immediate area of any store, shop, restaurant, tavern or other place of business and public grounds, areas or parks.

(b) *Violations and penalties.*

(1) It shall be unlawful for any person to loiter, loaf, wander, stand or remain idle, either alone or in consort with others, in a public place in such manner so as to:

a. Obstruct any public street, public highway, public sidewalk or any other public place or building by hindering or impeding or tending to hinder or impede the free and uninterrupted passage of vehicles, traffic or pedestrians.

b. Commit in, or upon, any public street, public highway, public sidewalk or any other public place or building any act or thing which is, or tends to be, an obstruction or interference to the free and uninterrupted use of property or with any business

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lawfully conducted in, or upon, or facing or fronting on any such public street, public highway, public sidewalk or any other public place or building which prevents or tends to prevent the free and uninterrupted ingress, egress and regress therein, thereon and thereto.

(2) When, and if, any person causes or commits any of the conditions herein enumerated and prescribed and is ordered by a police officer or any law enforcement officer to cease or stop causing, or committing, such conditions and to move on or disperse, and he fails or refuses to do so, he shall be guilty of a violation of this section.

(3) Any person who violates any of the provisions of this section shall be guilty of a Class 2 misdemeanor.

(Code 1992, § 17-12; Ord. of 8-31-1986, § 21-15)

~~**Cross reference**—Streets and sidewalks, ch. 25; traffic and motor vehicles, ch. 28.~~

State law reference—Authority to prohibit loitering, Code of Virginia, § 15.2-926; loitering on bridges and highways, Code of Virginia, § 46.2-930

Sec. 22-4. Minors; curfew.

(a) It shall be unlawful for any parent, guardian or other adult person having the care, custody or control of any minor under the age of 15 years to permit, allow or encourage such minor to ~~become a~~ loiter~~er or to remain~~ on any street, road, avenue, alley, park or other public place in the town between the hours of 10:00 p.m. and ~~daylight~~ 6:00 a.m. of the following day, unless accompanied by such parent, guardian or other adult person.

(b) It shall be unlawful for the proprietor, manager or other adult person having charge or control of any public place to permit, allow or encourage any minor under the age of 15 years to ~~become a~~ loiter~~er or to remain~~ in or around such place between the hours of 10:00 p.m. and ~~daylight~~ 6:00 a.m. of the following day, unless accompanied by the parent, guardian or other adult person having the care, custody or control of such minor.

(c) It shall be unlawful for any minor under the age of 15 years to loiter ~~or remain~~ on any street, road, avenue, alley, park or other public place in the town between the hours of 10:00 p.m. and ~~daylight~~ 6:00 a.m. of the following day, unless accompanied by the parent, guardian or other adult person having the care, custody or control of such minor.

(d) Whenever any police or other officer charged with the duty of enforcing the laws of the state, the provisions of this Code or other ordinances of the town shall discover or shall have his attention called to the fact that any minor under the age of 15 years is on any street, road, avenue, alley, park or other public place in the town, or is in any vehicle parked thereon, between the hours of 10:00 p.m. and ~~daylight~~ 6:00 a.m. of the following day, and such minor is not accompanied by his parent, guardian or other adult person having the care, custody or control of such minor, such officer shall make an immediate investigation for the purpose of ascertaining whether or not the presence of such minor on such street, road, avenue, alley, park or other public place or in any vehicle parked thereon is in violation of the provisions of this section. If such investigation reveals that the presence of such minor on such street, road, avenue, alley, park or other public place or in such vehicle is in violation of the provisions of this section, then such officer shall cause such minor to be taken to the home or place of residence of such minor, and such minor and the parent, guardian or other adult person having the care, custody or control of such minor may be summoned to appear to be dealt with according with the provisions of subsections (a) and (c) of this section.

(e) If such officer cannot contact a relative or other adult person having control over such minor and if after such investigation such officer shall have cause to believe that the actions of such minor are such as to constitute such minor a delinquent, dependent or neglected child, and if

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such minor cannot contact a relative~~ bearing a good reputation or other person of good repute to exercise legal authority over such minor~~, then such officer shall ~~place such minor in the custody of~~ consider appropriate action pursuant to Code of Virginia, § 16.1-226 et seq. ~~the jailor to be held and dealt with by the Judge of the Juvenile and Domestic Relations District Court in the manner prescribed by law.~~

(Code 1972, § 21-16; Code 1992, § 17-13)

~~**Cross reference**— Streets and sidewalks, ch. 25.~~

State law reference—Curfew for minors, Code of Virginia, § 15.2-926.

Sec. 22-5. Obstructing flow of streams, creeks, etc.

It shall be unlawful for any person who is the owner, lessee or proprietor of any premises in the town through which flows any branch, stream or creek to allow anything or any substance of any kind to be or remain at any time in the branch, stream or creek or any part of the area or bed of such branch, stream or creek that interferes with or prevents, in whole or in part, the free and unobstructed flow of the water of the stream, whether the obstruction is in the open or under any building on the premises.

(Code 1972, § 21-18; Code 1992, § 17-14)

State law reference—Authority to require removal of obstructing or hazardous structures, Code of Virginia, § 15.2-909.

~~**Sec. 17-15. Obstructing free passage of others.**~~

~~Any person who in any public place or on any private property open to the public unreasonably or unnecessarily obstructs the free passage of other persons to and from or within such public place or private property and who shall fail or refuse to cease such obstruction or move on when requested to do so by the owner or the lessee, agent, or employee of such owner or lessee or by a duly authorized law enforcement officer shall be guilty of a class 1 misdemeanor and punished as provided in Section 1-6. Nothing in this section shall be construed to prohibit lawful picketing.~~

~~(Code 1972, § 21-19; Code 1992, § 17-15)~~

State law reference—Similar provisions, Code of Virginia, § 18.2-404.

~~**Sec. 17-16. Obstructing justice by threats or force.**~~

~~[186]Except as provided in Code of Virginia, § 18.2-460 C., if any person, by threats or force, knowingly attempts to intimidate or impede a judge, magistrate, justice, juror, attorney for the commonwealth, witness, or any law enforcement officer or animal control officer employed pursuant to Code of Virginia, § 3.2-6555, lawfully engaged in his duties as such, or to obstruct or impede the administration of justice in any court, he shall be deemed to be guilty of a class 1 misdemeanor.~~

~~(Code 1972, § 21-20; Code 1992, § 17-16)~~

~~**State law reference**— Obstructing justice, Code of Virginia, § 18.2-460.~~

PROOFS

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[186] Obstructing by threats of bodily harm or force is a felony under Code of Virginia, § 18.2-460. Conform to class 1 misdemeanor violation? Delete – use Code of Virginia.

~~Sec. 17-17. Peeping or spying into structure occupied as dwelling.~~

~~[187](a) It is unlawful for If any person shall to enter upon the property of another, in the nighttime, and secretly or furtively peep through or attempt to so peep, into, through, or spy into or through, a window, door or other aperture of any building, structure, or other enclosure of any nature occupied or intended for occupancy as a dwelling, whether or not such building, structure or enclosure is permanently situated or transportable and whether or not such occupancy is permanent or temporary, or to do the same, without just cause, upon property owned by him and leased or rented to another under circumstances that would violate the occupant's reasonable expectation of privacy, such person shall be guilty of a class 1 misdemeanor.~~

~~(b) It shall be unlawful for any person to use a peephole or other aperture to secretly or furtively peep, spy or attempt to peep or spy into a restroom, dressing room, locker room, hotel room, motel room, tanning bed, tanning booth, bedroom or other location or enclosure for the purpose of viewing any nonconsenting person who is totally nude, clad in undergarments, or in a state of undress exposing the genitals, pubic area, buttocks or female breast and the circumstances are such that the person would otherwise have a reasonable expectation of privacy.~~

~~(c) The provisions of this section shall not apply to a lawful criminal investigation or a correctional official or local or regional jail official conducting surveillance for security purposes or during an investigation of alleged misconduct involving a person committed to the state department of corrections or to a local or regional jail.~~

~~(d) As used in this section, "peephole" means any hole, crack or other similar opening through which a person can see.~~

~~(e) A violation of this section is a Class 1 misdemeanor.~~

~~(Code 1972, § 21-21; Code 1992, § 17-17)~~

~~**State law reference**—Similar provisions, Code of Virginia, § 18.2-130.~~

~~[188]**Sec. 17-18. Petit larceny.**~~

~~Any person who:~~

- ~~Commits larceny from the person of another of money or other thing of value of less than $5.00; or~~
- ~~Commits simple larceny not from the person of another of goods and chattels of the value of less than $200.00, except as provided in subdivision (iii) of § 18.2-95;~~

~~shall be deemed guilty of petit larceny, which shall be punishable as a class 1 misdemeanor.~~

~~(Code 1972, § 21-22; Code 1992, § 17-18)~~

~~**State law reference**—Similar provisions, Code of Virginia, § 18.2-96.~~

~~Sec. 17-19. Profane swearing and intoxication in public; penalty; transportation of public inebriates to detoxification center.~~

~~If any person profanely curses or swears or is intoxicated in public, whether such intoxication results from alcohol, narcotic drug or other intoxicant or drug of whatever nature, he shall be deemed guilty of a class 4 misdemeanor. In any area in which there is located a court-approved detoxification center a law enforcement officer may authorize the transportation, by police or~~

PROOFS

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[187] Conform to Code of Virginia, § 18.2-130? Delete – use Code of Virginia.

[188] Conform to Code of Virginia, § 18.2-96? Delete – use Code of Virginia.

~~otherwise, of public inebriates to such detoxification center in lieu of arrest; however, no person shall be involuntarily detained in such center.~~

~~(Code 1972, § 21-23; Code 1992, § 17-19)~~

~~**Cross reference**—Alcoholic beverages, ch. 4.~~

~~**State law reference**—Similar provisions, Code of Virginia, § 18.2-388.~~

~~Sec. 17-20. Profane, threatening or indecent language over public airways.~~

~~[189](a) If any person shall use obscene, vulgar, profane, lewd, lascivious, or indecent language, or make any suggestion or proposal of an obscene nature, or threaten any illegal or immoral act with the intent to coerce, intimidate, or harass any person, over any telephone or citizens band radio, in this Town, he shall be guilty of a class 1 misdemeanor. "Over any telephone" includes, for purposes of this section, any electronically transmitted message that is received or transmitted by telephone.~~

~~(b) It shall be the duty, on pain of contempt of court, of each telephone company in the state to furnish immediately in response to a subpoena issued by a court of record such information as it, its officers and employees, may possess which, in the opinion of the court, may aid in the apprehension of persons suspected of violating the provisions of this section. Any telephone company or any officer or employee thereof who shall fail or refuse to furnish such information when so requested shall be guilty of a class 4 misdemeanor.~~

~~(Code 1972, § 21-1; Code 1992, § 17-20)~~

~~**State law reference**—Use of obscene, profane, etc. language, Code of Virginia, § 18.2-427; duties of telephone companies to furnish certain information, Code of Virginia, § 18.2-431.~~

~~[190]Sec. 17-21. Injuring, destroying, etc. Property.~~

~~If any person unlawfully destroys, defaces, damages or removes without the intent to steal any property, real or personal, not his own, or breaks down, destroys, defaces, damages or removes without the intent to steal, any monument or memorial for war veterans described in Code of Virginia, § 15.2-1812, any monument erected for the purpose of marking the site of any engagement fought during the War between the States, or for the purpose of designating the boundaries of any city, town, tract of land or any tree marked for that purpose, he shall be guilty of a class 3 misdemeanor, pro vided that the court may, in its discretion, dismiss the charge if the locality or organization responsible for maintaining the injured property, monument or memorial files a written affidavit with the court stating it has received full payment for the injury.~~

~~(b) If any person intentionally causes such injury, he shall be guilty of a class 1 misdemeanor if the value of or damage to the property, memorial or monument is less than $1,000.00. The amount of loss caused by the destruction, defacing, damage or removal of such property or monument may be established by proof of the fair market cost of repair or fair market replacement value. Upon conviction, the court may order that the defendant pay restitution.~~

~~(Code 1972, § 21-24; Code 1992, § 17-21)~~

~~**State law reference**—Injuring, etc., any property, monument, etc., Code of Virginia, § 18.2-137.~~

Sec. 22-6. ~~Same~~—Marking on buildings, walls, fences, etc.

No person shall mark or brand any signs, letters or characters upon a building, wall, fence or other property of another person without first obtaining the consent of the owner of such property.

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[189] Conform to Code of Virginia, §§ 18.2-427, 18.2-431(1)? Delete – use Code of Virginia.

[190] Conform to Code of Virginia, § 18.2-137? Delete – use Code of Virginia.

PROOFS

(Code 1972, § 21-25; Code 1992, § 17-22)

[191]Sec. 22-7. Soliciting subscriptions, contributions and funds.

(a) It shall be unlawful for any person to solicit subscriptions, contributions and funds for any cause or thing within the corporate limits of the town without first obtaining a written permit from the town manager. The granting of the permit shall be subject to the applicant submitting an application to the town manager not less than 48 hours prior to the time and date for which a permit is sought, which application shall contain the following information:

(1) The names, ages and complete addresses of all persons who will solicit, and the specific local address of the person who shall be responsible for the group or individual solicitation program.

(2) The name or description of the individuals, firms, businesses, institutions, clubs, societies or organizations which each solicitor represents.

(3) The specific area of the town which is to be solicited and for which the permit is sought.

(4) The total number of persons who will be participating in the solicitation.

(5) The dates and hours in which the participants will be engaged in soliciting.

(6) The state registration and license number of any vehicle to be used in the solicitation or travel for the solicitors within the corporate limits.

(b) The town manager shall make, or cause to be made, an investigation of the application and shall have the right to refuse to grant the permit to any person filing the same wherein he determines that any one of the following causes for rejection exists:

(1) The purpose for which the solicitation is being made will constitute a nuisance.

(2) Any one of the persons named has a criminal record involving petit larceny, larceny or a crime involving moral turpitude.

(3) The purpose for the solicitation requires a business license.

(4) The date for which the permit is sought constitutes a legal holiday or Sunday.

(5) The total number of persons participating will constitute a nuisance.

(6) There is inadequate police protection in the area proposed to be solicited.

(7) Any person whose name appears on the application has previously been denied a permit or has had the same revoked for any cause herein provided.

(8) An investigation of the application by the town manager discloses false or incomplete information required therein.

(c) The town manager shall have the right to revoke a permit granted to any person upon a determination that he is in violation of any of the terms and conditions set forth in the permit.

(Code 1972, § 21-26; Code 1992, § 17-23)

State law reference—Solicitation of contributions, Code of Virginia, § 57-48 et seq.

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[191] Is this section still enforced in the town? Code of Virginia, § 57-63 authorizes the town to adopt ordinances not inconsistent with Code of Virginia, § 57-48 et seq. If retained, conform to Code of Virginia, § 57-63? Yes, keep and conform with Code of Virginia.

PROOFS

[192]**~~Sec. 17-24. Carrying concealed weapons.~~**

~~(a) If any person carries about his person, hidden from common observation, any pistol, revolver, or other weapon designed or intended to propel a missile of any kind by action of an explosion of any combustible material, any dirk, bowie knife, switchblade knife, ballistic knife, machete, razor, slingshot, spring stick, metal knucks, or blackjack; (iii) any flailing instrument consisting of two or more rigid parts connected in such a manner as to allow them to swing freely, which may be known as a nun chahka, nun chuck, nunchaku, shuriken, or fighting chain; (iv) any disc, of whatever configuration, having at least two points or pointed blades which is designed to be thrown or propelled and which may be known as a throwing star or oriental dart; or any weapon of like kind, he shall, upon a first conviction thereof, be guilty of a class 1 misdemeanor, and such pistol, revolver, or other weapon designed or intended to propel a missile of any kind by action of an explosion of any combustible material, any dirk, bowie knife, switchblade knife, ballistic knife, machete, razor, slingshot, spring stick, metal knucks, or blackjack; (iii) any flailing instrument consisting of two or more rigid parts connected in such a manner as to allow them to swing freely, which may be known as a nun chahka, nun chuck, nunchaku, shuriken, or fighting chain; (iv) any disc, of whatever configuration, having at least two points or pointed blades which is designed to be thrown or propelled and which may be known as a throwing star or oriental dart; or weapon of like kind shall, by order of the court, be forfeited to the Commonwealth and may be seized by an officer as forfeited, and such as may be needed for police officers and conservators of the peace shall be devoted to that purpose, and the remainder shall be destroyed by the officer having them in charge.~~

[193]~~(b) This section shall not apply to:~~

- ~~Any person while in his own place of abode or the curtilage thereof.~~
- ~~Any police officers, sergeants, sheriffs, deputy sheriffs or regular game wardens appointed pursuant to Code of Virginia, Title 29.1, Chapter 2 (§ 29.1-200 et seq.).~~
- ~~Any regularly enrolled member of a target shooting organization who is at, or going to or from, an established shooting range; provided, that the weapons are unloaded and securely wrapped while being transported.~~
- ~~Any regularly enrolled member of a weapons collecting organization who is at, or going to or from, a bona fide weapons exhibition; provided, that the weapons are unloaded and securely wrapped while being transported.~~
- ~~Any person carrying such weapons between his place of abode and a place of purchase or repair; provided, that the weapons are unloaded and securely wrapped while being transported.~~

~~(c) This section shall also not apply to any of the following individuals while in the discharge of their official duties, or while in transit to or from such duties:~~

- ~~Carriers of the United States mail in rural districts.~~
- ~~Officers or guards of any state correctional institution.~~
- ~~Campus police officers appointed pursuant to Code of Virginia, Title 23, Chapter 17 (§ 23-232 et seq.).~~

PROOFS

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[192] Conform to Code of Virginia, § 18.2-308? Delete – use Code of Virginia.

[193] Conform to Code of Virginia, § 18.2-308 B? Delete – use Code of Virginia.

~~Conservators of the peace; except, that the following conservators of the peace shall not be permitted to carry a concealed weapon without obtaining a permit as provided in Code of Virginia, § 18.2-308(D):~~

~~Notaries public;~~

~~Registrars;~~

~~Drivers, operators or other persons in charge of any motor vehicle carrier of passengers for hire;~~

~~Commissioners in chancery.~~

~~Noncustodial employees of the State Department of Corrections designated to carry weapons by the Secretary of Public Safety or the Director of the Department of Corrections pursuant to Code of Virginia, § 53.1-29.~~

~~(Code 1972, § 21-27; Code 1992, § 17-24)~~

~~**State law reference**—Similar provisions, Code of Virginia, § 18.2-308.~~

~~Sec. 17-25. Same—willfully discharging firearms in public places.~~

~~[194]If any person shall willfully discharge or cause to be discharged any firearm in any street in the Town, or in any place of public business or place of public gathering and such conduct does not result in bodily injury to another person, he shall be guilty of a class 1 misdemeanor, punishable as provided in Code of Virginia, § 18.2-11.; provided, that This section shall not apply to any law enforcement officer in the performance of his official duties or to any other person whose such said willful act is otherwise justifiable or excusable at law in the protection of his life or property, or is otherwise specifically authorized by law.~~

~~(Code 1972, § 21-28; Code 1992, § 17-25)~~

~~**Cross reference**—Streets and sidewalks, ch. 25.~~

~~**State law reference**—Similar provisions, Code of Virginia, § 18.2-280 A.~~

Sec. 22-8. Discharge and storage of firearms; penalty.

(a) Any person who shall willfully discharge, or cause to be discharged, any firearm or similar implement within the corporate limits of the town or in a manner to cause any bullet, shot or similar object to travel through the corporate limits of the town by discharge of a firearm shall be guilty of a Class 1 misdemeanor, punishable as provided in section 1-11; provided, that this provision shall not apply to the following:

(1) Discharge of a firearm by any law enforcement officer in the performance of official duties.

(2) Discharge of a firearm by any person whose such willful act is otherwise justifiable or excusable at law in the protection of life or property.

(3) Discharge of a firearm in association with the commercial operation of an indoor firearms shooting range, provided the indoor firearms shooting range complies with chapter 42, Zoning, in terms of commercial use as an indoor shooting range. Reasonable care shall be given to ensure any bullet, shot or other discharge from firearms do not cross property lines in regards to deer hunting on parcels of five acres or more with permission of the property owner in the agricultural zoning district.

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[194] Conform to Code of Virginia, § 18.2-280 A. for class 1 misdemeanor. The other violations are felonies. Delete, use Code of Virginia.

PROOFS

(4) Deer hunting on parcels of five acres or more with permission of the property owner in the agricultural zoning district. Reasonable care shall be given to ensure bullets, shot or other discharge from firearms do not cross property lines in regards to deer hunting on parcels of five acres or more with permission of the property owner in the agricultural zoning district.

(5) Any discharge of a firearm that is otherwise specifically authorized by law.

(b) For the purpose of this section, the term "firearm" means any weapon that will, or is designed to, or may readily be converted to expel single or multiple projectiles by the action of an explosion of a combustible material; or the frame or receiver of any such weapon.

(c) Discharge of a firearm in conjunction with deer hunting must be conducted with reasonable care to prevent a projectile from crossing the bounds of the property. The term "reasonable care," in terms of deer hunting, means that the firearm is being discharged so that the projectile will be contained on the property by a backstop, earthen embankment or fence. The term "reasonable care," in terms of the operation of a commercial indoor firearms shooting range, means that the firearm is being discharged so that the projectiles will be contained in the building housing the indoor firearms shooting range. The discharge of a firearm causing projectiles to cross over the bounds of the property for deer hunting or the discharge of a firearm causing the projectiles to exit outside of the building for indoor firearms shooting ranges shall create the rebuttable presumption that the use of the firearm was not conducted with reasonable care.

(d) Minors may discharge firearms and similar implements only under the following conditions:

(1) Minors under the age of 16 must be supervised by a parent, guardian or other adult supervisor approved by a parent or guardian and shall be responsible for obeying all laws, regulations and restrictions governing the use thereof.

(2) Minors 16-18 years of age must have the written or verbal consent of a parent or guardian and shall be responsible for obeying all laws, regulations and restrictions governing the use thereof.

(e) The fire chief/fire marshal and the building official shall have the authority to regulate the storage of firearms, ammunition and ammunition supplies, including gunpowder or other explosives.

(Ord. No. 2011-7, § 17-26, 12-20-2011)

Sec. 22-9. Archery, urban archery, discharge of bows; exemptions; penalty.

(a) For the purpose of this section, the term "bow" means any implement designed as a weapon that will expel an arrow, crossbow quarrel, bolt or similar object by action of elastic energy or tension pressure.

(b) Any person who shall willfully discharge, or cause to be discharged, any bow or similar implement within the corporate limits of the town or in a manner to cause any arrow, crossbow quarrel, bolt or similar object to travel through the corporate limits of the town by discharge of a bow shall be guilty of a Class 3 misdemeanor, punishable as provided in section 1-11; provided, that this provision shall not apply to the following when performed with reasonable care in accordance with subsection (c) of this section:

(1) Discharge of a bow by any law enforcement officer in the performance of official duties.

(2) Discharge of a bow by any person whose such willful act is otherwise justifiable or excusable at law in the protection of life or property.

PROOFS

(3) Discharge of a bow in association with the commercial operation of an indoor or outdoor shooting range provided the indoor or outdoor shooting range complies with chapter 42, Zoning, in terms of commercial use as an indoor or outdoor shooting range.

(4) Discharge of a bow on, or within, private property with permission of the property owner or legal possessor.

(5) Any discharge of a bow that is otherwise specifically authorized by law.

(6) Subject to the provisions of this section, discharging an arrow from a bow is lawful for the purposes of deer hunting within the town limits during urban archery season, the early archery season, the general firearms deer season and during the late archery season, as designated in regulations set forth by the state department of game and inland fisheries, under the following conditions:

a. Except for target shooting, discharge of archery equipment is restricted to land consisting of three acres or more.

b. Hunters must register with the town manager to hunt on town-owned property.

c. Hunters must carry written permission from individual property owners to hunt.

d. Agreement must be made between the participant and landowner in reference to field dress.

e. No person shall discharge a bow from, over or across any street, sidewalk, alley, roadway or public land or public place within town limits or toward any building or dwelling in such a manner that an arrow may strike it.

f. Except for target shooting or by a property owner on their own personal property, archery equipment can only be discharged from an elevated stand with a minimum height of 12 feet.

g. Hunters must dispose of deer carcasses appropriately. Carcasses should be double bagged and taken to the local landfills.

h. No person shall hunt deer within the town by use of a dog, or dogs.

i. Urban archery season is restricted to hunting antlerless deer only.

j. Hunters must abide by all applicable sections of the state code and state hunting regulations (including bag limits and tagging/checking requirements).

(c) Discharge of a bow in conjunction with deer hunting or an indoor or outdoor shooting range must be conducted with reasonable care to prevent a projectile from crossing the bounds of the property. The term "reasonable care," in terms of deer hunting or an outdoor shooting range, means that the bow is being discharged so that the projectile will be contained on the property by a backstop, earthen embankment or fence. The term "reasonable care," in terms of the operation of an indoor shooting range, means that the bow is being discharged so that the projectiles will be contained in the building housing the indoor shooting range. The discharge of a bow causing projectiles to cross over the bounds of the property for deer hunting or an outdoor shooting range or the discharge of a bow causing the projectiles to exit outside of the building for an indoor shooting range shall create the rebuttable presumption that the use of the bow was not conducted with reasonable care.

(d) Minors may use such implements only under the following conditions:

(1) Minors under the age of 16 must be supervised by a parent, guardian or other adult supervisor approved by a parent or guardian and shall be responsible for obeying all laws, regulations and restrictions governing the use thereof.

PROOFS

(2) Minors 16-18 years of age must have the written or verbal consent of a parent or guardian and shall be responsible for obeying all laws, regulations and restrictions governing the use thereof.

(Ord. No. 2011-7, § 17-27, 12-20-2011; Ord. No. 2013-4, § 17-27, 3-19-2013)

[195]ARTICLE II. GAMBLING*

***State law reference**— Gambling, Code of Virginia, § 18.2-325 et seq.

DIVISION 1. GENERALLY

Sec. 17-51. Definitions.

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

Gambling device includes:

— Any device, machine, paraphernalia, equipment, or other thing, including books, records and other papers, which are actually used in an illegal gambling operation or activity; and

— Any machine, apparatus, implement, instrument, contrivance, board or other thing, including but not limited to those dependent upon the insertion of a coin or other object for their operation, which operates, either completely automatically or with the aid of some physical act by the player or operator, in such a manner that, depending upon elements of chance, it may eject something of value or determine the prize or other thing of value to which the player is entitled; provided, however, that the return to the user of nothing more than additional chances or the right to use such machine is not deemed something of value within the meaning of this subsection; and provided further, that machines that only sell, or entitle the user to, items of merchandise of equivalent value that may differ from each other in composition, size, shape or color, shall not be deemed gambling devices within the meaning of this subsection.

Such devices are no less gambling devices if they indicate beforehand the definite result of one or more operations but not all the operations. Nor are they any less a gambling device because, apart from their use or adaptability as such, they may also sell or deliver something of value on a basis other than chance.

Illegal gambling means the making, placing or receipt of any bet or wager in this Town of money or other thing of value, made in exchange for a chance to win a prize, stake or other consideration or thing of value, dependent upon the result of any game, contest or any other event the outcome of which is uncertain or a matter of chance, whether such game, contest or event occurs or is to occur inside or outside the limits of this Town, shall constitute illegal gambling.

(Code 1992, § 17-51)

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

State law reference— Similar provisions, Code of Virginia, § 18.2-325.

Sec. 17-52. Penalty for illegal gambling generally.

Except as otherwise provided in this article or in Code of Virginia, §§ 18.2-325 through 18.2-340, any person who illegally gambles shall be guilty of a class 3 misdemeanor, punishable as

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[195] Conform this article to Code of Virginia, § 18.2-325 misdemeanor violations and exceptions? Delete, use Code of Virginia.

PROOFS

provided in Section 1-6. If an association or pool of persons illegally gambles, each person therein shall be guilty of illegal gambling.

(Code 1972, § 14-1; Code 1992, § 17-52)

State law reference—Similar provisions, Code of Virginia, § 18.2-326.

Sec. 17-53. Illegal possession, etc., of gambling device; penalty.

A person is guilty of illegal possession of a gambling device when he manufactures, sells, transports, rents, gives away, places or possesses; or conducts or negotiates any transaction affecting or designed to affect ownership, custody or use of any gambling device, believing or having reason to believe that the same is to be used in the advancement of unlawful gambling activity. Violation of any provision of this section shall constitute a class 1 misdemeanor, punishable as provided in Section 1-6.

(Code 1972, § 14-2; Code 1992, § 17-53)

State law reference—Similar provisions, Code of Virginia, § 18.2-331.

Sec. 17-54. Owner, etc., of gambling place permitting its continuance; penalty.

If the owner, lessee, tenant, occupant or other person in control of any place or conveyance knows, or reasonably should know, that it is being used for illegal gambling and permits such gambling to continue without having notified a law enforcement officer of the presence of such illegal gambling activity, he shall be guilty of a class 1 misdemeanor.

(Code 1972, § 14-3; Code 1992, § 17-54)

State law reference—Similar provisions, Code of Virginia, § 18.2-329.

Sec. 17-55. Accessories to gambling activity; penalty.

Any person, firm or association of persons, other than those persons specified in other sections of this article, who knowingly aids, abets or assists in the operation of an illegal gambling enterprise, activity or operation, shall be guilty of a class 1 misdemeanor.

(Code 1972, § 14-4; Code 1992, § 17-55)

State law reference—Similar provisions, Code of Virginia, § 18.2-330.

[196] DIVISION 2. BINGO GAMES; RAFFLES*

***Editor's note**—An ordinance adopted September 7, 1993, amended art. II, div. 2 by adding §§ 17-56–17-70 to read as set out herein and repealing §§ 17-71–17-80. Such repealed sections formerly pertained to bingo games and raffles and derived from § 14-12 of the 1972 Code, and from an ordinance adopted December 4, 1990.

State law reference—Bingo and raffles, Code of Virginia, § 18.2-340.1 et seq.

Sec. 17-56. Definitions.

The following words shall have the following meanings:

Bingo means a specific game of chance played with individual cards having randomly numbered squares ranging from one (1) to seventy-five (75), in which prizes are awarded on the basis of designated numbers on such cards conforming to a predetermined pattern of numbers selected at random. Such cards shall have five (5) vertical rows headed respectively by the letters B.I.N.G.O., with each row having five (5) randomly numbered squares.

---

[196] Delete this article as charitable gaming is regulated by the state pursuant to Code of Virginia, § 18.2-340 et seq.? yes

PROOFS

~~*Duck race* means a game of chance played by releasing numbered, inanimate toys (ducks) into a body of moving water. A person who has been assigned the same number as the first duck to cross a predetermined point in the water (the finish line) is the winner. Other prizes may be awarded on the basis of the order in which the ducks cross the finish line. Any and all restrictions and requirements applicable to the conduct of raffles in this division shall also apply to the conduct of duck races.~~

~~*Instant bingo* means a specific game of chance played by the random selection of one (1) or more individually prepacked cards, with winners being determined by the preprinted appearance of the letters B.I.N.G.O. in any prescribed order on the reverse side of such card.~~

~~*Jackpot* means a bingo card played as a part of a bingo game, as defined herein, in which all numbers on the card are covered, each number being selected at random, and with no free or "wild" numbers.~~

~~*Local designated official* or *local official* means the Town Manager of Christiansburg.~~

~~*Organization* means by any one of the following:~~

- ~~A voluntary fire department or rescue squad or auxiliary unit thereof which has been recognized by an ordinance or resolution of the political subdivision where the Voluntary Fire Department or rescue squad is located as being a part of the safety program of such political subdivision.~~
- ~~An organization operated exclusively for religious, charitable, community or educational purposes; an association of war veterans or auxiliary units thereof organized in the United States; or a fraternal association operating under the lodge system.~~

~~*Raffle* means a lottery in which the prize is won by a random drawing of the name or prearranged number of one (1) or more persons purchasing chances. However, nothing in the division shall prohibit an organization from using the State Lottery Department's Pick-3 number as the basis for determining the winner of a lottery. For purposes of this definition, "raffle" shall include determining the winner of a lottery by use of prepackaged pull-tab devices which are devices made completely of paper or paper products with concealed numbers or symbols that must be exposed by the player to determine wins or losses and may include the use of a seal which conceals a number or symbol that has been designated in advance as a prize winner, including, but not limited to, pull-tab devices commonly known as tip boards or seal cards.~~

~~(Code 1992, § 17-56; Ord. of 9-7-93)~~

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

~~Sec. 17-57. Annual permit required; application fee; form of application.~~

~~Prior to the commencement of any bingo game or raffle by a qualified organization, as defined in this division, the organization shall be required to obtain an annual permit from the Town Manager, who is hereby designated by the governing body as the local designated official to issue such permits. The permit shall only be granted after a reasonable investigation has been conducted by the locality or local official. Application for the annual permit shall be accompanied by a check in the amount of twenty-five dollars ($25.00) payable to the aforesaid local official. In addition, the governing body or local official may assess applicants for the cost of processing bingo and raffle applications. The application fee and additional charges may be waived by the governing body. Application for an annual permit shall be made on the following form. However, the form may be expanded to include any other information desired by the local official. The application shall be a matter of public record.~~

~~APPLICATION FOR PERMIT~~

~~TO HOLD BINGO GAMES AND RAFFLES~~

PROOFS

~~1. Name of organization ____~~

~~Address of headquarters ____~~

~~Address where bingo games will be held or raffle drawing will be conducted _____~~

~~Note: This permit is valid only at the above location.~~

~~Days and times on which games are to be held ____~~

~~2. When was your organization founded? _____ Has your organization been in existence in this Town for two continuous years? _____~~

~~Is it a non-profit organization? _____ Tax Exempt Status No. (if applicable) ____~~

~~Gross receipts from all sources related to the operation of bingo games or instant bingo by calendar quarter for 12-month period immediately prior to date of this application~~

~~1st Quarter____ 2nd Quarter ____~~

~~3rd Quarter____ 4th Quarter ____~~

~~State the specific type and purpose of your organization:~~

~~_____~~

~~_____~~

~~3. Officers of organization:~~

~~President _____~~

~~Address _____~~

~~Secretary _____~~

~~Address _____~~

~~Treasurer _____~~

~~Address _____~~

~~4. Type of permit applied for: Bingo Games _____ Raffles ____~~

~~5.~~

~~Member authorized by your organization who will be responsible for bingo or raffle operation?~~

~~Name ____~~

~~Address ____~~

~~Phone _____ Business Phone ____~~

~~6.~~

~~Individual responsible for filing the financial report required by this article if your organization ceases to exist.~~

~~Name ____~~

~~Address ____~~

~~Phone _____~~

~~Business Phone ____~~

~~7. Does your organization understand that it is a violation of law to enter into a contract with any person or firm, association, organization (other than another qualified organization pursuant to Section 17-69), partnership or corporation of any classification whatsoever, for the purpose of~~

PROOFS

~~organizing, managing or conducting bingo games or raffles? _____~~

~~8. Does your organization understand that it must maintain and file complete records of receipts and disbursements pertaining to bingo games and raffles and that such records are subject to audit by the local designated official? _____~~

~~9. Has your organization attached a check for the annual permit fee payable to the local designated official? _____~~

~~10. Does your organization understand that any organization found in violation of Section 17-66 authorizing this permit is subject to having such permit revoked and any organization or person, shareholder, agent, member or employee of such organization who violated Section 17-66 or Article 1.1 (Section 18.2-340.1 et seq.) of Chapter 8 of Title 18.2 of the Code of Virginia may be guilty of a felony? _____~~

~~11. Does your organization understand that it will be required to furnish a complete list of its membership upon the request of the governing body? _____~~

~~12. I hereby swear or affirm under the penalties of perjury as set forth in Section 18.2-434 of the Code of Virginia, that all of the above statements are true to the best of my knowledge, information and beliefs. All questions have been answered.~~

~~Signed by~~

~~_____~~

~~Name Title Address~~

~~Subscribed and sworn to before me, this _____ day of _____, 19_____~~

~~My commission expires:~~

~~_____, 19_____ Notary _____, 19_____ Notary Public~~

~~(Code 1992, § 17-57; Ord. of 9-7-93)~~

~~Sec. 17-58. Local control of management and operation.~~

~~The number of organizations for which a person may manage, operate or conduct bingo games or raffles is hereby limited to three (3).~~

~~(Code 1992, § 17-57; Ord. of 9-7-93)~~

~~Sec. 17-59. Requirement for issuance of permit; where valid; duration; permits subject to local regulation.~~

~~(a) Prior to the issuance of any permit, the organization must meet the following requirements:~~

~~__ Except for recently established volunteer fire and rescue companies or departments, as defined in this division, after Town approval, the organization shall have been in existence and met on a regular basis in the Town where application is made for a period of at least two (2) years immediately prior to applying for a permit. The governing body may require the organization to have a membership consisting of at least fifty (50) percent residents of the Commonwealth, and to furnish a complete list of its membership in order for the governing body to ascertain the percentage of state residents. In no case shall the organization apply for or receive more than one (1) permit. However, this requirement shall not apply to any lodge or chapter of a national or international fraternal order or a national or international civic organization which is exempt under Section 501(c)(3) of the United States Internal Revenue Code and which has a lodge or chapter holding a bingo permit issued under the provisions of this division anywhere~~

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~~within this Commonwealth; or, where the governing body of the Town provides for the issuance of a bingo or raffle permit to booster clubs which have been operating for less than two (2) years, and which have been established solely to raise funds for school-sponsored activities in public schools which are less than two (2) years old.~~

~~A permit shall be valid only in the jurisdiction wherein the application is approved and only at the locations designated in the permit application. However, a permit may be issued to an organization which relocates its meeting place on a permanent basis from one jurisdiction to another and complies with the requirements of subsection (1) of this section, and provided further that the organization was the holder of a valid permit at the time of its relocation. An organization which has obtained a permit under this division to conduct a raffle may sell raffle tickets both in and out of the jurisdiction issuing the permit and may conduct its drawing either in the jurisdiction in which a majority of the tickets were sold or in the jurisdiction issuing the permit, except that pull-tab devices, as defined in Section 17-56, used as part of a raffle may be sold only upon the premises owned or exclusively leased by such organization and at such times as it is not opened to the public, except to members and their guests.~~

~~The organization shall be operated currently, and shall have always been operated in the past, as a nonprofit organization and shall have been in existence as a nonprofit organization for a period of at least two (2) years immediately prior to seeking a permit as hereinafter provided.~~

~~Any organization whose gross receipts from all bingo operations exceed or can be expected to exceed seventy-five thousand dollars ($75,000.00) in any calendar year shall have been granted tax- exempt status pursuant to Section 501(c) of the United States Internal Revenue Code. At the same time tax-exempt status is sought from the Internal Revenue Service, the same documentation may be filed with the governing body for an interim certification of tax-exempt status. If such documentation is filed, the governing body may, after reviewing such documentation as it may deem necessary, issue its determination of tax-exempt status within sixty (60) days of receipt of such documentation. The governing body may charge a reasonable fee, not to exceed five hundred dollars ($500.00). This interim certification of tax-exempt status shall be valid until the Internal Revenue Service issues its determination of tax-exempt status, or for eighteen (18) months, whichever is earlier.~~

~~An organization shall designate an individual who shall be responsible for filing the annual or quarterly financial report required by this division if the organization goes out of business or otherwise ceases to exist.~~

~~(b) All permits shall be issued on a calendar basis and, unless otherwise provided, shall be valid for one (1) calendar year beginning on January 1.~~

~~(c) All applications for a permit shall be acted upon by the Town Manager, the designated official of the governing body, within sixty (60) days from the filing thereof.~~

~~(d) Upon compliance by the applicant with the provisions of this division, and at the discretion of the governing body or its designated official, a permit may be issued. All permits shall be subject to reasonable regulation by the governing body or its designated local official to ensure the public safety and welfare in the operation of bingo games and raffles.~~

~~(Code 1992, § 17-59; Ord. of 9-7-93)~~

~~Sec. 17-60. Frequency and conduct of bingo games.~~

~~No organization may hold bingo games more frequently than two (2) calendar days in any one (1) calendar week, except that a special permit may be granted an organization which entitles the~~

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~~organization to conduct more frequent operations during carnivals, fairs and other similar events at its principal meeting place or any other site selected by such organization which is located in the jurisdiction issuing the permit and which is not in violation of any local Zoning Ordinance. The sponsoring organization shall accept only cash or, at its option, checks in payment of any charges or assessments for players to participate in bingo games.~~

~~(Code 1992, § 17-60; Ord. of 9-7-93)~~

~~Sec. 17-61. Instant bingo.~~

~~(a) Any organization qualified to conduct bingo games pursuant to the provisions of this division is authorized to play instant bingo as a part of such bingo game and only at such location and at such times as are specified in the bingo application permit for regular bingo games, as defined in Section 17-56.~~

~~(b) The gross receipts in the course of a reporting year from the playing of instant bingo shall not exceed fifty (50) percent of the gross receipts of an organization's bingo operation.~~

~~(c) Any organization playing instant bingo shall maintain a record of the date, quantity and card value of instant bingo supplies purchased, as well as the name and address of the supplier of such instant bingo supplies. The organization shall also maintain a written invoice or receipt from a nonmember of the organization verifying any information required by this subsection.~~

~~(d) No organization shall sell an instant bingo card to any individual below sixteen (16) years of age.~~

~~(Code 1992, § 17-61; Ord. of 9-7-93)~~

~~Sec. 17-62. Reports of gross receipts and disbursements required; form of reports; failure to file; certificate of compliance; right-of-entry upon premises; records; independent accounting procedure.~~

~~(a) Complete records of all receipts and disbursements shall be kept and shall be filed annually under oath with the local official designated by the governing body. The annual or quarterly financial report and other items required to be filed under this section shall be a matter of public record. All accountings shall be made on or before December 1 of each calendar year for which a permit has been issued. The accounting shall include a record of the gross receipts and disbursements of an organization for the year period which commenced on October 1 of the previous year and a record of all money in the possession of the organization that was derived from bingo or instant bingo, regardless of when the money was received. However, any organization whose gross receipts exceed fifty thousand dollars ($50,000.00) during any calendar quarter shall be required to file an additional accounting of its receipts and disbursements during such quarter no later than sixty (60) days following the last day of the quarter. "Gross receipts," as used in this section, shall mean the total amount of money received from bingo and instant bingo operations before the deduction of expenses or prizes.~~

~~Reports.~~

~~All reports of receipts and disbursements shall be made on the following form and acknowledged in the presence of a duly authorized notary public. This form may be expanded to include any other information desired by the governing body or its designated local official. The failure to file reports when due shall cause the automatic revocation of the permit and no organization shall conduct any bingo game or raffle thereafter until the report is properly filed and a new permit is obtained.~~

~~The financial report shall be accompanied by a certificate, verified under oath, by the board of directors that the proceeds of any bingo games or raffles have been used for those lawful, religious, charitable, community or educational purposes for which the~~

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~~organization is specifically chartered or organized, and that the operation of bingo games or raffles has been in accordance with the provisions of this division.~~

~~Any organization having annual gross receipts from bingo games or raffles in excess of two hundred fifty thousand dollars ($250,000.00), as shown on its annual financial report, shall attach to such report an opinion of a licensed independent certified public accountant that the annual financial report presents fairly, in all material respects, beginning cash, receipts, operating cost, use of proceeds, and ending cash; the proceeds of any bingo games or raffles have been used, in all material respects, for those lawful, religious, charitable, community, or educational purposes for which the organization is specifically chartered or organized; and the gross receipts have been used, in all material respects, in accordance with the provisions of this division. The failure to file the opinion of a licensed independent certified public accountant, when required, shall cause the automatic revocation of the permit and no organization shall conduct any bingo game or raffle thereafter until the opinion required by this subsection is properly filed with the report and a new permit is obtained. The opinion required by this section is in addition to the audit and audit fee required by Section 17-63.~~

~~(c) Notwithstanding the provisions of this division requiring an annual audit, the provisions of this section shall not be construed to prohibit the local designated official from performing unannounced audits or restrict any right of such official to secure records required to be maintained by the provisions of this division. Any such official shall have the authority to go upon the premises on which any organization is conducting a bingo game for the purpose of carrying out the duties imposed by this division. The application for the bingo permit shall constitute permission from, and authority granted by, such organization to any law enforcement officer or the local official designated by the governing body to enter upon such premises.~~

~~(d) The organization shall maintain a written record for three (3) years of the dates on which bingo is played, the number of people in attendance on each date, and the amount of the receipts and prizes paid on each day. The organization shall also maintain a record of the name and address of each individual to whom a door prize, regular or special bingo game prize or jackpot from the playing of bingo is awarded, as well as the amount of the award. The organization playing bingo shall also maintain an itemized record of all receipts and disbursements, including operating costs and use of proceeds incurred in operating bingo games.~~

~~BINGO GAMES—RAFFLES~~

~~FINANCIAL REPORT~~

~~All holders of a Bingo Game Raffle Permit, issued pursuant to Section 17-59, must file a record of all receipts and disbursements in accordance with the provisions of this article. FAILURE TO FILE A REPORT OF SUCH RECORDS WHEN DUE SHALL CAUSE THE AUTOMATIC REVOCATION OF THE PERMIT.~~

~~____~~

~~Name of Organization Type of Organization Phone~~

~~____~~

~~Address Address where Bingo/Raffle is conducted~~

~~City, State, Zip Code Person Preparing Report Phone~~

~~Indicate Period for Which This Report Is Filed ____~~

~~Beginning Bank Balance~~

~~from Bingo/Raffle $_____~~

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~~Cash on Hand $_____~~

~~TOTAL (A) $_____~~

~~Receipts:~~

~~Admission (Regular & Extra Cards) $_____~~

~~Instant Bingo Sales _____~~

~~Misc. Sales (Excluding Bev. & Food) _____~~

~~Raffles _____~~

~~Other _____~~

~~TOTAL (B) $_____~~

~~TOTAL CASH AVAILABLE (A & B) $_____~~

~~Operating Cost:~~

~~(Excluding Bev. & Food) $_____~~

~~Bingo Supplies _____~~

~~Instant Bingo Supplies _____~~

~~Other Supplies & Equipment _____~~

~~Permit Fee _____~~

~~Prizes Awarded _____~~

~~Jackpot Award _____~~

~~Instant Bingo _____~~

~~Rent _____~~

~~Audit Fee _____~~

~~Other (Attach detailed explanation) _____~~

~~TOTAL (C) $_____~~

~~Use of Proceeds (Attached Detailed Schedule Indicating Payment, Date, Check or Invoice Numbers and Amounts)~~

~~TOTAL (D) $_____~~

~~(C & D) $_____~~

~~Ending Bank Balance from Bingo/Raffle~~

~~(E) $_____~~

~~Cash on Hand~~

~~(F) $_____~~

~~TOTAL CASH ACCOUNTED FOR (C + D + E + F) $_____~~

~~OATH -- I, the undersigned applicant, do swear (or affirm) that the foregoing figures and statements are true, full, and correct to the best of my knowledge and belief.~~

~~____~~

~~Authorized Agent Date~~

~~SUBSCRIBED AND SWORN TO BEFORE ME THIS _____ DAY OF _____, 19_____~~

~~My commission expires____~~

PROOFS

~~NOTARY PUBLIC~~

~~(e) The governing body may, by ordinance, require an independent accounting procedure to be followed by the organization; and further, the Town Manager is designated the local official to promulgate such independent accounting procedures.~~

~~(f) The governing body may, by ordinance, waive the requirements of Section 17-62.~~

~~(Code 1992, § 17-62; Ord. of 9-7-93)~~

~~Sec. 17-63. Audit of reports; fee.~~

~~(a) All reports filed pursuant to Section 17-62 shall be audited by the local official; however, any report filed by an organization with gross receipts of less than two thousand dollars ($2,000.00) for the designated reporting period shall be exempt from the audit requirement. All reports shall be a matter of public record.~~

~~(b) There is hereby established a reasonable audit fee not to exceed the actual cost of the audit, if the audit is conducted by an independent auditor or accountant, or two (2) percent of the gross receipts which an organization reports pursuant to Section 17-62, and the interest income on money that the organization has received from bingo or instant bingo operations if the audit is conducted by the local official designated by the governing body. An audit fee of one-tenth (1/10) of one (1) percent of gross receipts is hereby established in those cases where the audit is performed by the local official. The audit fee shall accompany each annual report.~~

~~(c) The audit fee shall be payable to the local official who is responsible for the performance of the audit. All audit fees received shall be separately accounted for and shall be used only for the purposes of auditing and regulating bingo games and raffles.~~

~~(Code 1992, § 17-63; Ord. of 9-7-93)~~

~~Sec. 17-64. Local ordinances.~~

~~The Town shall not be subject to any ordinances adopted by the County.~~

~~(Code 1992, § 17-64; Ord. of 9-7-93)~~

~~Sec. 17-65. Prohibited practices.~~

~~In addition to those other practices prohibited by this division, the following acts or practices shall also be prohibited under the provisions of this division:~~

- ~~Except for reasonable and proper operating costs, including costs associated with providing clerical assistance in the conduct of bingo games or raffles for organizations composed of or for deaf or blind persons, publicizing the time and place of bingo games and raffles and prizes, no part of the gross receipts derived by an organization, as herein defined, permitted to conduct bingo games or raffles may be used for any purpose other than those lawful religious, charitable, community or educational purposes for which the organization is specifically chartered or organized and expenses relating to the acquisition, construction, maintenance, or repair of any interest in the real property involving the operation of the organization and used for lawful religious, charitable, community or educational purposes.~~
- ~~No organization shall enter into a contract with, or otherwise employ for compensation, any person, firm, association, organization, partnership, or corporation of any classification whatsoever for the purpose of organizing, managing, or conducting bingo games or raffles. However, this subsection shall not prohibit the joint operation of bingo games under Section 17-69.~~
- ~~No person, firm, association, organization, partnership, or corporation shall pay or receive for use of any premises devoted, in whole or in part, to the conduct of bingo games~~

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~~or raffles any consideration in excess of the current fair market rental value of such property. For purposes of this division, no fair market rental value consideration shall be based upon or determined by reference to a percentage of the proceeds derived from the operation of bingo games or raffles, nor shall such consideration be based upon or determined by any reference to the number of people in attendance at such bingo games or raffles. Each day in violation of this subsection shall constitute a separate class 1 misdemeanor as set forth in Section 18.2-340.10 of the Code of Virginia.~~

~~No building or other premises shall be utilized in whole or in part for the purpose of conducting bingo games more frequently than two (2) calendar days in any one (1) calendar week. However, the provisions of this subsection shall not apply to the playing of bingo pursuant to a special permit issued in accordance with Section 17-60. No building or other premises owned by an organization, as defined in Section 17-56, and qualified as a tax-exempt organization pursuant to Section 501(c) of the Internal Revenue Code shall be utilized in whole or in part for the purpose of conducting bingo games more frequently than four (4) calendar days in any one (1) calendar week. One (1) building or premises owned by the Town shall be exempt from the provisions of this subsection.~~

~~Except for persons employed as clerical assistants by organizations composed of or for deaf or blind persons, members of civic and fraternal groups, or employees of a corporate sponsor of a qualified organization, only bona fide members of any such organization who have been members of such organization for at least ninety (90) days prior to such participation shall participate in the management, operation or conduct of any bingo game or raffle. Except as provided herein, no person shall receive any remuneration for participating in the management, operation or conduct of any such game or raffle. Persons employed by organizations composed of or for deaf or blind persons may receive remuneration not to exceed thirty dollars ($30.00) per event for providing clerical assistance in the conduct of bingo games or raffles only for such organizations. Persons eighteen (18) years of age and under who sell raffle tickets to raise funds for youth activities in which they participate may receive nonmonetary incentive awards or prizes from the organization, provided that organization is nonprofit. The spouse of any such bona fide member or a firefighter or rescue squad member employed by a political subdivision with which the volunteer firefighter or rescue squad member is associated may participate in the operation and conduct of a bingo game or raffle if a bona fide member is present.~~

~~No person shall manage, operate or conduct bingo games or raffles if, within the past five (5) years, he has been convicted of a felony or a crime involving moral turpitude, or has operated a bingo game or raffle in violation of state law or local ordinance.~~

~~No organization shall enter into any contract with or otherwise employ or compensate any member of that organization regarding the sale of bingo supplies or equipment.~~

~~No organization shall award any bingo prize money or any merchandise valued in excess of the following amounts:~~

- ~~No bingo door prize shall exceed twenty-five dollars ($25.00);~~
- ~~No regular bingo or special bingo game prize shall exceed one hundred dollars ($100.00);~~
- ~~No instant bingo prize for a single card shall exceed five hundred dollars ($500.00); and~~

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— No bingo jackpot of any nature whatsoever shall exceed one thousand dollars ($1,000.00), nor shall the total amount of bingo jackpot prizes awarded in any one (1) calendar day exceed one thousand dollars ($1,000.00).

Except as provided herein, no organization shall award any raffle prize valued at more than one hundred thousand dollars ($100,000.00). The one hundred thousand dollar limitation shall not apply to a raffle conducted no more than once per calendar year by an organization qualified as a tax-exempt organization pursuant to Section 501(c)(3) of the Internal Revenue Code for a prize consisting of a lot improved by a residential dwelling where one hundred (100) percent of the moneys received from such a raffle, less deductions for the fair market value for the cost of acquisition of the land and materials, are donated to lawful religious, charitable, community, or educational organizations specifically chartered or organized under the laws of the Commonwealth and qualified as a Section 501(c)(3) tax-exempt organization.

The award of any prize money for any bingo game or raffle shall not be deemed to be part of any gaming contract within the purview of Section 11-14 of the Code of Virginia.

— Any bingo game in which all the gross receipts from players for that game are paid as prize money back to the players shall not be subject to the limitations of subsection (8) of this section, but there shall not be more than one (1) such game per calendar day of play and the prize money from any such game shall not exceed one thousand dollars ($1,000.00).

— Any organization composed of or for deaf or blind persons that employs a person not a member to provide clerical assistance in the conduct of bingo games or raffles shall have in force fidelity insurance, as defined in Section 38.2-120 of the Code of Virginia, written by an insurer licensed to do business in the Commonwealth.

— No person shall participate in the management, operation or conduct of any bingo game or raffle if, within the preceding five (5) years, he has been convicted of a felony or crime of moral turpitude. Further, no person shall participate in the management, operation or conduct of any bingo game or raffle if that person, within the past five (5) years, has participated in the management, operation, or conduct of any bingo game or raffle which was found by a local permitting authority or by a court of competent jurisdiction to have been operated in violation of State law or local ordinance.

(Code 1992, § 17-65; Ord. of 9-7-93)

Sec. 17-66. Denial, suspension or revocation of permit; penalties.

The permit of any organization may be denied, suspended or revoked by the local designated official or the governing body if such organization is found not to be in strict compliance with the provisions of this division.

Any person violating the provisions of Section 17-65 shall be guilty of a class 1 misdemeanor as defined elsewhere in the ordinances and codifications thereof, of the Town, or as defined in the Code of Virginia. Any person violating the provisions of Section 17-65 shall be guilty of a class 6 felony as defined in the Code of Virginia.

(Code 1992, § 17-66; Ord. of 9-7-93)

Sec. 17-67. Enforcement of division; injunctive relief.

In the event that an organization violates the provisions of this division, then the Commonwealth's Attorney or the Town Attorney may, in addition to the foregoing criminal penalties, apply to the Circuit Court of the County for an injunction restraining the continued operation of bingo games or raffles or any aspect thereof.

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~~(Code 1992, § 17-67; Ord. of 9-7-93)~~

~~Sec. 17-68. Hearings and appeals.~~

~~No permit to conduct bingo games or raffles shall be denied, suspended or revoked, except upon notice stating the proposed basis for such action and the time and place for a hearing thereon. After a hearing on the issues, the governing body or the local official may refuse to issue or may suspend or revoke any such permit if it determines that the organization has not complied with the provisions of this division. Any organization aggrieved by the decision of the governing body or the local official may appeal such decision to the Circuit Court.~~

~~(Code 1992, § 17-68; Ord. of 9-7-93)~~

~~Sec. 17-69. Joint operation of bingo games; restrictions; special permit required.~~

~~(a) Two (2) qualified organizations, as defined in this division, may jointly organize and conduct bingo games, provided both have been issued a permit under the provisions of Section 17-59 and provided both fully comply with all other provisions of this division.~~

~~(b) Any two (2) qualified organizations jointly conducting bingo games shall be subject to the same restrictions and prohibitions contained in this division that would apply to a single organization conducting bingo games. Organizations jointly conducting bingo games shall not circumvent any restrictions and prohibitions which would otherwise apply if a single organization were conducting such games. These restrictions and prohibitions shall include, but not be limited to, the frequency with which bingo games may be held, the value of merchandise or money awarded as prizes, and all other practices prohibited under Section 17-65.~~

~~(c) Any two (2) qualified organizations which wish to jointly conduct one (1) or more bingo games shall furnish the governing body of the jurisdiction where such games will be held a written report setting forth the division of manpower, costs, and proceeds for each game to be jointly conducted. Upon a finding that the division of manpower and costs for each game bears a reasonable relationship to the division of proceeds, the governing body shall issue a special permit for the joint conduct of all approved bingo games. No bingo game may be jointly conducted until this special permit is obtained by the organization involved for that bingo game.~~

~~(Code 1992, § 17-69; Ord. of 9-7-93)~~

~~Sec. 17-70. Only raffles, bingo and instant bingo games permitted.~~

~~This division permits organizations to conduct raffles, bingo and instant bingo games. All games not explicitly authorized by this division are prohibited.~~

~~(Code 1992, § 17-70; Ord. of 9-7-93)~~

PROOFS

Chapter 23

RESERVED

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Chapter ~~16~~ 24[197] ~~ENVIRONMENT~~

NUISANCES*

***Charter reference**—Abatement of nuisances, § 6.04.

~~**Cross reference**—Violation of sign article as nuisance, § 3-50; animals, ch. 5; antennas, ch. 6; buildings, ch. 9; unsafe buildings, walls and structures, § 9-51 et seq.; erosion and sediment control, ch. 10; fire protection, ch. 12; health and sanitation, ch. 14; offenses—miscellaneous, ch. 17; solid waste, weeds, tree trimmings, leaves, ch. 24; water and sewers, ch. 29.~~

State law reference—Power of Town to prevent injury or annoyance from anything dangerous, offensive or unhealthy and to cause any nuisance to be abated, Code of Virginia, §~~§ 15.1-14(5), 15.1-867~~ 15.2-1115; abatement of nuisances, Code of Virginia, § 15.2-900 et seq.; abating public nuisances generally, Code of Virginia, § 48-1 et seq.

~~Sec. 16-1. "Nuisance" defined.~~

~~Sec. 16-2. Powers and duties of Town Manager.~~

~~Sec. 16-3. Abatement—Notice generally.~~

~~Sec. 16-4. Same—Notice by publication.~~

~~Sec. 16-5. Same—Procedure for abatement by Town.~~

ARTICLE I. IN GENERAL

Sec. 24-1. "Nuisance" defined.

(a) [198]Every condition or activity in the town which is offensive or prejudicial to the health or general welfare of the residents shall be deemed to be a nuisance, and where not so specified by law or ordinance, the [199]~~Health Officer~~ town manager shall have the power and authority to determine whether an activity or condition constitutes a nuisance, as defined in this section.

(b) The term "nuisance" includes, but is not limited to, dangerous or unhealthy substances which have escaped, spilled, been released or which have been allowed to accumulate in, or on, any place and all unsafe, dangerous or unsanitary public or private buildings, walls or structures which constitute a menace to the health and safety of the occupants thereof or the public.

(c) The term "responsible party" includes, but is not limited to, the owner, occupier or possessor of the premises where the nuisance is located, the owner or agent of the owner of the material which escaped, spilled or was released and the owner or agent of the owner who was transporting or otherwise responsible for such material and whose acts or negligence caused such public nuisance.

(Code 1972, § 20-1; Code 1992, § 16-1)

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

State law reference—Nuisance defined, Code of Virginia, § 15.2-900.

PROOFS

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[197] Codify in a chapter entitled environment with all environmental subject areas? No, keep Nuisances Chapter and Chapter 10 as separate chapters.

[198] This definition is very broad. Use definition in Code of Virginia, § 15.2-900 to distinguish from Code § 24-106 et seq. regarding unlawful accumulations of debris, weeds, tall grass, etc. which has a different abatement procedure. What nuisances are to be abated in this article?

[199] Does the town have a health officer? Yes, but change to Town Manager.

Sec. 24-2. Powers and duties of town manager.

~~When the Health Officer shall declare any condition or activity in the Town to be a nuisance,~~ The town manager is hereby vested with authority to require the abatement of ~~such~~ any nuisance. When necessary, he shall cause to have instituted legal proceedings in the name of the town for the abatement of such nuisance and for the recovery of any expenses incurred by the town in abating the same.

(Code 1972, § 20-2; Code 1992, § 16-2)

[200]Sec. 24-3. Abatement notice generally.

Whenever a nuisance is found by the ~~Health Officer~~ town manager to exist on any premises in the town, it shall be his duty to serve a notice on the [201]person who created the nuisance or, if such person cannot be ascertained, upon the occupant, to cause such nuisance to be abated within 48 hours, and if such person fails to do so, the nuisance shall be abated by the town at the expense of such person, occupant or owner, as the case may be. When such premises are unoccupied, such notice shall be served upon the owner thereof, if a resident of the town, and if not, then upon the owner's agent in charge of the premises or upon the owner by publication as provided in section 24-4.

(Code 1972, § 20-3; Code 1992, § 16-3)

Sec. 24-4. Abatement notice by publication.

If the owner of any unoccupied land or premises is not a resident of the town, and has no agent in the town upon whom notice may be served, the notice required by section 24-3 may be given by publication by posting in not less than two public places within the town, and the cost of such publication, if any, shall be collected as a part of the expense of effecting an abatement.

(Code 1972, § 20-4; Code 1992, § 16-4)

Sec. 24-5. Procedure for abatement by town.

(a) If a nuisance remains unabated after the expiration of the time specified in the notice referred to in section 24-3, the town manager shall forthwith file, in duplicate, a written petition in the name of the town with the proper judicial officer, setting forth the determination of the ~~Health Officer~~ town manager, the manner in which such notice has been served, the location of the nuisance and a statement that the person on whom the notice was served has failed or refused to comply with the provisions of the notice.

(b) Such judicial officer shall issue a summons against the defendant named in the petition to show cause why such nuisance should not be abated, which summons and a copy of the petition shall be served on the defendant requiring the defendant to appear before the court to answer such summons and petition at the time indicated in the summons.

(c) If, upon the hearing, the judicial officer shall order the nuisance abated, he shall order the defendant to abate such nuisance within such period of time as he may specify.

(d) If the defendant shall fail or refuse to abate such nuisance in the time fixed by the judicial officer, he shall be guilty of a Class 1 misdemeanor, and the town manager shall abate

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[200] Is this procedure correct and still in effect? Not really (we typically use the specific notification requirements for high grass, condemned buildings, etc.) but leave as is in case we ever need. Nuisance abatement is mentioned in Code of Virginia § 15.2-900 and § 48-5.

[201] Change to responsible party? Yes.

PROOFS

such nuisance in the most practicable manner and the defendant shall be liable for the cost thereof.

(Code 1972, § 20-5; Code 1992, § 16-5)

Secs. 24-6--24-28. Reserved.

ARTICLE II. REGULATION OF NOISE

Sec. 24-29. Short title and application of article generally.

This article shall be known and referred to as the "Noise Ordinance of the Town of Christiansburg, Virginia." It shall be applicable to the control of noises originating within the jurisdictional limits of the town.

(Ord. No. 2010-4, 10-19-2010)

Sec. 24-30. Declaration of policy.

At certain levels, noise can be detrimental to the health, welfare, safety, peace and quality of life of the citizens of town, and in the public interest, noise should be controlled. Therefore, it is hereby declared to be the public policy of the town, harmful or annoying noises, which jeopardize their health or welfare or degrades the quality of life within the town shall be regulated as provided in this article[202].

(Ord. No. 2010-4, 10-19-2010)

Sec. 24-31. Administration and enforcement.

This article shall be enforced and administered by the town chief of police, with the assistance of other town departments, as required.

(Ord. No. 2010-4, 10-19-2010)

Sec. 24-32. Definitions.

For purposes of this article, the following words and phrases shall have the meaning assigned to them in this section.

Chief means the chief of police of the town, or his duly appointed designees.

Dwelling unit means one or more rooms arranged, designed or intended to be occupied as separate living quarters by one or more persons and including permanent provisions for living, sleeping, eating, cooking and sanitation.

Motor vehicle means every vehicle defined as a motor vehicle by § 46.2-100 of the Code of Virginia (1950), as amended.

Noise means any sound which:

(1) Endangers or injures the safety or health of any person;

(2) Annoys or disturbs a reasonable person of normal sensitivities; or

(3) Endangers or injures personal or real property.

Owner means the person owning, controlling or possessing land, premises or property.

Person means any individual, partnership, corporation, firm, association, trust, estate, society, club, private institution, group of persons acting in concert, organization or agency, or any legal

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[202] Add this language for a complete sentence?

PROOFS

successor, representative, agent or agency of the foregoing. The term "person" shall not include the federal, state, county, town, city or local government, or any agency or institution thereof.

Plainly audible means any sound that can be detected by a person using his ~~or her~~ unaided hearing faculties.

Property boundary means an imaginary line along the ground surface, and its vertical extension, which separates the real property owned, leased or otherwise legally controlled by one person from that owned, leased or otherwise legally controlled by another person, including intra-building real property divisions.

Public property means any real property owned or controlled by the town or any other governmental entity.

Residential area refers to any area of the town, regardless of zoning district, where a person maintains a permanent or temporary place of abode.

Sound means an oscillation in pressure, particle displacement, particle velocity or other physical parameter, in a medium with internal forces that cause compression and rarefaction of that medium, and which propagates at finite speed. The description of sound may include any characteristic of such sound, including duration, intensity and frequency.

Sound-amplifying equipment means any machine, device or equipment for the amplification of the human voice, music or any other sound. The term "sound-amplifying equipment" shall not include warning devices on authorized emergency vehicles or horns or other warning devices on other vehicles used only for traffic-safety purposes.

(Ord. No. 2010-4, 10-19-2010)

Sec. 24-33. Loud noises prohibited.

It shall be unlawful for any person to:

(1) Use, operate or play a radio, phonograph, television, record, compact disc or tape player, musical instrument, loudspeaker, sound-amplifying equipment or other machine or device capable of producing or reproducing sound in such a manner or with such volume or duration that it is plainly audible:

a. Inside the confines of the dwelling unit, house or apartment of another person; or

b. At a distance of 50 feet or more from the device, except for devices permitted to be used at public parks or recreation fields, sporting events, school-sponsored activities on school grounds, or duly authorized parades, public functions or commemorative events.

(2) Allow noise between the hours of 10:00 p.m. and 7:00 a.m. that is plainly audible either inside the confines of the dwelling unit, house or apartment of another person or at a distance of 50 feet or more.

(3) Allow any animal (except farm animals in agricultural districts) to create noise that it is plainly audible at least once a minute for ten consecutive minutes:

a. Inside the confines of the dwelling unit, house, or apartment of another; or

b. At a distance of 50 feet or more from the animal.

This provision shall not apply if the noise is due to harassment of or injury to the animal, or due to a trespass upon the premises where the animal is located.

(4) Operate, install, have or permit on the inside or outside of any store, shop, business establishment, warehouse or commercial building, any loudspeaker, sound-amplifying equipment or other sound-producing or reproducing device capable of emitting music,

PROOFS

noise, sounds, tapes or voice in such manner that it is plainly audible on any public sidewalk or street, unless it is used only intermittently for announcing or paging an individual or unless it signals the ringing of a telephone, danger from smoke, a fire or a burglary or the beginning or stopping of work or school, or unless it is operated in accordance with conditions of zoning.

(5) Play, or permit the playing of, any radio, stereo, tape player, compact disc player, loud speaker, sound-amplifying equipment or other electronic device or mechanical equipment used for the amplification of sound, within a motor vehicle and which is plainly audible from outside the motor vehicle at a distance of 50 feet or more from the vehicle. This provision shall not apply to sirens, loud speakers and emergency communications radios in public safety vehicles; nor shall this provision apply to motor vehicle alarms or other security devices.

(6) Create plainly audible noise in residential areas between 10:00 p.m. and 7:00 a.m. in connection with the loading and unloading of refuse, waste or recycling.

(7) Create plainly audible noise in residential areas between 10:00 p.m. and 7:00 a.m. in connection with lawn care, leaf removal, gardening, tree maintenance or tree removal, and other landscaping, lawn or timbering activities.

(8) Operate, or cause to be operated, any equipment used on an active site in the construction, repair, alteration or demolition of buildings, streets, roads, alleys or appurtenances thereto between the hours of 10:00 p.m. and 7:00 a.m. The use of construction vehicles as transportation to and from an active construction site may be done at any time.

(9) Repair, rebuild or modify any motor vehicle or other mechanical equipment or device between the hours of 10:00 p.m. and 7:00 a.m. in a manner so as to be plainly audible at a distance of 50 feet or more from the source.

(10) Fail to deactivate an alarm system plainly audible at a distance of 50 feet or more from such alarm within 30 minutes of hearing the alarm or receiving notice of the alarm's activation.

(Ord. No. 2010-4, 10-19-2010)

Sec. 24-34. Exemptions from this article.

The following specific activities or sources of noise shall be exempt from the regulations set forth in this article:

(1) Sounds generated in business, industrial and mixed-use zoning districts that are necessary and incidental to the uses permitted therein.

(2) Sounds generated from any agricultural activity or agribusiness.

(3) Activities or land use for which a permit has been issued or an exception has been granted by the town council.

(4) Activities for which the regulation of noise has been preempted by federal law.

(5) Sounds emitted in the performance of emergency work or for the purpose of alerting persons to the existence of an emergency.

(6) Sounds generated by the performance of any governmental function.

(7) Lawful activities on, or in, public and school athletic facilities and on, or in, publicly owned properties and facilities.

(8) Activities which are part of any town- or state-sponsored festival or activity.

PROOFS

(9) Military activities of the commonwealth of the state or of the United States of America

(10) Religious services, religious events or religious activities or expressions, including, but not limited to, music, singing, bells, chimes and organs, that are a part of such service, event, activity or expression.

(11) Religious or political gatherings and other activities protected by the First Amendment to the United States Constitution.

(12) Sounds generated from or incidental to emergency repairs to public and private utilities.

(13) Sounds generated from or incidental to any emergency public works function.

(14) Sounds generated from construction and maintenance to public roads, highways and bridges.

(15) Sounds generated from erosion and sediment mitigation.

(16) Sounds generated from airplanes and trains.

(Ord. No. 2010-4, 10-19-2010)

Sec. 24-35. Penalties.

(a) Any person violating any of the provisions of this article shall be subject to the following penalties:

(1) For the first offense, either imprisonment of not more than ten days or a fine of not less than $75.00.

(2) For the second offense within 12 months of a previous conviction, either imprisonment of not more than ten days or a fine between $250.00 and $750.00.

(3) For the third offense within 24 months of a previous conviction, either imprisonment of not more than ten days or a fine between $500.00 and $1,000.00.

(4) For the fourth or subsequent offense within 24 months of a previous conviction, the person shall be guilty of a Class 1 misdemeanor.

(b) Each separate act on the part of the person violating this article shall be deemed a separate offense, and each day a violation is permitted to continue unabated shall constitute a separate offense.

(c) The person operating or controlling a noise source shall be guilty of any violation caused by that source. If that person cannot be determined, any owner, tenant or resident physically present in, or on, the property where the violation is occurring is rebuttably presumed to be guilty of the violation.

(d) In addition to, and not in lieu of, the criminal penalties prescribed in this section, the town may apply to the circuit court for an injunction against the continuing violation of any of the provisions of this article, and the town may seek any other remedy or relief authorized by law.

(Ord. No. 2010-4, 10-19-2010)

Sec. 24-36. Undue hardship waiver.

(a) Any person responsible for a noise source may apply to the town manager or town designee for a waiver, or partial waiver, from the provisions of this article. The town manager or town designee may grant such waiver, or partial waiver, upon a finding that any of the following circumstances exists:

(1) The noise does not endanger the public health, safety or welfare; or

PROOFS

(2) Compliance with the provisions of this article from which a waiver is sought would produce serious economic hardship without producing substantial benefit to the public.

(b) In determining whether to grant such waiver, the town manager or town designee shall consider the time of day the noise will occur, the duration of the noise, whether the noise is intermittent or continuous, the technical and economic feasibility of bringing the noise into conformance with this article, and such other matters as are reasonably related to the impact of the noise on the health, safety and welfare of the community and the degree of hardship which may result from the enforcement of the provisions of this article.

(c) No waiver, or partial waiver, issued pursuant to this article shall be granted for a period to exceed one year, but any such waiver, or partial waiver, may be renewed for successive like periods if the town manager or town designee shall find such renewal is justified pursuant to the standards set forth in this article. No renewal shall be granted except upon written application therefor.

(Ord. No. 2010-4, 10-19-2010)

Sec. 24-37. Other remedies.

No provision of this article shall be construed to impair any common law or statutory cause of action or legal remedy of any person for injury or damage to person or property arising from violation of this article or arising from noise that either is exempted or does not violate this article.

(Ord. No. 2010-4, 10-19-2010)

Secs. 24-38--24-62. Reserved.

[203]ARTICLE ~~IV~~ III. ~~UNLAWFUL ACCUMULATIONS OF~~ DEBRIS, WEEDS, WILD GROWTH

State law reference—Authority to provide for removal of trash, cutting of grass and weeds, Code of Virginia, § 15.2-901.

Sec. 24-63. Definitions.

~~For the purpose of this article, the following words and phrases shall have the meanings respectively ascribed to them by this section:~~

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

Debris includes cuttings of weeds, trees or bushes, garbage, trash, junk, refuse, litter, discarded motor vehicles or parts thereof, or any other material which may endanger the health or safety of the residents of the town or which may provide harborage for snakes, rats or mosquitoes, or any thing or any condition which may be a fire menace or breeding place for rats and mosquitoes or which gives off obnoxious or offensive odors.

Grass or *weeds* means uncultivated grass or weeds of any kind, poison ivy, poison oak and honeysuckle. The term "grass" or "weeds" shall not include town-owned property, conservation easements or trees, shrubbery, hedges, flowers and garden vegetables or other farm crops planted or cultivated and harvested in the regular course of agricultural pursuits.

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[203] Is this article current and correct? If so it should be included in the new chapter on Environment.

Compare and distinguish this article from Code § 16-1 et seq. on nuisances? No, move this Article to Nuisance Chapter.

PROOFS

Person responsible for real property means the owner or occupant of real property or any person in possession thereof or having charge thereof, as tenant, executor, administrator, trustee, guardian or agent, and the beneficiary of any easement or writ of use thereof.

Tall grass or *tall weeds* means growth in excess of 12 inches in height.

(Code 1972, § 15-39.1; Code 1992, § 24-106; Ord. No. 2013-3, § 24-106, 3-5-2013)

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

Sec. 24-64. Authority and purpose of article.

Permitting debris, trash, rubbish, grass or weeds, as defined by this article, to remain on land located within the corporate limits of the town is hereby found and declared to be a detriment to the comfort, convenience, general welfare, health and safety of the citizens of the town. This article is adopted pursuant to the authority of Code of Virginia, §§ 15.2-901, 15.2-1115, 15.2-2013, 15.2-2029 and other sections of the Code of Virginia.

(Code 1972, § 15-39; Code 1992, § 24-107; Ord. of 11-2-1999(1))

Sec. 24-65. Prohibited conditions on property.

(a) It shall be unlawful for any person who is the owner, lessee, tenant, occupant or person responsible for any lot, parcel of land or other premises within the town to permit accumulation of tall grass and tall weeds, or to permit stagnant water, filth, trash, old tires and debris; or to permit the growing or accumulation of cuttings of tall grass or tall weeds on such premises within the town; or to permit unsightly accumulation of trash or rubbish on such premises.

(b) It shall be unlawful for any person responsible for real property which consists of unimproved or vacant land located within the corporate limits of the town to permit tall grass or tall weeds to grow thereon within a distance of 300 feet of a public street, a residence or commercial property which are located within the town. This provision shall not apply to property in the A Agricultural Zoning District and in active use for agricultural operations, property owned or controlled by the town, or any local, state or federally recognized conservation area.

(Code 1972, § 15-39.2; Code 1992, § 24-108)

Sec. 24-66. Removal of grass, weeds, debris.

(a) The town manager, or ~~Chief of Police~~ designee, is hereby authorized to notify, in writing, the person responsible for any real property to cut and remove, either or both, any grass or weeds or debris found growing, lying or located on such property in violation of this article. Such notice shall state the time within which the action or work ordered to be done is to be completed.

(b) The notice provided for in this section shall be personally served upon the person responsible for the real property involved by the town manager, or ~~Chief of Police~~ designee, who shall note the time, place and manner of such service on a duplicate copy of the notice to be kept by the town manager or ~~Chief of Police~~ designee. In lieu of such personal service, such notice may be by registered or certified mail, addressed to such responsible person at his last known address. If the town manager, or ~~Chief of Police~~ designee, after a reasonable effort, cannot locate the person responsible for such property, such notice may be served by posting a copy thereof on such property for a period of ten days.

(c) A person receiving notice pursuant to this section shall immediately proceed to clear off and remove from the property involved all grass, weeds or debris or take such other corrective action specified in the notice; and shall complete such work within ten days from the date of the notice. The failure or refusal of such persons to do so shall constitute a misdemeanor and prosecution therefor shall not bar the town from proceeding to have the work done in accord with subsection (d) of this section.

PROOFS

(d) Upon failure, neglect or refusal of any person, upon whom notice has been served pursuant to subsection (b) of this section, to comply with such notice within the time indicated in the notice, the town manager, or ~~Chief of Police~~ designee, may have the cutting or removal, either or both, performed by the town forces or by contract, and the actual cost of such cutting or removal shall be charged to the person to whom the notice was directed.

(e) If the town manager, or ~~Chief of Police~~ designee, after reasonable attempt, cannot determine who the person responsible for the real property is, and notice has been posted on the property for a period of ten days pursuant to subsection (b) of this section, the town manager, or ~~Chief of Police~~ designee, may then proceed to have the cutting or removal, either or both, performed by the town forces or by contract.

(f) If the cost of cutting or removal, either or both, is to be charged to the person responsible for the real property, as provided for in this section, the town manager, or ~~Chief of Police~~ designee, shall make out a bill~~, in triplicate,~~ in the name of such person, showing the actual cost of the cutting or removal, either or both, as the case may be, and shall mail one copy thereof to such person. If such bill is not paid within 30 days from the date of ~~the~~ posting the same in the regular course of mail, the town may collect such costs as taxes are collected in accordance with Code of Virginia, § 15.2-901. ~~Manager or Chief of Police, in the name of the Town, shall thereupon proceed to judgment against the person responsible for the real property involved. When such judgment is obtained, the same shall be reported to the Clerk of the Circuit Court, which Clerk shall cause the same to be~~ [204] ~~docketed in the proper judgment lien book. Upon the proper recordation of such judgment as provided by law, it shall constitute a lien on the real property in question and likewise the improvement thereon, if any.~~

(Code 1972, § 15-39.3; Code 1992, § 24-109)

Sec. 24-67. Presumption of detriment.

Any condition existing on real property within the corporate limits of the town in violation of this article shall be presumed to be detrimental to the comfort, convenience, general welfare, health and safety of the citizens of the town.

(Code 1972, § 15-39.4; Code 1992, § 24-110)

Sec. 24-68. Discarded or abandoned refrigerators, etc.

(a) It shall be unlawful for any person to discard, abandon, leave or allow to remain in any place any icebox, refrigerator or other container, device or equipment of any kind with an interior storage area of more than two cubic feet of clear space which is airtight, without first removing the doors or hinges from such icebox, refrigerator, container, device or equipment.

(b) This section shall not apply to any icebox, refrigerator, container, device or equipment which is being used for the purpose for which it was originally designed, or is being used for display purposes by any retail or wholesale merchant, or is crated, strapped or locked to such an extent that it is impossible for a child to obtain access to any airtight compartment thereof.

(c) Any violation of the provisions of this section shall be punishable as a Class 3 misdemeanor, in accordance with section 1-11.

(Code 1972, § 15-41; Code 1992, § 24-111)

~~**Cross reference**—Offenses—Miscellaneous, ch. 17.~~

State law reference—Abandoning or discarding certain appliances, containers, etc., Code of Virginia, § 18.2-319.

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[204] Is this correct? Ask attorney

PROOFS

[205]Sec. 24-69. General penalty.

Except as otherwise provided in this article, a violation of any provisions of this article shall constitute a Class 1 misdemeanor.

(Code 1972, § 15-39.5; Code 1992, § 24-112)

Sec. 24-70. Removal or disposal of trash; cutting of grass and weeds.

(a) The owners of property within the town shall, at such time, or times, as the governing body may prescribe, remove therefrom any and all trash, garbage, refuse, litter and other substances which might endanger the health or safety of other residents of the town therein; or may, whenever the town council deems it necessary, after reasonable notice, have such trash, garbage, refuse, litter and other like substances which might endanger the health of the other residents of the town therein, removed by its agents or employees, in which event the costs or expenses thereof shall be chargeable to and paid by the owners of such property and may be collected by the town therein as taxes are collected.

(b) Trash, garbage, refuse, litter and other debris shall be disposed of in personally owned or privately owned receptacles that are provided for such use and for the use of the person disposing of such matter or in authorized facilities provided for such purpose and in no other not authorized by law.

(c) The owners of vacant developed or undeveloped property within the town, including such property upon which buildings or other improvements are located, shall cut the grass, weeds and other foreign growth on such property or any part thereof at such time, or times, as the town council shall prescribe; or may, whenever the town council deems it necessary, after reasonable notice have such grass, weeds or foreign growth cut by its agents or employees, in which event the costs and expenses thereof shall be chargeable to and paid by the owners of such property and may be collected by the town therein as taxes are collected.

(d) Every charge authorized by the section with which the owner of any such property shall have been assessed and which remains unpaid shall constitute a lien against such property ranking on a parity with liens for unpaid local taxes and enforceable in the same manner as provided in Code of Virginia, § ~~Articles 3 (~~ 58.1-3940 et seq.~~)~~ and ~~4 (~~ Code of Virginia, § 58.1-3965 et seq.~~) of Chapter 39 of Title 58.1~~.

~~(Code 1950, § 15-14; 1962, cc. 400, 623, § 15.1-11; 1964, c. 31; 1968, c. 423; 1974, c. 655; 1978, c. 533; 1983, cc. 192, 390; 1990, c. 177; 1992, c. 649; 1994, c. 167; 1997, c. 587).~~

(Code 1992, § 24-113; Ord. of 11-2-1999(1))

PROOFS

[205] Code of Virginia, § 15.2-901 authorizes a civil penalty in lieu of a misdemeanor penalty. Leave class 1 misdemeanor? Leave as is.

Chapter 25

RESERVED

PROOFS

Chapter ~~13~~ 26[206]

SALES

ARTICLE I. IN GENERAL

Secs. 26-1--26-18. Reserved.

ARTICLE II. FLEA MARKETS AND GARAGE AND/OR YARD SALES*

~~***Cross reference**— Health and sanitation, ch. 14; licenses generally, ch. 15; precious metals dealers, ch. 19; zoning, ch. 30.~~

~~Sec. 13-1. Definitions.~~

~~Sec. 13-2. Purpose of chapter.~~

~~Sec. 13-3. General regulations pertaining to garage and/or yard sales.~~

~~Sec. 13-4. General regulations pertaining to flea markets.~~

~~Sec. 13-5. Penalties for violation.~~

Sec. 26-19. Definitions.

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

Flea market means any person or aggregation, congregation or assembly of vendors, whether professional or nonprofessional, that offers for sale, trade or barter any goods, regardless of whether they are new, used, antique or handmade; and where offered for sale in open air areas, buildings or temporary structures.

Garage and/or yard sale means any sale operated out of one-family, two-family or multifamily dwellings, including, but not limited to, a sale on the premises thereof.

Goods means any goods, wares, merchandise or any other personal property capable of being an object of sale as regulated herein.

Itinerant or transient vendor means any person, partnership, firm, corporation or association of individuals, whether public or private, charitable or noncharitable, that does not occupy a permanent space within a flea market area but does exhibit goods or merchandise and offers such goods for sale, trade or barter on a day-to-day basis.

Permanent vendor means any person, partnership, firm, corporation or association of individuals, whether public or private, charitable or noncharitable, that occupies a permanent space within a flea market area, and that exhibits goods and offers such goods for sale, trade or barter.

Promoter means any person, association, firm or corporation that promotes or sponsors flea market type activities by offering a space, booth or area for use by vendors to display and offer for sale goods, wares or merchandise for a fee or commission.

(Code 1992, § 13-1; Ord. of 12-6-1983, § 9.2-2)

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

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[206] Is this chapter still correct? If so, include it as an article in a chapter entitled Sales? No, leave as was. Created chapter on Sales as discussed and approved in the tentative table of contents.

PROOFS

Sec. 26-20. Purpose of chapter.

The purpose of this chapter is to protect the property and to preserve the peace and safety of the people of the town by regulation and control of garage and/or yard sales and flea markets.

(Code 1992, § 13-2; Ord. of 12-6-1983, § 9.2-1)

[207]Sec. 26-21. General regulations pertaining to garage and/or yard sales.

(a) It shall be unlawful for any person, family or vendor to hold more than two garage or yard sales, whether in the same or another location, within the town during any calendar year.

(b) It shall be unlawful for any person to conduct such sale for a period of longer than two consecutive days.

(c) Any goods offered for sale must be secondhand or used items owned by the persons or vendors conducting the sale and shall, in no case, have been purchased for the purpose of resale. An affidavit or sworn statement may be required for verification purposes.

(d) No signs advertising such sale shall be located within a street right-of-way.

(Code 1992, § 13-3; Ord. of 12-6-1983, § 9.2-4)

Sec. 26-22. General regulations pertaining to flea markets.

(a) Any person or other vendor seeking to promote or operate a flea market in the town shall file with the town ~~Manager~~ an application requesting a conditional use permit to conduct a flea market type activity. ~~This application shall include complete information concerning the promoters or operators, the proposed location of the sale, the date and time when the sale is to be conducted, and any other information deemed necessary by the Town Manager or his designated representative. If, in the judgment of the Town Manager, such an activity will not be to the~~ ~~[208]~~~~detriment of the Town, or its citizens, and not contrary to zoning or building regulations or other Town ordinances, he shall be authorized to issue a permit. If in the opinion of the Town Manager such will be to the detriment of the Town or its citizens or will constitute a Zoning or Building Code violation, he shall notify the applicant, stating the reasons for the denial of the permit; and the applicant shall have the right to appeal the denial to the Town Council.~~

(b) Any applicant who shall have obtained a valid conditional use permit from the town ~~Manager~~ to conduct a flea market shall secure from the town treasurer a business license to conduct such activity. For the purpose of procuring a business license, the promoter or vendor shall be deemed to be a [209]commission merchant.

~~Each permanent vendor in any flea market type operation, whether the operation shall be profit or nonprofit, shall secure from the Town Treasurer a business license for $30.00 per year to conduct his activities.~~ ~~[210]~~~~Each transient vendor shall secure from the Town Treasurer a business license for $10.00 to conduct his activities and shall display the same at the place where~~

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[207] Is a permit required? No.

[208] Detriment is a very vague term. Reference to violating the town code or ordinances appears to be sufficient. Delete.

[209] There is no category entitled "commission merchant" in the business license chapter. Code of Virginia, § 58.1-3733 authorizes a license tax on commission merchants which is defined in part as "selling merchandise on commission by sample, circular, or catalogue" which does not seem to apply to flea markets? Change to retail merchant or itinerant merchant? Added definition to Chapter 15.

[210] Itinerant merchant license is issued in the business license chapter and it is different. See § 15-9(8). Deleted.

PROOFS

~~goods or merchandise are on display. Such license shall not be required in addition to any other appropriate or current business license which any vendor may have secured previously.~~

~~The promoter or operator of the flea market shall not allow any vendor to display or sell goods in the flea market area until each vendor has exhibited to the promoter his appropriate license herein required.~~

(c) Where flea market type activity is sponsored or promoted by a recognized civic or charitable organization and where it is deemed that the overall interest of the town will be served through a waiver of the license, then the council may, in its discretion, waive such license.

(Code 1992, § 13-4; Ord. of 12-6-1983, § 9.2-7)

~~**Cross reference**— Buildings, ch. 9; zoning, ch. 30.~~

Sec. 26-23. Penalties for violation.

Any person violating the regulations set forth in this chapter shall be guilty of a Class 4 misdemeanor for each offense, and each day shall constitute a separate offense.

(Code 1992, § 13-5; Ord. of 12-6-1983, §§ 9.2-5, 9.2-8)

PROOFS

Chapter 27

RESERVED

PROOFS

Chapter ~~24~~ 28

[211]SOLID WASTE~~, WEEDS, TREE TRIMMINGS, LEAVES~~*

***Charter reference**—Garbage collection services, §§ 3.09, 6.03.

~~**Cross reference**—Administration, ch. 2; animals, ch. 5; disposition of dead animals, § 5-13; fire protection, ch. 12; health and sanitation, ch. 14; licenses generally, ch. 15; nuisances, ch. 16; inoperative vehicles on residential, commercial or agricultural property, § 28-1; water and sewers, ch. 29.~~

State law reference—Virginia Waste Management Act, Code of Virginia, § 10.1-1400 et seq.; removal of trash, garbage, weeds, etc., from property, Code of Virginia, § 15.2-901; regulation of garbage and refuse pickup and disposal, Code of Virginia, § 15.2-931; contracts for garbage and refuse pickup and disposal services, waste recovery facilities, Code of Virginia, § 15.2-932; ordinances requiring delivery of garbage, trash and refuse to certain facilities, Code of Virginia, § 15.2-933; regulation of garbage and refuse pickup and disposal services, Code of Virginia, § 15.2-930; municipal collection and disposal of refuse, regulation of disposal facilities, Code of Virginia, §§ 15.2-927--15.2-929; mailing of summons for violation of trash ordinance, Code of Virginia, § 19.2-76.2; dumping trash, etc., on highway, right-of-way or private property, Code of Virginia, §§ 33.1-346, 33.1-346.1; dump creating fire hazard to public bridge, Code of Virginia, § 33.1-347.

~~Article I. In General~~

~~Sec. 24-1. Definitions.~~

~~Sec. 24-2. Authority of Sanitary Inspector, Health Officer, etc.~~

~~Sec. 24-3. Sweeping and depositing certain materials in streets, etc.~~

~~Sec. 24-4. Dumping ashes in streets, etc., prohibited; exception.~~

~~Sec. 24-5. Accumulation of refuse or garbage.~~

~~Sec. 24-6. General penalty.~~

~~Secs. 24-7--24-30. Reserved.~~

~~Article II. Collection and Disposal of Garbage, Refuse, etc.~~

~~Sec. 24-31. Where garbage collection service to be provided.~~

~~Sec. 24-32. Garbage cans or commercial plastic garbage bags to be provided by householders, etc.~~

~~Sec. 24-33. Containers to be drained of excessive moisture.~~

~~Sec. 24-34. Use of paper or pasteboard boxes as containers prohibited.~~

~~Sec. 24-35. Town cleanup; tree trimmings and brush hauling.~~

~~Sec. 24-36. Containers for rubbish and trash.~~

~~Sec. 24-37. Ashes and ash containers.~~

~~Sec. 24-38. Ashes not to be mixed with garbage, etc.~~

~~Sec. 24-39. Garbage, etc., to be set out for collection according to schedule.~~

~~Sec. 24-40. Accumulation of garbage, etc., prohibited.~~

~~Sec. 24-41. Garbage collection crew not to enter building to remove garbage, etc.~~

~~Sec. 24-42. Town garbage truck not to remove unprepared garbage, etc.; duty of owner or tenant.~~

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[211] Is this chapter still current and correct? Yes.

PROOFS

~~Sec. 24-43. Town garbage truck not to remove loose leaves, refuse, etc., from building operations.~~

~~Sec. 24-44. Service charges- Residential and domestic.~~

~~Sec. 24-45. Same- Business and commercial.~~

~~Sec. 24-46. Collection procedure and schedule- Residential sections and business sections with family units over stores, etc.~~

~~Sec. 24-47. Same- Business sections generally.~~

~~Sec. 24-48. Maintenance and location of containers.~~

~~Sec. 24-49. Owner to prevent garbage from being spilled on ground or premises.~~

~~Sec. 24-50. Disposition of garbage and refuse other than through garbage collection service.~~

~~Sec. 24-51. Paper, cartons, etc., to be flattened and put into bundles for collection.~~

~~Sec. 24-52. Dumping within Town prohibited.~~

~~Sec. 24-53. Placing garbage, etc., in public wastepaper receptacles.~~

~~Sec. 24-54. Placing human or animal excreta in container set out for removal.~~

~~Sec. 24-55. Picking through contents of container set out for removal.~~

~~Sec. 24-56. Interfering with employees in removal of material.~~

~~Sec. 24-57. Removal of garbage, rubbish or waste by Town.~~

~~Sec. 24-58. General penalty.~~

~~Secs. 24-59--24-80. Reserved.~~

~~**Article III. Town Landfill**~~

~~Sec. 24-81. Establishment.~~

~~Sec. 24-82. Administration; operation.~~

~~Secs. 24-83--24-105. Reserved.~~

~~**Article IV. Unlawful Accumulations of Debris or Growth of Weeds, Etc.**~~

~~Sec. 24-106. Definitions.~~

~~Sec. 24-107. Authority and purpose of article.~~

~~Sec. 24-108. Prohibited conditions on property.~~

~~Sec. 24-109. Removal of grass, weeds, debris.~~

~~Sec. 24-110. Presumption of detriment.~~

~~Sec. 24-111. Discarded or abandoned refrigerators, etc.~~

~~Sec. 24-112. General penalty.~~

~~Sec. 24-113. Removal or disposal of trash, cutting of grass, and weeds.~~

ARTICLE I. IN GENERAL

Sec. 28-1. Definitions.

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

PROOFS

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

Ashes means ashes, cinders or clinkers.

[212]*Garbage* means refuse and waste, such as vegetable or animal matter, that attends the preparation, use, cooking, dealing or storing of same or any other matter that is subject to decay or fermentation, but excludes dishwater, rubbish and ashes.

Garbage collection service means the collection of garbage, rubbish, trash and ashes by the town.

Rubbish or *trash* means paper, floor sweepings, old discarded clothing, boots and shoes, bottles, broken glass, tin cans and all such rubbish that accumulates from a household or business, except ashes or other heavy materials.

Tree, brush or *shrubbery* means tree trimmings, brush and shrubbery with limbs not in excess of four inches in diameter and cut into pieces.

(Code 1972, § 15-1; Code 1992, § 24-1)

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

[213]Sec. 28-2. Authority of ~~sanitary inspector,~~ health officer, etc.

The ~~Sanitary Inspector,~~ health officer or other duly authorized official, as appointed by the town manager, shall have the authority to visit the premises or building of any resident, housekeeper, hotel, restaurant or storekeeper at any reasonable time and to make inspection of garbage, refuse, waste or ashes and to order the proper handling and disposition of same.

(Code 1972, § 15-2; Code 1992, § 24-2)

Sec. 28-3. Sweeping and depositing certain materials in streets, etc.

(a) It shall be unlawful for any person to deposit or cause to be deposited upon the sidewalks, streets, roads, lanes or alleys or in any catchbasin or drain paper, rags, old shoes, clothing, tin cans, bottles, fruit or vegetable peelings, dead animals, leaves or any other refuse or waste.

(b) It shall be unlawful for any householder, storekeeper or other person, by himself or his agent, to sweep from any house, yard or store any dirt or refuse in or upon any sidewalk or public street, lane, road or alley.

(c) All such material shall be placed in receptacles and disposed of as provided in this chapter. However, the owner has the option of making proper disposition by himself or his agent and in all such cases must haul and deposit such material in an approved disposal facility.

(Code 1972, § 15-3; Code 1992, § 24-3)

~~**Cross reference**— Streets and sidewalks, ch. 25.~~

Sec. 28-4. Dumping ashes in streets, etc., prohibited; exception.

It shall be unlawful for any person to dump ashes or other such materials in any street, road, lane, alley or drain within the town, except by special permission of the town manager.

(Code 1972, § 15-4; Code 1992, § 24-4)

~~**Cross reference**— Streets and sidewalks, ch. 25.~~

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[212] Change the term garbage to solid waste? Yes.

[213] Are these titles correct? Changed.

PROOFS

Sec. 28-5. Accumulation of refuse or garbage.

Any person allowing refuse or garbage to accumulate on his premises in a manner that would become offensive or unsanitary shall be guilty of creating a nuisance.

(Code 1972, § 15-5; Code 1992, § 24-5)

Sec. 28-6. General penalty.

Except as otherwise provided in this chapter, a violation of any provisions of this chapter shall constitute a Class 1 misdemeanor.

(Code 1992, § 24-6)

Secs. 28-7--28-30. Reserved.

[214]ARTICLE II. COLLECTION AND DISPOSAL OF GARBAGE, REFUSE, ETC.

Sec. 28-31. Where garbage collection service to be provided.

(a) The town shall provide garbage collection service on the terms and conditions set out in this article only to citizens, residents and business establishments located within the corporate limits of the town.

(b) However, in those instances where the established route of the garbage truck causes it to pass through an area outside the corporate limits of the town, garbage pickup service may then be provided with the approval of the town manager to residents of that area requesting such service.

(c) The aforementioned established route or routes shall be subject to change at any time and should such change occur, garbage pickup service to residents along the former route shall then be discontinued.

(Code 1972, § 15-6; Code 1992, § 24-31)

Sec. 28-32. Garbage cans or commercial plastic garbage bags to be provided by householders, etc.

All householders or occupants of any residence, apartment or trailer and all operators of hotels, motor courts, restaurants, lodginghouses, boardinghouses or other business houses shall provide themselves with one or more standard, ~~watertight garbage cans or~~ commercial plastic garbage bags not greater than 50 pounds or watertight garbage cans or containers of a capacity of not less than ten and not exceeding ~~32~~ 96 gallons and not greater than 100 pounds. Each such receptacle or can shall be equipped to prevent access of flies and other insects, rodents, dogs or other animals. Such plastic bags, cans or receptacles shall be used for all garbage set out for removal by the town according to the provisions of this article.

(Code 1972, § 15-7; Code 1992, § 24-32)

~~**Cross reference**—Animals, ch. 5.~~

Sec. 28-33. Containers to be drained of excessive moisture.

All cans or containers, as provided for in section 28-32, shall be drained of any excessive moisture before being set out for removal.

(Code 1972, § 15-8; Code 1992, § 24-33)

Sec. 28-34. Use of paper or pasteboard boxes as containers prohibited.

No paper or pasteboard boxes shall be used as containers for garbage, rubbish, trash or ashes.

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[214] Is this article still current and correct? Yes.

PROOFS

(Code 1972, § 15-9; Code 1992, § 24-34)

Sec. 28-35. Town cleanup; tree trimmings and brush hauling.

(a) The town shall provide tree and brush hauling and other town approved materials at no charge during the special two weeks of cleanup during the spring and two weeks in the fall within the corporate limits of the town. Cleanup shall be for residences and churches only and shall be limited to materials generated on the residential or church premises of the pick-up only. Town council shall have the authority to cancel cleanup.

(b) Tree and brush trimmings may be tied in small bundles or placed in containers and placed with the regular garbage for pickup by the garbage trucks during normal garbage pickup.

(c) At all other times, tree trimmings and brush pickup service shall be provided on an on-call basis during normal working hours, provided they are placed next to the street right-of-way. When such services are provided to any person or business, there shall be a charge, as provided for in section 28-44(f).

(Code 1972, § 15-10; Code 1992, § 24-35)

Sec. 28-36. Containers for rubbish and trash.

Rubbish and trash may be placed in the same can, container or plastic bag provided for garbage. Where rubbish and trash are to be placed in separate containers, then the containers shall be either of wood, plastic or metal, but not exceeding four cubic feet capacity. Such containers shall be provided with handles and tightfitting lids for sanitary reasons and to prevent scattering.

(Code 1972, § 15-11; Code 1992, § 24-36)

Sec. 28-37. Ashes and ash containers.

~~All ashes shall be placed in a separate metal container of a capacity not exceeding 32 gallons and equipped with handles and a lid. Such container shall not be filled to within three inches of the top. All ashes shall be kept as dry as possible. No such container shall be removed by the Town if it contains hot ashes or if it and the contents together weigh more than 100 pounds.~~

No hot ashes or embers shall be permitted in garbage or garbage containers placed for town collection.

(Code 1972, § 15-12; Code 1992, § 24-37)

~~**Sec. 24-38. Ashes not to be mixed with garbage, etc.**~~

~~No ashes shall be mixed with garbage, rubbish or trash.~~

~~(Code 1972, § 15-13; Code 1992, § 24-38)~~

Sec. 28-38. Garbage, etc., to be set out for collection according to schedule.

All garbage, rubbish, trash and ashes shall be set out for removal at regular periods according to schedule.

(Code 1972, § 15-14; Code 1992, § 24-39)

Sec. 28-39. Accumulation of garbage, etc., prohibited.

Garbage, tree and brush trimmings, trash and ashes shall not be allowed to accumulate, causing a large quantity to be set out for collection at one time.

(Code 1972, § 15-15; Code 1992, § 24-40)

Sec. 28-40. Garbage collection crew not to enter building to remove garbage, etc.

The garbage collection crew shall not enter any building to remove garbage, rubbish, trash or ashes.

PROOFS

(Code 1972, § 15-17; Code 1992, § 24-41)

Sec. 28-41. Town garbage truck not to remove unprepared garbage, etc.; duty of owner or tenant.

(a) The town garbage truck shall not haul away any garbage, rubbish, trash, ashes, etc., that are not prepared and placed in suitable containers, as provided in this article.

(b) Any matter set out for collection which does not comply with the provisions of this article will not be collected by the town garbage truck, but must be removed by the owner or tenant of the premises involved.

(Code 1972, § 15-18; Code 1992, § 24-42)

Sec. 28-42. Town garbage truck not to remove loose leaves, refuse, etc., from building operations.

The town garbage truck shall not haul away loose leaves, grass, cuttings, weed or hedge trimmings, tree trimmings, branches, limbs or similar matter, nor refuse and trash, from building operations.

(Code 1972, § 15-19; Code 1992, § 24-43)

~~**Cross reference**— Buildings, ch. 9.~~

Sec. 28-43. Service charges--Residential and domestic.

(a) *Residential garbage service.* For a minimum fee, as set forth herein or as established in the latest edition of the town garbage service fee schedule, which may be amended from time to time by town council~~ of $15.00 $16.50 per month~~, payable~~ bimonthly~~ and billed along with water and sewer services, the town will provide one weekly pickup and disposal of garbage, rubbish, trash, ashes, etc., not exceeding the contents of two ~~three 32~~ 96-gallon containers or the equivalent volume of smaller containers. The basis of the fee computation shall be on a single-family unit using a maximum of not more than two ~~three 32~~ 96-gallon containers ~~including ashes~~ or the equivalent volume of smaller containers to be picked up by the garbage collection truck once a week.

(b) *Outside town.* The minimum fee for the above collection outside the corporate limits shall be as set forth herein or as established in the latest edition of the town garbage utilities service fee schedule, which may be amended from time to time by town council~~ $22.50 $24.75 per month, payable bimonthly~~.

(c) *Excess volume.* With the exception of bagged leaves, for all garbage, rubbish, trash and ashes set out for collection, the volume of which exceeds the maximum of two ~~three 32~~ 96-gallon containers~~ including ashes~~, there will be an additional charge as set forth herein or as established in the latest edition of the town garbage service fee schedule, which may be amended from time to time by town council~~ of $1.25 per can~~.

(d) *Apartments—Fee.* For apartment houses and other buildings having multifamily units, the minimum fee for garbage collection service shall be ~~$15.00 $16.50 per month~~ for each family unit in the same building~~, payable bimonthly~~.

(e) *Same—Billing.* In apartment houses and other buildings having multifamily units, the same owner, agent or tenant who is responsible for the payment of water and sewer service bills shall also be responsible for all the fees for garbage collection services in such buildings and shall be billed according to rates contained in this article.

(f) *Tree and brush hauling.* The minimum fee chargeable for a town pickup of tree trimmings and brush shall be as set forth herein or as established in the latest edition of the town garbage service fee schedule, which may be amended from time to time by town council~~ $25.00~~.

PROOFS

Charges for a full truck load or more shall ~~hereafter~~ be as set forth herein or as established in the latest edition of the town garbage service fee schedule, which may be amended from time to time by town council, ~~$25.00~~ plus the tipping fee charged by the county regional solid waste authority.

(Code 1992, § 24-44; Ord. of 6-18-1991(1), § 15-20; Ord. of 2-2-1993; Ord. of 6-18-1996; Ord. No. 2002-6, 7-2-2002; Ord. No. 2005-3, 6-7-2005; Ord. No. 2008-3, 6-3-2008)

Sec. 28-44. Same—Business and commercial.

(a) *Application.* All business houses, stores, restaurants, hotels, motorcourts, lodginghouses, boardinghouses and other places of business desiring garbage collection service from the town shall make applications therefor on forms provided and shall state thereon approximately how many containers will be set out for collection and how many times per week such service is desired.

(b) *Fees determined.* Respective monthly fees shall be determined on the written applications submitted before the service begins, and all fees shall be billed along with the ~~bimonthly~~ water and sewer service.

(c) *Direct billing.* In certain cases that do not receive a water bill, the billing will be direct for the garbage collection services and shall be paid ~~bimonthly~~ and under the same rules and regulations as water and sewer service bills.

(d) *Fees adjusted.* After such service is put into operation, if it should be found that the estimated volume of collection from any one place is more or less than was anticipated, the fees will be adjusted to meet the prevailing conditions; provided, further, that such fees may have to be adjusted from time to time as conditions warrant.

(e) *Amount of fees.* The fees for business and commercial garbage collection services shall be as set forth herein or as established in the latest edition of the town garbage service fee schedule, which may be amended from time to time by town council. ~~computed on the total number of containers not exceeding 32 gallons or 0.158 cubic yards per container at $5.60 per cubic yard. However, in no instance shall the charge be less than a minimum fee of $13.00 per month for the first 12 32-gallon containers.~~

(f) *Dumpster fee.* Dumpsters shall be charged as set forth herein or as established in the latest edition of the town garbage service fee schedule which may be amended from time to time by town council. ~~at $5.60 per cubic yard per pickup, plus an amortized monthly rental cost based on the cost of the dumpster.~~

(g) *Bulky or heavy material.* For the collection of some special types of bulky or heavy material the nature of which cannot be measured by containers, the charge shall be based on the volume and time consumed to effect a pickup.

(Code 1992, § 24-45; Ord. of 6-18-1991(1), § 15-21; Ord. of 2-2-1993; Ord. No. 2002-6, 7-2-2002; Ord. No. 2005-3, 6-7-2005; Ord. No. 2008-3, 6-3-2008)

Sec. 28-45. Collection procedure and schedule--Residential sections and business sections with family units over stores, etc.

(a) In residential sections of the town, all collections of garbage, rubbish, trash, ashes, etc., shall be made after 8:00 a.m. and according to a schedule that covers certain sections of the town each day.

(b) Containers that are to be picked up shall be placed by 8:00 a.m. on the day designated in the collection schedule on the street at or near the property line, so that they can conveniently be picked up and emptied. Such containers shall be removed from the street by the owner not later than 6:00 p.m. of the same day and placed out of view from the street.

(c) In business sections of the town where family units are located in apartments over stores or other business places, collections shall be made in the morning, and all material to be collected

PROOFS

shall be set out for collection by 8:00 a.m. one day each week according to the schedule. All containers after being emptied shall on the same day be removed from the street and placed out of view. This duty shall be the responsibility of the same person that sets out the container for collection.

(Code 1972, § 15-22; Code 1992, § 24-46)

Sec. 28-46. Same--Business sections generally.

In business sections of the town, collections of garbage, rubbish, trash, ashes, etc., shall be made each day. All containers shall be placed for collection by 8:00 a.m. on the day designated in the collection schedule for each place desiring garbage collection service. Where possible, all garbage, rubbish, trash, ashes, etc., shall be placed for collection at the rear of business houses. In those cases where it is not possible for garbage, rubbish, trash, ashes, etc., to be collected from the rear of business houses, the containers shall be placed in front of the sidewalk and in all such cases the containers shall be placed on the morning of the day they are to be collected and removed from the sidewalk by the owner within an hour after having been emptied by the collecting crew, and placed out of view from the street. This shall not be construed to apply to the business sections referred to in section 28-45.

(Code 1972, § 15-23; Code 1992, § 24-47)

Sec. 28-47. Maintenance and location of containers.

It shall be the duty of the owner of any garbage container or container for rubbish, trash or ashes to keep such container in a clean and sanitary condition at all times. Lids shall be kept on all containers at all times except when the container is being filled or emptied. Containers shall be kept in a place that is out of view from the street, except when placed for collection, and in such place that they will not become a nuisance to neighbors. This provision shall apply to all sections of the town.

(Code 1972, § 15-24; Code 1992, § 24-48)

Sec. 28-48. Owner to prevent garbage from being spilled on ground or premises.

It shall be the duty and responsibility of every property owner, tenant, occupant or agent of any premises in the town to prevent garbage from being spilled on the ground or premises.

(Code 1972, § 15-25; Code 1992, § 24-49)

Sec. 28-49. Disposition of garbage and refuse other than through garbage collection service.

Garbage and other refuse disposed of in any other manner than through the town garbage collection service, as set forth in this article, shall be disposed of in a manner approved by the health department.

(Code 1972, § 15-26; Code 1992, § 24-50)

Sec. 28-50. Paper, cartons, etc., to be flattened and put into bundles for collection.

No person shall place on any public street, alley or elsewhere within the town limits for collection and removal by the town discarded paper, corrugated cartons or pasteboard boxes of any description without first flattening and securely tying the same with a stout cord in bundles not exceeding 36 inches in length and 50 pounds in weight.

(Code 1972, § 15-27; Code 1992, § 24-51)

Sec. 28-51. Dumping within town prohibited.

No garbage or offensive or disease-producing material or trash shall be dumped in any lot or space within the town for the purpose of filling or otherwise.

PROOFS

(Code 1972, § 15-28; Code 1992, § 24-52)

Sec. 28-52. Placing garbage, etc., in public wastepaper receptacles.

It shall be unlawful for any person to place in any receptacle that is used for the collection of wastepaper on the street or other public places any garbage, trash, human excreta, manure from animals or offensive or disease-producing material.

(Code 1972, § 15-29; Code 1992, § 24-53)

~~**Cross reference**—Animals, ch. 5.~~

Sec. 28-53. Placing human or animal excreta in container set out for removal.

It shall be unlawful for any person to place in any container set out for removal by the town garbage truck any human excreta, excluding diapers or manure from animals other than household pets.

(Code 1972, § 15-30; Code 1992, § 24-54)

~~**Cross reference**—Animals, ch. 5.~~

Sec. 28-54. Picking through contents of container set out for removal.

It shall be unlawful for any person to pick through, handle or interfere with the contents of any container or dumpster set out for removal by the town under the provisions of this article.

(Code 1972, § 15-31; Code 1992, § 24-55)

Sec. 28-55. Interfering with employees in removal of material.

It shall be unlawful for any person to interfere with, hinder or obstruct the employees of the town in the removal of any material set out for removal under this article.

(Code 1972, § 15-32; Code 1992, § 24-56)

Sec. 28-56. Removal of garbage, rubbish or waste by town.

If any person violating sections 28-4, 28-5, and 28-51 fails to remove such garbage, rubbish or waste after five days' written notice, the town shall remove the same and the violator shall pay the town the cost of removing the same. The cost of removal shall have no bearing on, or connection with, any punishment, fine or court cost that may be imposed.

(Code 1972, § 15-33; Code 1992, § 24-57)

Sec. 28-57. General penalty.

The town shall not be obligated to pick up any solid waste discarded in violation of this article. Except as otherwise provided in this article, a violation of any provisions of this article shall constitute a Class 1 misdemeanor.

(Code 1992, § 24-58)

~~[215]ARTICLE III. TOWN LANDFILL~~

~~**Sec. 24-81. Establishment.**~~

~~There is hereby established on a portion of the land now owned by the Town and lying within the corporate limits of the Town near Wades Lane a site for the disposal of tree stumps.~~

~~(Code 1972, § 15-34; Code 1992, § 24-81)~~

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[215] Does the town still operate a landfill? Delete? It is going through closure. Delete.

PROOFS

~~Sec. 24-82. Administration; operation.~~

~~The operation of the Town landfill and the administration of permits shall be the responsibility, and at the discretion, of the Town Manager.~~

~~(Code 1972, § 15-35; Code 1992, § 24-82)~~

~~Secs. 24-83–24-105. Reserved.~~

PROOFS

Chapter 29

RESERVED

PROOFS

Chapter 30 ~~25~~

STREETS, ~~AND~~ SIDEWALKS AND OTHER PUBLIC PLACES*

***Charter reference**—Streets, alleys and walkways, § 4.07 et seq.

~~**Cross reference**—Administration, ch. 2; painting signs on sidewalks, § 3-3; placing advertising sign or banner across street or alley, § 3-4; outdoor advertising in sight of public streets, § 3-36 et seq.; antenna systems crossing street or sidewalk, § 6-30; buildings, ch. 9; loitering, § 17-12; curfew for minors, § 17-13; discharging firearm in street, § 17-25; laying of pipes, conduits, etc., § 21-5; relocation of utility lines, etc., upon altering of street by Town, § 21-7; sweeping and depositing refuse in street or sidewalk, § 24-3; dumping ashes in street, drain, etc., § 24-4; subdivisions, ch. 26; purpose of subdivision regulations, § 26-1; required improvements in subdivisions, § 26-7; traffic and motor vehicles, ch. 28; widening of highways and streets, § 30-150 et seq.; mobile home parks, § 30-156 et seq.~~

State law reference—-Authority of Town to temporarily close streets, walks or alleys and to permit the temporary use of streets for other than public purposes, Code of Virginia, § ~~15.1-14(1), (9)~~ 15.2-2013; limited-access streets, Code of Virginia, § ~~15.1-16~~ 15.2-2026; assessments for local improvements, Code of Virginia, § ~~15.1-239~~ 15.2-2404 et seq.; alteration and vacation of streets, Code of Virginia, § ~~15.1-364~~ 15.2-2006; acquisitions in connection with street changes, Code of Virginia, § ~~15.1-372~~ 15.2-2002; public utilities not to use streets without consent, Code of Virginia, § ~~15.1-375~~ 15.2-375; obstruction or encroachments of streets and roads, Code of Virginia, §~~§ 15.1-893~~ 15.2-2009; cutting or injuring trees, obstructing rights-of-way, etc. Code of Virginia, § 33.1-345; franchises, Code of Virginia, § ~~15.1-894~~ 15.2-2100 et seq.; state highway plat book, Code of Virginia, § ~~17-69.1~~ 17.1-238; state highway system, Code of Virginia, § 33.1-25 et seq.; pipelines and other works in streets and alleys, Code of Virginia, § 56-257.

~~Article I. In General~~

~~Sec. 25-1. Streets not to be closed to public by acts of individuals.~~

~~Sec. 25-2. Closed streets to be reported to Fire Department, Police Department, rescue service, etc.~~

~~Sec. 25-3. Laying of sidewalk by citizen or property owner.~~

~~Sec. 25-4. Grading--Plans to show elevation or lowering.~~

~~Sec. 25-5. Same--Waiver of damages by property owners.~~

~~Sec. 25-6. Tampering with barriers or lights; driving on streets or sidewalks under construction.~~

~~Sec. 25-7. Encroachments.~~

~~Sec. 25-8. Projecting eaves and gutters.~~

~~Sec. 25-9. Kites and games.~~

~~Sec. 25-10. Roller skates in fire districts.~~

~~Sec. 25-11. Flagpoles.~~

~~Sec. 25-12. Barbed wire or electric fences.~~

~~Sec. 25-13. Washwater.~~

~~Sec. 25-14. Deposits of hazardous or injurious materials on streets or alleys.~~

~~Sec. 25-15. Protection of sidewalks.~~

~~Sec. 25-16. Gates and doors on street lines.~~

~~Sec. 25-17. Planting shade trees.~~

~~Sec. 25-18. Fences, signs, trees, shrubs, etc., at intersections.~~

~~Sec. 25-19. Duty of owner of private alley.~~

PROOFS

~~Sec. 25-20. Obstruction of culverts and drains.~~

~~Sec. 25-21. Removal of snow and ice from sidewalks.~~

~~Sec. 25-22. Obstruction of streets and sidewalks.~~

~~Sec. 25-23. Unloading merchandise.~~

~~Sec. 25-24. Hand trucks, wheelbarrows and handcarts on sidewalks.~~

~~Sec. 25-25. General penalty.~~

~~Secs. 25-26 - 25-50. Reserved.~~

~~**Article II. Openings in Streets and Sidewalks**~~

~~Division 1. Generally~~

~~Secs. 25-51 - 25-65. Reserved.~~

~~Division 2. Excavations~~

~~Sec. 25-66. Generally.~~

~~Sec. 25-67. Restoration of pavement.~~

~~Sec. 25-68. Barriers and lights required.~~

~~Secs. 25-69 - 25-85. Reserved.~~

~~Division 3. Doors, Manholes, Drains, Etc., Generally~~

~~Sec. 25-86. Permit required for installation or construction.~~

~~Sec. 25-87. Maintenance.~~

~~Sec. 25-88. Correction of hazards.~~

~~Sec. 25-89. Barricades; limitation on use of openings.~~

~~Secs. 25-90 - 25-105. Reserved.~~

~~**Article III. Projections Over Public Property**~~

~~Sec. 25-106. Signs.~~

~~Sec. 25-107. Marquees or fixed awnings.~~

~~Sec. 25-108. Movable awnings.~~

~~Sec. 25-109. General regulations.~~

[216]ARTICLE I. IN GENERAL

[217]Sec. 30-1. Streets not to be closed to public by acts of individuals.

No agreement between, or release of interest by, persons owning the land contiguous to any street, whether such street has been opened and used by the public or not, shall have the effect of

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[216] Are the sections in this article current and correct? Yes.

[217] Is this necessary to include in Code? Is it ever possible unless the land is privately owned and operated as a private driveway or street where the public does not have a right to travel? Leave.

PROOFS

closing such street or of divesting the interest of the public therein or the authority of the town thereover.

(Code 1972, § 25-1; Code 1992, § 25-1)

State law reference—Town consent required to use streets, etc., Code of Virginia, § 15.2-2107.

Sec. 30-2. Closed streets to be reported to fire department, police department, rescue service, etc.

Whenever any street or alley in the town is to be closed for resurfacing, the laying or repairing of pipes or any other purpose it shall be the duty of the party responsible to notify the fire department, police department, rescue service and all other emergency services of such closing immediately upon the commencement of such work.

(Code 1972, § 25-2; Code 1992, § 25-2)

~~**Cross reference**— Fire protection, ch. 12.~~

Sec. 30-3. Laying of sidewalk by citizen or property owner.

Whenever any citizen or property owner desires to lay a sidewalk for himself in a town street he shall make application in writing to the town manager, who may grant such permission upon condition that the applicant makes such improvement at his own expense and does the work under the supervision of the town manager.

(Code 1972, § 25-3; Code 1992, § 25-3)

~~[218]**Sec. 25-4. Grading—plans to show elevation or lowering.**~~

~~Whenever the paving, grading or making of sidewalks or streets anywhere in the Town is ordered by the Town Council, it shall be the duty of the Town Manager, when in his opinion such street or sidewalk should be so graded as to raise or lower the same materially with reference to the property of abutting lot owners, to make his plans of such improvement, showing accurately in feet and tenths of feet the elevation or lowering of the street with reference to such adjacent property.~~

~~(Code 1972, § 25-4; Code 1992, § 25-4)~~

~~**State law reference**—Grading streets, etc., Code of Virginia, § 15.1-368 15.2- et seq.~~

~~[219]**Sec. 25-5. Same—waiver of damages by property owners.**~~

~~Before proceeding with the work mentioned in Section 25-4, the Town Manager shall obtain from the owners of the property to be affected by such change of grade a written waiver of all damages. If such property owners refuse to sign such waiver, the Town Manager shall report the~~

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[218] Is this still correct. Street specifications are also in the subdivision chapter which references the state standards for streets functionally classified as local streets in Residential Districts and Mixed-Use Districts which shall meet the current edition of the subdivision street requirements manual for secondary roads of the Virginia Department of Transportation (24 VAC 30-90-10 et seq.) unless otherwise approved by Town Council. New streets with no on-street parking or on-street parking on one side of the street and all new one-way streets shall be approved by Town Council. New streets shall not exceed twelve (12) percent grade unless otherwise approved by Town Council. All streets shall be hard-surfaced and storm drainage systems and curb and gutter systems shall be installed in accordance with Town specifications when required by the Town Council. Delete.

[219] Is this still correct? Delete.

PROOFS

~~situation to the Town Council and receive authority from that body before proceeding with the work.~~

~~(Code 1972, § 25-5; Code 1992, § 25-5)~~

Sec. 30-4. Tampering with barriers or lights; driving on streets or sidewalks under construction.

No person shall remove any barrier, light or other guard placed across the streets or sidewalks of the town while paving, grading, macadamizing or any other improvement or activity is in progress, or ride or drive over any street or sidewalk so guarded.

(Code 1972, § 25-9; Code 1992, § 25-6)

~~**Cross reference**—Traffic and motor vehicles, ch. 28.~~

[220]**Sec. 30-5. Encroachments.**

Every person who desires to construct a building, gate, porch, step or post in, or in any other manner to encroach on, any street or sidewalk in the town shall secure permission from the town council or its agent to do so. The applicant shall have a licensed professional land surveyor establish the line of such street at the place where such improvement is intended to be constructed. The town manager shall note the details and conditions of such proposed construction in his records. It shall be unlawful for any person, without obtaining such permission, to construct any such improvement in such manner as to encroach upon the street or sidewalk or interfere with the grade thereof.

(Code 1972, § 25-11; Code 1992, § 25-7)

~~**Cross reference**—Buildings, ch. 9.~~

State law reference—Town may prohibit and prevent encroachments, Code of Virginia, § 15.2-2009; town may permit awnings, fire escapes, etc., to overhang streets, Code of Virginia, § ~~15.1-376~~ 15.2-2010; limitation on encroachments, Code of Virginia, § 15.2-2011.

Sec. 30-6. Projecting eaves and gutters.

All houses which are built on the line of the street or so that their eaves project over the sidewalk shall be so provided with gutters that there shall be no drip from the eaves upon the sidewalks. All gutters, the water from which may be emptied upon the streets, shall be so constructed as to discharge such water at or below the surface of the ground.

(Code 1972, § 25-12; Code 1992, § 25-8)

Sec. 30-7. Kites and games.

No person shall raise or fly a kite or play any game in the streets of the town.

(Code 1972, § 25-13; Code 1992, § 25-9)

State law reference—Playing on highways, Code of Virginia, § 46.2-932.

~~[221]**Sec. 25-10. Roller skates in fire districts.**~~

~~It shall be unlawful to skate on roller skates on the sidewalks in either the first fire district of the Town, as described in Section 9-2 or in the second fire district of the Town, as described in Section 9-3.~~

~~(Code 1972, § 25-14; Code 1992, § 25-10)~~

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[220] Are any encroachments into the public street permitted? Yes, leave.

[221] Does the town still enforce this section and what is the fire district? Delete.

PROOFS

Sec. 30-8. Flagpoles.

No flagpole shall be erected in any of the streets of the town, except flags for decoration purposes which have been, or may hereafter be, authorized by the town manager.

(Code 1972, § 25-15; Code 1992, § 25-11)

Sec. 30-9. Barbed wire or electric fences.

No person shall construct or maintain a barbed wire or electric fence within five feet of and parallel to any street right-of-way in the town.

(Code 1972, § 25-16; Code 1992, § 25-12)

[222]~~**Sec. 25-13. Washwater.**~~

~~It shall be unlawful for any person to wash any vehicle standing on any street or sidewalk in the Town, or to permit the washwater from any private property to flow across any sidewalk or to permit the washwater from the washing of any vehicles to flow into any street or street gutter before the same has passed through a settling well or tank so constructed that the suspended mud shall be precipitated before such water reaches the street or street gutter. No water shall be allowed to flow into the streets during freezing weather.~~

~~(Code 1972, § 25-17; Code 1992, § 25-13)~~

~~**Cross reference**—Traffic and motor vehicles, ch. 28.~~

Sec. 30-10. Deposits of hazardous or injurious materials on streets or alleys.

(a) No person shall throw or deposit, or cause to be deposited, upon any street or alley in the town any glass bottle, glass, nail, tack, wire, can or any other substance likely to injure any person or animal, or damage any vehicle upon such street or alley; nor shall any person throw or deposit, or cause to be deposited upon, any street or alley in the town any soil, sand, mud, gravel, snow, ice or other substances so as to create a hazard to the traveling public. Any person who drops, or permits to be dropped or thrown, upon any street or alley in the town any destructive, hazardous or injurious material shall immediately remove the same, or cause it to be removed. Any person removing a wrecked or damaged vehicle from a street or alley in the town shall remove any glass or other injurious substance dropped upon the street or alley from such vehicle.

(b) No snow or ice shall be removed from private property and deposited or left upon any public road or any public sidewalk nor shall snow or ice be plowed into or left upon the property, sidewalk, driveway or parkway of another person, except where permission has been granted by the property owner

(Code 1992, § 25-14; Ord. of 3-4-1986, § 25-18)

State law reference—Similar provisions, Code of Virginia, § 18.2-324.

Sec. 30-11. Protection of sidewalks.

(a) No motor vehicle shall be driven onto, over or across any sidewalk crossing, curbing or guttering, unless such crossing, curbing or guttering has first been bridged with sufficient timbers to be protected from injury.

(b) No hard substance of a greater weight than [223]~~200~~ 2,000 pounds shall be handled upon the sidewalks, curbing or guttering, unless such sidewalk, curbing or guttering is first sufficiently covered with wood to be protected from injury.

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[222] Is this still enforced? Delete.

[223] Is this correct? This must be 2,000 pounds? Yes, changed.

PROOFS

(c) Subsections (a) and (b) of this section do not apply to properly constructed and reinforced driveway entrances.

(Code 1972, § 25-19; Code 1992, § 25-15)

Sec. 30-12. Gates and doors on street lines.

Every gate or door built or constructed in any fence or wall standing on the line of any street, except doors to public buildings which are required to be hung so as to open outward, shall be hung so as to open inward. Any violation of the provisions of this section shall be a Class 4 misdemeanor for each day such offense shall continue after notice by the town manager to abate the same.

(Code 1972, § 25-20; Code 1992, § 25-16)

[224]Sec. 30-13. Planting shade trees.

(a) No person shall plant any shade tree in the streets or sidewalks of the town without the previous consent of the town manager, who shall designate the proper line for same. No North Carolina poplar, weeping willow, Lombardy poplar or cottonwood tree shall be planted in the streets or alleys of the town nor within ten feet of the lines of the same.

(b) Neglect or refusal to remove such trees as have been planted contrary to this section, when ordered to do so by the town manager, shall cause the issuance of a warrant for having the trees removed by the town, and the person planting the tree shall pay the cost of the same in addition to any fine that may be assessed. The person planting the tree shall pay the costs of the same and, in addition thereto, shall be guilty of a Class 1 misdemeanor for the violation of this section.

(Code 1972, § 25-21; Code 1992, § 25-17)

Sec. 30-14. Fences, signs, trees, shrubs, etc., at intersections.

(a) It shall be unlawful for any owner of land to build fences, ~~erect signs~~ or plant or maintain any trees, shrubs or other vegetation within the area formed by a straight line connecting two points, one in each street, on the adjacent street right-of-way line 20 feet distant from the intersection of the two street right-of-way lines which border the property, [225]when such fence ~~sign~~ or vegetation is more than three feet higher than the centerline of either street opposite the above-mentioned area. It shall be unlawful for any owner of land to erect signs within the area formed by a straight line connecting two points, one in each street, on the adjacent street right-of-way line 20 feet distant from the intersection of the two street right-of-way lines which border the property. Street signage in accordance with the Manual on Uniform Traffic Control Devices (MUTCD) shall be exempt.

(b) Shrubs, trees or other vegetation shall be kept trimmed so as to comply with the provisions of this section.

(c) Any property owner on whose land there exists a condition in violation of this section shall comply with the provisions of this section within ten days after receiving written notice thereof.

(Code 1972, § 25-22; Code 1992, § 25-18)

~~**Cross reference**— Outdoor advertising in sight of public streets, § 3-36 et seq.~~

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[224] Is this section correct? Yes.

[225] Although there is a similar regulation in Chapter 3, § 3-97, this statement on height is not in that regulation. changed.

PROOFS

Sec. 30-15. Duty of owner of private alley.

It shall be the duty of every owner of a private alley to have the same so graded as to prevent the accumulation therein of water or filth and keep the same constantly clean and in good order.

(Code 1972, § 25-23; Code 1992, § 25-19)

Sec. 30-16. Obstruction of culverts and drains.

It shall be unlawful for any person to place any obstruction in or across any culvert or drain in the town.

(Code 1972, § 25-24; Code 1992, § 25-20)

Sec. 30-17. Removal of snow and ice from sidewalks.

It shall be the duty of the occupant of any property in the town which has a sidewalk of brick, wood or concrete abutting on such property to have all snow and sleet removed from such sidewalk within 24 hours after plowing of the street has been completed. ~~The same obligation shall exist with respect to ice or sleet on sidewalks, except that ice and sleet that cannot be removed without injury to the sidewalk shall be covered within the time herein required with~~ [226] ~~sawdust, ashes or other material which will render the sidewalk safe for travel. When there is no occupant of such property, the owner of the property shall have the snow, ice and sleet removed or covered as provided for herein.~~ If the owner of such property cannot be found, the town manager shall cause such sidewalk to be cleaned or covered and may, after notice, proceed against such owner for the costs of the work.

(Code 1992, § 25-21; Ord. of 3-17-1987, § 25-25)

State law reference—Authority to require removal of snow from sidewalks, Code of Virginia, § 15.2-1115.

[227]**Sec. 30-18. Obstruction of streets and sidewalks.**

(a) Except as otherwise provided in subsection (b) of this section, no person shall obstruct a street or sidewalk by placing or permitting thereon any bench, bar, shelf, barrel, carriage, cart, wagon, goods, box, merchandise or other article or fixture whatsoever, whether for exhibition, sale or other purposes.

(b) Sidewalk sales may be sponsored by any properly licensed town merchant provided a written permit for such sale is obtained from the office of the town manager not less than 15 days prior to the date of the sale. A certificate of insurance in an amount specified by the town manager to save the town harmless from any personal injuries or property damage sustained as a result of the sale shall be a prerequisite to the issuance of a permit. At least 60 percent of the sidewalk, on the street side of the walk, shall be left unobstructed during the sale. The town council may prescribe additional rules and regulations governing the conduct of sidewalk sales, if deemed necessary by the council.

(Code 1972, § 25-26; Code 1992, § 25-22; Ord. No. 2007-3, 11-6-2007)

[228]**Sec. 30-19. Unloading merchandise.**

Merchants and others while receiving goods may place the same on the sidewalk next to the building in front of their premises; provided, that not more than three feet of such sidewalk and no

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[226] Is this still correct? Changed.

[227] Combine all encroachment and obstruction sections? See section 25-7? Yes.

[228] Is this still correct? Yes.

PROOFS

part of the street is so occupied. Such occupations shall be for such reasonable time as may be necessary for such reception or delivery.

(Code 1972, § 25-27; Code 1992, § 25-23)

~~**Sec. 25-24. Hand trucks, wheelbarrows and handcarts on sidewalks.**~~

~~No person shall use any hand truck, wheelbarrow or handcart on any sidewalk except in receiving or delivering goods across the sidewalk.~~

~~(Code 1972, § 25-28; Code 1992, § 25-24)~~

~~**Sec. 25-25. General penalty.**~~

~~Except as otherwise provided in this chapter, a violation of any provisions of this chapter shall constitute a class 1 misdemeanor.~~

~~(Code 1992, § 25-25)~~

Secs. 30-20--30-41. Reserved.

[229]ARTICLE II. OPENINGS IN STREETS AND SIDEWALKS*

~~***Cross reference**— Public utilities, ch. 21; water and sewers, ch. 29.~~

DIVISION 1. GENERALLY

Secs. 30-42--30-70. Reserved.

DIVISION 2. EXCAVATIONS

Sec. 30-71. Generally.

Whenever any person proposes to take up or disturb any paving, curbing or guttering in any of the streets or sidewalks of the town or to dig into the streets or sidewalks for the purpose of laying or repairing sewer, water or gas pipes or to erect poles or for any other purpose, such person shall, before proceeding with such work, make application, in writing, and obtain a permit from the town manager to do such work and shall post such bond as may be required of him. No such permit shall be issued unless in case of absolute necessity. No unnecessary delay shall be permitted in the completion of such work, and in no case shall such work be done in such manner as to obstruct the streets or endanger persons or property.

(Code 1972, § 25-6; Code 1992, § 25-66)

[230]Sec. 30-72. Restoration of pavement.

When any excavation made pursuant to section 30-71 has been completed, the person who caused such excavation to be made shall immediately cause the street or sidewalk to be restored to as good condition, in the opinion of the town manager, as it was before the excavation or opening was made. Such repairs shall be continued until the earth is completely settled and the grade of the street conforms to its proper cross section.

(Code 1972, § 25-7; Code 1992, § 25-67)

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[229] Is this article current and complete? Yes.

[230] The subdivision ordinance, section 26-7(b)(5) also establishes construction standards for streets? Leave as is.

PROOFS

Sec. 30-73. Barriers and lights required.

(a) Whenever any excavation has been made in any of the streets or sidewalks of the town or any obstruction placed thereon under the provisions of this chapter, the person causing such excavation or obstruction shall, where necessary to prevent accident to persons or property while work is progressing, have such excavation or obstruction guarded by proper barriers, and during the nighttime, shall provide light by lanterns or other sufficient means over such excavation or obstruction, as provided in this section. Where such excavation is in the nature of a trench or ditch, such lights shall be placed continuously along the line of such excavation at no greater distance apart than 100 feet.

(b) All barricades shall be ~~painted either traffic yellow or red~~ in accordance with the MUTCD and shall be so maintained to serve as a warning. ~~When the barricade is in use in the daytime, a red flag shall be erected from the highest portion of same to serve as an additional warning. After dark, any barricade in use shall have a yellow lantern or yellow light upon same, kept burning the entire period such barricade is in use or in place over any opening. When doors over any opening are closed or lids replaced, all barricades and signals shall be removed and put out of the way, allowing free and unobstructed passage over the doors or lids.~~ In all cases, the use of all openings shall be restricted to the shortest possible time, so as not to inconvenience the public. ~~In no case shall a barricade be left in place all day or all night.~~

(Code 1972, §§ 25-8, 25-32; Code 1992, § 25-68)

Secs. 30-74--30-104. Reserved.

DIVISION 3. DOORS, MANHOLES, DRAINS, ETC., GENERALLY

[231]Sec. 30-105. Permit required for installation or construction.

It shall be unlawful for the owner, agent or lessee of any property within the town to install or construct in any sidewalk, walkway, roadway, street or alley or on any public property any opening, door, trapdoor, manhole, lid, covering, coal chute, drain, drainpipe, conduit, grating, stairway or elevator without first obtaining a permit from the town manager. Failure to obtain a permit before the beginning of any such work shall constitute a Class 1 misdemeanor.

(Code 1972, § 25-29; Code 1992, § 25-86)

Sec. 30-106. Maintenance.

Any opening, door, trapdoor, lid, covering, manhole, coal chute, drain, drainpipe, conduit, grating, stairway or elevator shall be kept in good repair at all times by the permittee or by his successor in title, so as not to become a hazard endangering the life and limb of persons. Failure to maintain the same in good repair shall be a Class 1 misdemeanor.

(Code 1972, § 25-30; Code 1992, § 25-87)

Sec. 30-107. Correction of hazards.

In case a written notice is given by the town manager or any police officer of the town to any permittee or the successor in title of such a permittee that a hazard exists in violation of section 30-106, it shall be the duty of the person to whom the notice is given to correct the hazard by the time limit specified in the notice. Failure to do so shall be a Class 1 misdemeanor.

(Code 1972, § 25-31; Code 1992, § 25-88)

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[231] Does the town permit the construction of anything on public property? Yes, in certain cases – approval required. Leave as is.

PROOFS

Sec. 30-108. Barricades; limitation on use of openings.

It shall be the duty of the permittee, and the successor in title of such a permittee, who uses any door, trapdoor, manhole, coal chute, grating or covering of any kind that is located in any sidewalk, walkway, roadway, street or alley or on any public property to provide ample protection for such openings when the lid, door or covering is opened or removed by placing a suitable barricade around and over any such opening to prevent any person from stumbling or falling into or over any such opening, stairway, manhole, trapdoor, etc. Barricades may be made of wood sufficiently strong, and shall cover the entire opening or shall fence off the opening and be of sufficient height, and shall protect to such an extent that no one could fall or stumble over same.

(Code 1972, § 25-32; Code 1992, § 25-89)

Secs. 30-109--30-129. Reserved.

ARTICLE III. PROJECTIONS OVER PUBLIC PROPERTY*

~~***Cross reference**— Outdoor advertising in sight of public streets, § 3-36 et seq.~~

[232]~~**Sec. 25-106. Signs.**~~

~~Signs projecting from a building or structure and extending over public property shall maintain a clear height of nine feet above the sidewalk and shall not extend more than 42 inches over public property, nor shall such signs extend nearer than 18 inches to the face of the curb.~~

~~(Code 1972, § 25-33; Code 1992, § 25-106)~~

[233]**Sec. 30-130. Marquees or fixed awnings.**

Every fixed awning shall be at least seven feet in the clear and every marquee at least ~~nine~~ eight feet in the clear between the lowest point or projection and a sidewalk immediately below.

(Code 1972, § 25-34; Code 1992, § 25-107)

Sec. 30-131. Movable awnings.

(a) Movable metal awnings may extend over public property for a distance of not more than five feet, provided such awnings, or any part thereof, maintain a clear height of seven feet above the sidewalk.

(b) Movable canvas awnings or cloths may extend over public property for a distance of not more than five feet, provided such awnings or cloth or any part thereof maintain a clear height of seven feet above the sidewalk. All such movable awnings or cloths shall be supported on metal frames attached to the building.

(Code 1972, § 25-35; Code 1992, § 25-108)

[234]**Sec. 30-132. General regulations.**

Every projection of any character, except fixed metal awnings and movable metal or canvas awnings, or cloths, over or upon public property shall maintain a clear height above the sidewalk or ground level of not less than seven feet. Fixed metal awnings and movable canvas awnings or cloths projecting over or upon public property shall maintain a clear height above the sidewalk or

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[232] The location and setbacks, etc. for projecting signs is also in the sign regulations in Code section 3-97? Changed, but leave as amended.

[233] The location and setbacks, etc. for marquees is also in the sign regulations in Code section 3-97? Changed, but leave as amended.

[234] Is this correct? Yes.

PROOFS

ground level of not less than seven feet. The allowable projection over public property shall not exceed the following measurements from the building:

(1) Bay windows, porches, balconies or fire escapes, three feet;

(2) Cornices, belt courses, sills, pilasters, water tables or any decorative feature, six inches.

(Code 1972, § 25-36; Code 1992, § 25-109)

Secs. 30-133--30-164. Reserved.

~~Chapter 7~~

ARTICLE IV. ARMORY*[235]

~~***Cross reference**—Administration, ch. 2; Recreation Center, ch. 22.~~

***State law reference**—Armories, buildings and grounds, Code of Virginia, § 44-123 et seq.

~~Sec. 7-1. Armory Control Board.~~

~~Sec. 7-2. Use of Armory--Generally.~~

~~Sec. 7-3. Same--Application; rental charges.~~

~~Sec. 7-4. Same--Responsibility for damage.~~

~~Sec. 7-5. Maintenance of building.~~

Sec. 30-165. Armory control board.

(a) An armory control board (ACB) shall be established in accordance with [236]VaARNG Regulation 405-1 by the office of the adjutant general. Town representatives on the ACB shall consist of one member of the council and the town manager.

(b) The current composition of the ACB, as appointed by the office of the adjutant general, shall be kept on file in the office of the town manager.

(c) The ACB shall be responsible for establishing policies for the nonmilitary use of the armory within the guidelines set forth in VaARNG Regulation 405-1.

(Code 1992, § 7-1; Ord. of 5-7-1991, § 6-1)

~~**Cross reference**—Administration, ch. 2.~~

State law reference—Armory control board, Code of Virginia, § 44-135.1.

Sec. 30-166. Use of armory--Generally.

(a) The armory building, with the exception of the auditorium or drill floor including seats and lavatories incident thereto and the kitchen, shall be used exclusively to house the personnel, equipment and ordnance of the local National Guard unit and to provide a suitable place in which the personnel of such organization may drill and receive military instruction and training.

(b) The auditorium and classrooms and the equipment incident thereto may be used for other than military purposes, providing such use is in compliance with the rules and regulations of this chapter and those established by the armory board of control.

(Code 1972, § 6-2; Code 1992, § 7-2)

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[235] Are these sections still current and correct? Yes.

[236] Is this cite still correct? Yes, leave as is.

PROOFS

[237]Sec. 30-167. Same--Application; rental charges.

(a) Applications for the use of the armory shall be made to the town manager, or person designated by him, on forms prescribed by the armory board of control, and a contract shall be entered into between the applicant and the town. All such applications and contracts shall be approved by the town manager acting as agent for the town, and all rental charges shall be paid in advance to the town treasurer for the use of the armory.

(b) Rental charges for the use of the armory, or any portions thereof, shall be established by the ACB and approved by the office of the adjutant general.

(Code 1972, § 6-3; Code 1992, § 7-3; Ord. of 5-7-1991, § 6-3)

Sec. 30-168. Same--Responsibility for damage.

Persons to whom the use of the armory is granted or to whom it is rented shall be responsible for any damage to the building, furniture or equipment, and, when requested so to do by the board of control or its agent, shall furnish bond payable to the town guaranteeing to save the town harmless from any injuries caused to persons while the armory is being used by the applicant or renter and further saving the town harmless from any damage caused to the property.

(Code 1972, § 6-4; Code 1992, § 7-4)

~~**Sec. 7-5. Maintenance of building.**~~

~~The Town shall be responsible for the employment of a janitor-custodian for the building, and all supplies necessary for that portion of building maintenance for which the Town is responsible shall be purchased by the Town.~~

~~(Code 1972, § 6-5; Code 1992, § 7-5)~~

PROOFS

[237] Code of Virginia, § 44-135.1 states the armory control board rents the armory. Leave as is.

Chapter 31

RESERVED

PROOFS

Chapter ~~6~~ 32

TELECOMMUNICATIONS*

[238]~~Article I . ANTENNAS*~~

~~***Cross reference**—Buildings, ch. 9; licenses generally, ch. 15; nuisances, ch. 16; zoning, ch. 30.~~

***State law reference**—Placement of amateur radio antennas, Code of Virginia, § 15.2-2293.1

~~Article I. In General~~

~~Secs. 6-1--6-25. Reserved.~~

~~Article II. Outdoor Receiving or Transmitting Antennas~~

~~Division 1. Generally~~

~~Sec. 6-26. Definition of "approved equipment," etc.; acceptance of approved materials.~~

~~Sec. 6-27. Inspection; correction of hazardous conditions.~~

~~Sec. 6-28. Compliance with regulations of Federal Aviation Administration.~~

~~Sec. 6-29. Limitations on maximum height and distance from power lines; permission for noncompliance.~~

~~Sec. 6-30. Crossing or extending over streets, etc.; attaching to light, power or communication structures.~~

~~Sec. 6-31. Mounting on fire escapes.~~

~~Sec. 6-32. Location with reference to building and street lines in residence districts.~~

~~Secs. 6-33--6-46. Reserved.~~

~~Division 2. Permits~~

~~Sec. 6-47. When not required.~~

~~Sec. 6-48. Application.~~

~~Sec. 6-49. Fees.~~

~~Sec. 6-50. Notice to Building Official upon completion of antenna.~~

~~Sec. 6-51. Void when antenna not erected within three months.~~

~~Secs. 6-52--6-60. Reserved.~~

~~Division 3. Construction Standards~~

~~Sec. 6-61. Generally.~~

~~Sec. 6-62. Material for masts and towers; wooden poles; attachment of masts to chimneys.~~

~~Sec. 6-63. Guying.~~

~~Sec. 6-64. Anchoring and foundations.~~

~~Sec. 6-65. Brackets, turnbuckles, thimbles, clips, insulators, etc.~~

~~Sec. 6-66. Protection against lightning.~~

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[238] Is this chapter still enforced and aren't antennas part of the Statewide Building Code? Yes and yes. Any suggestions? Place in chapter entitled Telecommunications.

PROOFS

~~Secs. 6-67--6-85. Reserved.~~

~~**Article III. Community Antenna Television**~~

~~Sec. 6-86. Definitions.~~

~~Sec. 6-87. Compliance with Chapter 21.~~

~~Sec. 6-88. Permits.~~

~~Sec. 6-89. Regulations generally.~~

~~Sec. 6-90. Complaint procedure.~~

~~Sec. 6-91. Annual gross receipts fee.~~

ARTICLE I. IN GENERAL

Secs. 32-1—32-20. Reserved.

[239]ARTICLE II. OUTDOOR RECEIVING OR TRANSMITTING ANTENNAS

DIVISION 1. GENERALLY

Sec. 32-21. Definition of "approved equipment," etc.; acceptance of approved materials.

The terms "approved equipment," "approved material" or terms of similar import, when used in this article, mean equipment or material of a quality that meets nationally recognized standards. Material and equipment that is approved by, and bears the label of, the [240]Underwriters' Laboratories, Inc., will be accepted whenever the use of approved equipment and material is required by this article.

(Code 1972, § 5-1; Code 1992, § 6-26)

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

Sec. 32-22. Inspection; correction of hazardous conditions.

The building official, or his authorized representative, is hereby empowered to inspect and reinspect any masts and antenna system for television, a.m. or f.m., [241]amateur or commercial,

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[239] Is this article still being enforced? Telecommunication structures as defined in the zoning ordinance are regulated in article XXIII of the zoning ordinance. Yes (but not really in play often) and yes. Leave as is.

[240] Is this still the correct agency? Yes.

[241] Code of Virginia, § 15.2-2293.1 provides "Any ordinance involving the placement, screening or height of antennas shall reasonably accommodate amateur radio antennas and shall impose the minimum regulation necessary to accomplish the locality's legitimate purpose. In localities having a population density of 120 persons or less per square mile according to the 1990 United States census, no local ordinance shall (i) restrict amateur radio antenna height to less than 200 feet above ground level as permitted by the Federal Communications Commission or (ii) restrict the number of support structures. In localities having a population density of more than 120 persons per square mile according to the 1990 United States census, no local ordinance shall (i) restrict amateur radio antenna height to less than 75 feet above ground level or (ii) restrict the number of support structures. Reasonable and customary engineering practices shall be followed in the erection of amateur radio antennas. This section shall not preclude any locality, by ordinance, from regulating amateur radio antennas with regard to reasonable requirements relating to the use of screening, setback, placement, and health and safety requirements. Yes, the Planning Commission has looked at adopting something else in terms of amateur radio operators, but are not done; our Town Attorney is of the opinion that the Town can still go as far as requiring a Conditional Use Permit as he believes he can justify that as reasonable regulation regarding placement.

PROOFS

receiving or transmitting, to determine if the equipment and installation endangers life or property. Should the building official discover that the equipment or installation endangers life or property and that it fails to comply with any of the regulations contained in this article, it shall be his duty to notify the person owning, operating or maintaining the same to correct the hazardous condition within two weeks or if the danger involved is imminent, in such lesser period of time as may be specified by the building official. Any person who fails to make the corrections within the time specified shall be fined [242]not more than $1,000.00.

(Code 1972, § 5-8; Code 1992, § 6-27)

Sec. 32-23. Compliance with regulations of federal aviation administration.

It shall be unlawful for any person to fail, neglect or refuse to comply with all rules and regulations applicable to antennas and their erection, lawfully promulgated by the [243]federal aviation administration.

(Code 1972, § 5-9; Code 1992, § 6-28)

[244]Sec. 32-24. Limitations on maximum height and distance from power lines; permission for noncompliance.

(a) Antennas shall not exceed the maximum height of 50 feet above a roof support or 70 feet above a ground support. The maximum height of antennas mounted on wood-frame structures shall not exceed 30 feet above the roof support. Masts, poles and towers for supporting antennas shall not be installed nearer any electric power line with potential higher than 250 volts than the height of the mast, pole or tower plus eight feet, nor shall any antenna be erected in such a location that it would be possible for it to fall on an electric power line with potential higher than 250 volts.

(b) No part of an antenna system shall be less than two feet from electric power lines with potentials up to 250 volts, nor above, or closer than, ten feet to electric power lines with potentials higher than 250 volts.

(c) Antenna systems, including guy wires, must be a full clearance of eight feet from other antennas on a flat roof and must be eight feet above a flat roof at all points.

(d) Where reception or transmission difficulties justify antennas not complying with subsection (a) of this section, special permission for such noncompliance shall be granted when, in the opinion of the building official and the electrical inspector, the masts and antenna are designed and will be constructed in a manner that will compensate for the increased hazard due to the greater height and smaller clearance provided. To determine the safety of the proposed masts and antenna, the building official may require such plans, details and specifications of the proposed installation, as he may deem necessary.

(Code 1972, § 5-10; Code 1992, § 6-29)

State law reference—Placement of amateur radio antennas regulations, Code of Virginia, § 15.2-2293.1.

PROOFS

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[242] Is this a class 1 misdemeanor punishable as provided in the general penalty in chapter 1? Leave as is.

[243] Should this be the federal communications commission or is this regarding an airport nearby? Leave as is.

[244] Does this include amateur radio antennas which are to be placed as stated in Code of Virginia, § 15.2-1193.1 above? Yes, although I think we could argue that is reasonable regulation.

Sec. 32-25. Crossing or extending over streets, etc.; attaching to light, power or communication structures.

Antenna systems including wires, cables and guy wires shall not cross or extend over any part of a public street, public way or sidewalk. No part of any antenna system including wires, cables and guy wires shall be attached to light, power or communication structures or poles, unless special permission is obtained from the ~~proper authorities~~ governmental entity with jurisdiction over the public right-of-way [245].

(Code 1972, § 5-11; Code 1992, § 6-30)

~~**Cross reference**—Streets and sidewalks, ch. 25.~~

State law reference—Authority to regulate appurtenances to buildings overhanging public rights-of-way, Code of Virginia, § 15.2-2010.

Sec. 32-26. Mounting on fire escapes.

No antenna shall be mounted on a fire escape.

(Code 1972, § 5-12; Code 1992, § 6-31)

Sec. 32-27. Location with reference to building and street lines in residence districts.

On property zoned for residence purposes, no antenna structure shall be erected in front of the established building line of the lot on which it is to be located or in front of the established building line of the adjoining lots, and in no case shall it be erected closer than 30 feet to the street line, unless erected on the roof of a residence. However, when because of special conditions compliance with this section may result in unnecessary hardship and a variance from this requirement will not be contrary to the public interest, special permission may be granted by the board of zoning appeals upon proper appeal to the board.

(Code 1972, § 5-13; Code 1992, § 6-32)

~~**Cross reference**—Zoning, ch. 30.~~

State law reference—Authority to regulate appurtenances to buildings overhanging public rights-of-way, Code of Virginia, § 15.2-2010.

Secs. 32-28--32-42. Reserved.

[246]DIVISION 2. PERMITS*

~~***Cross reference**—Licenses generally, ch. 15.~~

Sec. 32-43. When not required.

No antenna permit shall be required for repairs or alterations to an antenna system which do not materially change the strength and stability of the antenna system.

(Code 1972, § 5-3; Code 1992, § 6-47)

Sec. 32-44. Application.

Before a permit may be issued, an application therefor must be made by the applicant on a form furnished by the building official. Such application shall contain sufficient information to show that the antenna system will comply with this chapter.

(Code 1972, § 5-4; Code 1992, § 6-48)

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[245] Define proper authorities? changed (it could be the Town or it could be VDOT).

[246] Is this division still correct? Yes, although we would use the Building/Zoning Permit application.

PROOFS

Sec. 32-45. Fees.

A permit fee shall be paid for each permit for an antenna that complies with the provisions of ~~the first paragraph of~~ section 32-24(a). A permit fee shall be paid for each permit issued for which special permission is required as provided in ~~the second paragraph of~~ section 32-24(b). Such fees shall be in the amounts provided in the building permit fee schedule.

(Code 1972, § 5-5; Code 1992, § 6-49)

~~**Cross reference**—Building permit fee schedule, § 9-29.~~

Sec. 32-46. Notice to building official upon completion of antenna.

Immediately after an antenna has been erected, the person who obtained the permit shall notify the building official so that an inspection may be made.

(Code 1972, § 5-7; Code 1992, § 6-50)

~~**Cross reference**—Buildings, ch. 9.~~

Sec. 32-47. Void when antenna not erected within three months.

When an antenna for which a permit has been issued has not been erected within three months of the date of such permit, the permit shall be void.

(Code 1972, § 5-6; Code 1992, § 6-51)

Secs. 32-48--32-62. Reserved.

[247]DIVISION 3. CONSTRUCTION STANDARDS*

~~***Cross reference**—Buildings, ch. 9.~~

***State law reference**—Installation of in-building emergency communication equipment, Code of Virginia, § 36-99.6:2.

Sec. 32-63. Generally.

(a) Every mast, tower and antenna system shall be designed and installed in such a manner that it will safely sustain all loads to which it may be subjected.

(b) The stress on any member shall not exceed the working stress for the material approved, as provided for in this article, when the structure is subject to its dead load and to either of the following conditions:

(1) Horizontal wind pressure of 25 pounds for each square foot of projected area, allowing for wind from any direction.

(2) Maximum accumulation of ice one-half-inch thick around all exposed members, plus a horizontal wind pressure of eight pounds for each square foot of the projected area, including the area of the accumulated ice and allowing for wind from any direction.

(c) When approved deicing devices are installed on a mast or tower, their ability effectively to prevent the formation of ice may be considered in determining the loads to which the mast or tower is subjected.

(d) When a mast or antenna is installed on a roof, it must be mounted on its own plate or platform and be securely anchored with guy wires. Masts and antennas shall not be supported or fastened to the roof by combustible members or materials; except, that blocking of wood, painted or

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[247] Is this not included in the statewide building code? Leave as is, the Building Official says USBC does not provide much guidance.

PROOFS

treated with a wood preservative may be used on a wood-frame roof. The roofing, where pierced or broken by anchors, bases, etc., shall be coated with roofing cement so as to prevent leakage.

(e) Masts shall be of sufficient strength and rigidity to properly withstand the wind and ice loading specified in the preceding provisions of this section. When masts are made in sections, the sections shall be connected or joined by sleeves, clamps or telescope fittings of sufficient strength and length to ensure uniform strength and rigidity of the mast. Ordinary screw couplings are not permitted.

(Code 1972, § 5-14; Code 1992, § 6-61)

Sec. 32-64. Material for masts and towers; wooden poles; attachment of masts to chimneys.

(a) Masts and towers shall be of noncombustible and noncorrosive material; except, that in the case of ground support, a wooden pole complying with the following requirements may be used:

(1) Wooden poles shall be straight and of good, sound, well-seasoned material and shall be of the minimum size and buried in firm earth to the depth specified in the following table:

Total Length (in feet)	*Depth in Ground (in feet)*	*Circumference (in inches)*	
		At Top	*At Ground Line*
25	5	15	22
30	5 1/2	15	24
35--40	6	15	25 1/2
45	6 1/2	15	28 1/2
50	7	15	29 1/2
55	7	17	33 1/2
60	7 1/2	17	34 1/2
65--70	8	19	38 1/2
75	8 1/2	21	41 1/2
80	9	21	42 1/2

(2) The portion of the wood pole that is buried in the ground and that portion within one foot of the surface of the ground shall be treated or painted with a wood preservative.

(b) A mast may be attached to a chimney only when such chimney is of sufficient strength to withstand the loads required of the mast and such mast shall be supported by at least two metal straps or clamps placed around the chimney of sufficient strength to withstand such pressure. In no case shall such chimney have a cross section area of less than two square feet. Masts supported by chimneys shall not extend above eight feet from the top of a chimney, unless guyed, as provided for in section 32-65, and in no case shall the height be greater than 21 feet.

(Code 1972, § 5-15; Code 1992, § 6-62)

Sec. 32-65. Guying.

(a) All masts and antennas ten feet or more in height that are not self-supporting shall be guyed at sufficient intervals and in such a manner as will ensure the stability and rigidity to the mast that is required by section 32-63.

PROOFS

(b) The vertical angle of the guy wire with the mast shall not be less than 30 degrees. Each guying level of the mast shall be guyed to three or more anchor points in such a manner that the horizontal angle between adjoining guy wires will not exceed 120 degrees.

(c) Guy wires and accessories shall be of the strength required to sustain the loads specified in section 32-63. In no case shall guy wires be less than 3/32 inches, five-strand galvanized steel cable or equivalent. Guy wires should be fastened by the use of substantial metal clips and thimbles.

(Code 1972, § 5-16; Code 1992, § 6-63)

Sec. 32-66. Anchoring and foundations.

(a) Masts and guy wires shall be anchored in such a manner that they will safely sustain the loads specified in section 32-63.

(b) Self-supporting masts and towers shall have foundations or anchorages of sufficient size and weight so that the overturning moment due to wind pressure, as specified in section 32-63, shall not exceed two-thirds of the moment of stability of the completed structure.

(c) Masts and guy wires anchored to solid masonry or concrete shall be properly fastened with through bolts, lead anchor screws or lead expansion shields. Masts and guy wires anchored to wood construction shall be properly fastened to rafters, beams or other substantial members with bolts or lag screws. Bolts or screws shall not be of smaller size than one-fourth inch. Antennas, masts and guy wires shall not be attached to pipes that are a part of the plumbing system of a building.

(Code 1972, § 5-17; Code 1992, § 6-64)

Sec. 32-67. Brackets, turnbuckles, thimbles, clips, insulators, etc.

Miscellaneous hardware, such as brackets, turnbuckles, thimbles, clips, etc., shall be galvanized or similarly treated for weather protection. These finishes are selected to guard against corrosion due to stack gas and to protect the elements against electrolytic action due to the use of adjoining dissimilar metals. The turnbuckles shall be protected against turning by threading the guy wire through the buckles. Standoff support insulators shall be used at not less than ten-foot intervals where an antenna lead-in or control cable to a power-rotated antenna system is placed on the side of a building. Insulators connecting guy wires shall be the type that will not release the guy wire if they should break or be otherwise damaged.

(Code 1972, § 5-18; Code 1992, § 6-65)

Sec. 32-68. Protection against lightning.

(a) Metal masts shall be effectively grounded. Ground wires for masts should be No. 6 or No. 8 copper A.W.G. or aluminum wire of equivalent current capacity, No. 4 or No. 6.

(b) An approved lightning arrestor shall be placed in each conductor of a transmission line (lead-in) and shall be located inside or outside the building at the point of entrance of the lead-in into the building and away from combustible materials. Control cables to power-rotated antenna systems shall be likewise protected by approved lightning arrestors. If a coaxial cable is used for the lead-in, suitable protection may be provided without lightning arrestors by grounding the exterior metal sheath.

(c) Ground wires must be installed in a mechanical manner with as few bends as possible and be connected to an approved grounding electrode. When the grounding electrode is separated from other lightning protection grounds for the same building, it should be interconnected or bonded to the other grounding systems. Ground straps for connecting ground wires to water pipes must be an approved ground fitting.

PROOFS

(Code 1972, § 5-19; Code 1992, § 6-66)

Secs. 32-69--32-94. Reserved.

[248]ARTICLE III. COMMUNITY ANTENNA TELEVISION*

~~***Cross reference**—Public utilities, ch. 21.~~

***State law reference**—Restrictions on granting franchises, ~~licensing and regulation of cable television systems,~~ Code of Virginia, § ~~15.1-23.1~~ 15.2-2100 et seq.; franchise fees and public rights-of-way fees for operation of cable television systems, Code of Virginia, § 15.2-2108.1:1.

Sec. 32-95. Definitions.

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

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

CATV means community antenna television.

Grantee means the person operating a ~~CATV~~ community antenna television system, having been granted any rights under a permit issued by the town.

Permit means written evidence of a company's having secured permission to operate a community antenna television system in the town.

(Code 1972, § 5-20; Code 1992, § 6-86)

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

[249]Sec. 32-96. Compliance with ~~chapter 21~~ chapter 36, article IX.

Although ~~CATV~~ community antenna television systems are not defined as public utilities, all of the provisions of ~~chapter 21~~ chapter 36, article IX shall be adhered to by any person operating a CATV system under a permit granted by the town.

(Code 1972, § 5-21; Code 1992, § 6-87)

[250]Sec. 32-97. Permits.

(a) Every person desiring to operate a CATV system within the town shall first make application to the town to obtain a permit from the town council to construct, operate and maintain lines of television coaxial cable including poles, wires and fixtures where necessary upon, along, over and under the public streets and alleys of the town, but subject to the terms and conditions herein set out; provided, that such cables shall be placed only at such locations as may be approved, in writing, by the town council or its representative. The grantee shall file with the town manager an application, in writing, for each line, showing in detail the location of same, and shall furnish with the application all such information as may be required by the town council.

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[248] Is this article still in effect in the town? Rules and regulations regarding granting franchises including cable television are contained in Code of Virginia, § 15.2-2100 et seq. Conform to state law and delete provisions superseded by federal law? Yes. Cable television franchise rate regulations are also contained in chapter 9.5. Combine this article with chapter 9.5? Yes.

[249] Still correct? Yes.

[250] Does the town issue a permit or a franchise under Code of Virginia, § 15.2-2100 et seq. Yes.

PROOFS

(b) Any permit issued under this article shall be granted for a term of 15 years from the date of issuance, but upon failure of the grantee to start operation in a substantial manner satisfactory to the council within one year from the date of issuance of the permit, the council may terminate the permit so granted upon giving the grantee 30 days' notice of its intention to terminate the permit.

(c) The grant of a permit does not extend to the grantee any privileges for the conduct of business or activities as are, or would be, otherwise licensed by the town, such as television or radio equipment sales, repair, service or rental.

(d) Whenever a grantee shall receive a request or petition to provide service to any area in the town made by not less than ten subscribers located within 1,320 feet of its trunk cable or distribution cables, or in any area having a density of 40 subscribers within one mile of its trunk cable or distribution cables, then the grantee shall be required to provide such service to such areas in the town.

(Code 1992, § 6-88; Ord. of 5-15-1984, § 5-22)

Sec. 32-98. Regulations generally.

(a) *Use of poles.* So far as practical, the grantee shall use existing poles, such as those erected and maintained by the electric utility company and the telephone company, where satisfactory rental agreements can be reached with the electric and telephone companies. New poles will be placed only at locations approved by the town council, or its representative.

(b) *Repair of streets, sidewalks.* All streets and sidewalks disturbed or damaged in the construction or maintenance of such cable lines shall be promptly repaired by the grantee at its expense and to the satisfaction of the town manager.

[251]~~(c) *Coaxial cable.* All coaxial cable erected in the Town by the grantee shall at all times meet with the minimum standards of the Town as provided by ordinance or code.~~

(c) *Street ordinances.* The grantee shall be subject to all ordinances now in force or that may be hereafter enacted relative to the use of the streets and alleys of the town.

(d) *Legal requirements; indemnification.* The licensee's CATV system shall be installed and operated in compliance with all requirements of law and rules and regulations of a commission of competent jurisdiction relating thereto and shall further indemnify and save harmless the town from any violations by it of any statutes, rules and regulations pertaining thereto by any regulatory bodies, either state or federal.

(e) *Local restrictions; underground utility lines.* The grantee shall be bound by any rule, restrictive covenant or other regulations of any subdivision, residential area or restricted area or by any ordinance of the town whether now or hereafter enacted requiring utility lines to be placed underground.

(f) *Claims against town.* The grantee shall hold the town harmless from all claims for damages and injuries arising out of the construction, maintenance or operation of such cable lines.

(g) *Insurance.* Each applicant for such license shall demonstrate by certificate of insurance filed with his application for license that he is protected by liability insurance issued by an insurance company authorized to do business in the state against claim for property damage in the amount of $100,000.00 per accident, and for personal injuries in the amount of $100,000.00 for personal injury to any one person and $300,000.00 for all personal injuries resulting from any one accident.

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[251] Delete?

PROOFS

(h) *Grantee's rules, reports.* The grantee shall file with the town manager copies of such rules, regulations, terms and conditions adopted by the grantee for the conduct of its business. The grantee shall file annually and not later than 60 days after the end of the grantee's fiscal year, with the clerk of the council, a copy of the grantee's annual financial report, which report shall be prepared by a certified public accountant and shall contain and reflect a complete financial statement as pertains to the business operations of the grantee for the immediate preceding business year together with such other reasonable information as the town council shall request with respect to properties and expenses related to the grantee's service within the town.

(i) *New developments.* Should new developments within the period of a permit in the field of transmission of television signals or broadcasting offer to the grantee the opportunity of more effectively, efficiently or economically serving its customers through the use of methods, materials or procedures not prescribed or embraced by the terms of this article, then the grantee may petition the town council for review of his permit in line with such developments. If the use or employment of such development would constitute a variance from the terms of this article, then accommodation for such development shall, if the town council determines to incorporate such development, necessitate reenactment or amendment of the grantee's permit under procedures prescribed by law and only for the remaining period of his permit.

(j) *Interruptions.* In the event of any interruption or impairment of service by reason of force, nature, act of God, strike, breakdown, accident or other happening beyond the control of the grantee, the grantee shall use every reasonable effort and prompt diligence to restore such service with as little interruption as possible and in all events within a reasonable time, and such interruption or failure for such reasons shall not constitute a breach of this article.

(k) *Efficient service.* The grantee shall put, keep and maintain all parts of the system in good condition throughout the entire permit period. The grantee shall render efficient service, make repairs promptly, and interrupt service only for good cause and for the shortest time possible. Such interruptions, insofar as possible, shall be preceded by notice to subscribers affected and shall occur during a period of minimum system use.

(l) *Interference with television reception, other utilities.* The grantee shall not allow its cable or other operations to interfere with television reception of persons not served by grantee, nor shall the system interfere with, obstruct or hinder, in any manner, the operation of the various utilities serving the residents of the town.

(m) *Time and weather channel; use.* The grantee shall dedicate and reserve for the use of the town, and all their educational institutions, the time and weather channel for public use at no cost to the town. Production costs of programs shall be borne by the town or institutions initiating such programs. Grantee shall have full right to use of such channel when not in use by any party hereby authorized for use.

(Code 1992, § 6-89; Ord. of 5-15-1984, § 5-23)

~~**Cross reference**—Subdivisions, ch. 26.~~

[252]Sec. 32-99. Complaint procedure.

(a) *Town official responsible.* The town manager shall have primary responsibility for the continuing administration of the permit and implementation of complaint procedures.

(b) *Complaint office.* The grantee shall maintain an office, either in the town or in the City of Radford, Virginia, which shall be open during all usual business hours, having a publicly listed telephone number, and be so operated that complaints and requests for repairs or adjustments

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[252] Is this section still correct?

PROOFS

may be received on a broadcast hour basis. If the office is maintained by the grantee in the City of Radford, Virginia, the grantee shall maintain a payment agent with one of the banks in the town, where customers of the grantee shall be able to make payments of their monthly bills or other charges.

(c) *Complaint response.* The grantee shall maintain a repair and maintenance crew capable of responding to subscriber complaints or requests for maintenance service within 24 hours after receipt of the complaint or request. No charge shall be made to the subscriber for this service.

(d) *Appeal procedure.* If a customer complaint is not resolved to the mutual satisfaction of the customer or the grantee, either the customer or the grantee may request that the matter be presented to the office of the town manager for a hearing and resolution by the town council. The council shall have the power to revoke a permit, as provided for in section 36-271.

(Code 1992, § 6-90; Ord. of 5-15-1984, § 5-23(1); Ord. of 9-20-1988)

[253]~~**Sec. 6-91. Annual gross receipts fee.**~~

~~As compensation for the privilege granted herein to any grantee for the use of the streets of the Town, the grantee shall pay to the Town each year an amount equal to five percent of the annual gross revenue. In no case shall such annual fee be less than $15.00 per year. Such fee shall be paid not later than 60 days following the first day of commencement of a grantee's fiscal year for the period between the date of grant of his permit and such first day, and thereafter not later than 60 days after the last day of the grantee's fiscal year as to the gross revenue received within the preceding completed fiscal year.~~

~~(Code 1972, § 5-24(b); Code 1992, § 6-91; Ord. No. 2004-3, 6-15-2004)~~

~~Chapter 9.5~~

~~**Article III . CABLE COMMUNICATION FRANCHISES**~~

~~**State law reference**—Restrictions on granting franchises, Code of Virginia, § 15.2-2100 et seq.; franchise fees and public rights of way fees for operation of cable television systems, Code of Virginia, § 15.2-2108.1:1; public right of way use fee, Code of Virginia, § 56-468.1.~~

~~**Article I. In General**~~

~~Secs. 9.5-1 - 9.5-50. Reserved.~~

~~**Article II. Rates**~~

~~Sec. 9.5-51. Purpose.~~

~~Sec. 9.5-52. Full regulatory power reserved.~~

~~Sec. 9.5-53. Procedures for implementing regulation of basic cable service.~~

~~Sec. 9.5-54. Rate consultant.~~

~~Sec. 9.5-55. Applicability of article.~~

~~**ARTICLE I. IN GENERAL**~~

~~Secs. 9.5-1 - 9.5-50. Reserved.~~

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[253] I believe the franchise fee is subject to the limitations in Code of Virginia, § 15.2-2108.1:1? Delete.

PROOFS

[254]ARTICLE II. RATES*

***Editor's note** — An Ordinance adopted February 1, 1994, did not specifically amend the Code; hence, codification of §§ 1(G) and 2–5 as §§ 9.5-51–9.5-55 was at the discretion of the editor.

Sec. 9.5-51. Purpose.

This article will govern the procedures to be undertaken by the Town for the regulation of the grantees' cable television rates pursuant to the 1992 Cable Act and the regulations of the FCC (Federal Communications Commission).

(Code 1992, § 9.5-51; Ord. of 2-1-94, § 1(G))

Sec. 9.5-52. Full regulatory power reserved.

(a) All rates and charges for basic cable service and any other cable programming services, as defined by the 1992 Cable Act and applicable FCC regulations, shall, to the extent permissible, be subject to regulation by the Town in a manner provided by this article. This article shall apply to all cable television system operators in the Town. The grantees and/or any other operator of a cable television system operating in the Town shall be subject to the rate regulation provisions provided for herein, and those of the FCC at 47 CFR, Part 76.900, Subpart N.

(b) The Town reserves the right to amend this article from time to time consistent with the requirements of the FCC and state and federal law.

(Code 1992, § 9.5-52; Ord. of 2-1-94, § 2)

Sec. 9.5-53. Procedures for implementing regulation of basic cable service.

(a) The Town hereby adopts, and shall follow, the rules relating to cable rate regulation promulgated by the FCC at 47 CFR, Part 76.900, Subpart N.

(b) Upon adoption of this article, a Town representative will send to the grantees and each operator of a cable television system in the Town, via certified mail, return receipt requested, a written notice which shall include a copy of the ordinance from which this article derives and the completed FCC Form 328.

(c) Within 30 days after receipt of the notice referenced in subsection (b), the grantees and any other cable television operator shall have 30 days to respond with rate and benchmark information utilizing FCC Form 393, Determination of Maximum Initial Permitted Rates for Regulated Cable Services and Actual Cost of Equipment.

(d) If the initial rates and/or any subsequent rate increases are within the FCC standards, the rates will be effective 30 days after submission.

(e) If the Town is unable to determine whether the rate in issue is within the FCC's standards, based on the material before it, or if the grantees or any other cable operator has submitted a cost-of-service showing, seeking to justify a rate above the FCC's reasonable rate level, the Town may take an additional period of time to make a final determination and toll the effective date of the proposed rates for a commensurate period.

(1) The Town may take an additional 90 days if it needs more time to ensure that a rate is within the FCC's rate standards.

(2) The Town may take an additional 150 days to evaluate a cost-of-service showing seeking to justify a rate above the reasonable rate level.

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[254] Does the town still follow the procedures in this article adopted in 1994? If so, it should be conformed to federal and state law and combined with section 6-86 et seq. Yes, make it conform. Deleted as the town does not regulate rates?

PROOFS

- ~~The Town must issue a brief written decision regarding its invocation of the additional time period.~~

- ~~If no action is taken within the above-referenced time periods, the proposed rates will go into effect, subject to subsequent refund orders if the Town later issues a decision disapproving any portion of the proposed rates.~~

- ~~In all cases, the Town will issue a written decision to approve the rate schedule, disapprove the rate schedule, or continue for review.~~

- ~~If rates are in excess of the FCC's standards, the rates may be reduced by the Town pursuant to applicable FCC regulations.~~

~~After the initial rate schedule procedures are followed as described in this section, the grantees and/or any other cable operator shall, in conjunction with each change in the rates and charges applicable to basic cable service, conform to the standards of the FCC. Before any rate change is effective, the grantees and/or any other cable operator shall notify the Town of its requested rate change by giving the Town 30 days' advance written notice before the change is effective and by providing the Town with its rates and applicable information pursuant to FCC regulations.~~

~~To the extent specifically permitted by federal law and applicable FCC rules, the grantees and/or any other cable operator shall be permitted to appeal to the FCC for a review of the decision of the Town.~~

~~(Code 1992, § 9.5-53; Ord. of 2-1-94, § 3)~~

~~Sec. 9.5-54. Rate consultant.~~

~~The Town may utilize a rate consultant to advise it on proposed rate changes and to assist it in the procedures and standards for review adopted by the FCC. A rate consultant may be any person who has sufficient background and experience, in the sole opinion of the Town, to properly evaluate and analyze rates and charges.~~

~~(Code 1992, § 9.5-54; Ord. of 2-1-94, § 4)~~

~~Sec. 9.5-55. Applicability of article.~~

~~The requirements described in this article are applicable to the grantees and all operators of cable television systems within the Town subject to rate regulation according to the 1992 Cable Act and applicable FCC rules.~~

~~(Code 1992, § 9.5-55; Ord. of 2-1-94, § 5)~~

PROOFS

Chapter 33

RESERVED

PROOFS

Chapter ~~28~~ 34

TRAFFIC AND MOTOR VEHICLES*

[255]~~***Editor's note—The Town Traffic Ordinance is on file in the Town Manager's Office.***~~

~~**Cross reference**—Deposit of handbills or other advertising materials in or upon motor vehicles, § 3-7; animals, ch. 5; transportation of dead animals, § 5-14; fire protection, ch. 12; direction of traffic by firefighters, § 12-4; compliance with police officer at fire, § 12-5; licenses generally, ch. 15; motor vehicle license, § 15-62; loitering, § 17-12; direction of traffic by rescue and lifesaving crew members, § 23-5; duties of Captain of voluntary rescue and lifesaving crew relative to vehicles, § 23-7; streets and sidewalks, ch. 25; driving on streets or sidewalks under construction, § 25-6; washing vehicle on street or sidewalk, § 25-13; purpose of subdivision regulations, § 26-1; taxicabs, ch. 27; minimum off-street parking, § 30-9; off-street parking requirements for townhouses, § 30-181.~~

State law reference—Municipal powers as to the use of streets, Code of Virginia, §§ 15.2-967, 15.2-2013, 15.2-2029; limited-access streets in municipalities, Code of Virginia, § 15.2-2026; motor vehicles, Code of Virginia, § 46.2-100 et seq.; local regulation of parking, Code of Virginia, § 46.2-1220 et seq.; local regulation of traffic, Code of Virginia, § 46.2-1300 et seq.

~~Sec. 28-1. Inoperable vehicles within the corporate limits of the Town.~~

~~Sec. 28-2. Signals required by railroad locomotives or diesel engines at crossings; exception.~~

~~Sec. 28-3. Adoption of Code of Virginia.~~

~~Sec. 28-4. Removal and disposition of unattended or immobile vehicles.~~

~~Sec. 28-4.1. Authority of Town Manager relative to parking.~~

~~Sec. 28-5. Parking in spaces reserved for persons with disabilities; penalty for violations.~~

~~Sec. 28-6. Parking in public metered spaces; penalty for violations.~~

~~Sec. 28-7. Parking near fire hydrants.~~

~~Sec. 28-8. Parking in fire lanes.~~

~~Sec. 28-9. Enforcement of Sections 28-7 and 28-8.~~

~~Sec. 28-10. Parking on wrong side of street.~~

~~Sec. 28-11. Parking so as to block driveway of business, filling station, church, or personal residence.~~

~~Sec. 28-12. Parking vehicles without valid license plates.~~

~~Sec. 28-13. Parking vehicle without valid stated inspection sticker.~~

~~Sec. 28-14. Parking on Town-owned or Town-leased property.~~

~~Sec. 28-15. Parking citations generally.~~

~~Sec. 28-16. Penalty for parking violation; late payment penalty; certification of contest of parking citation.~~

~~Sec. 28-17. Procedure for delinquent parking citations.~~

~~Sec. 28-18. Safety equipment required, moped operator and passengers.~~

~~Sec. 28-19. Helmets required, riders of bicycles, and electric power-assisted bicycles.~~

~~Sec. 28-20. Town Manager authority to reduce speed limit.~~

~~Sec. 28-21. Idling of vehicles; violation.~~

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[255] Is there a town traffic ordinance and is it still on file in the town offices? Remove editor's note.

PROOFS

~~Sec. 28-22. Traffic Calming Program.~~

~~Sec. 28-23. Reimbursement of expenses incurred in responding to DUI and other traffic accidents or incidents.~~

~~Sec. 28-24. Loading zones.~~

Sec. 34-1. Inoperable vehicles within the corporate limits of the town.

(a) It shall be unlawful for any person to keep, except within a fully enclosed building or structure or otherwise shielded or screened from view, on any property within the corporate limits of the town any motor vehicle, trailer or semitrailer, as such are defined in Code of Virginia, § 46.2-100, which is inoperable; provided, however, only one such vehicle may be kept outside a fully enclosed building or structure, provided that it is shielded or screened from view ~~by covers~~. As used in this section, the term "inoperable motor vehicle" means any motor vehicle which is not in operating condition; or which, for a period of 60 days or longer, has been partially or totally disassembled by the removal of tires and wheels, the engine or other essential parts required for the operation of the vehicle or on which there are no valid license plates or a valid inspection decal displayed. However, the provisions of this section shall not apply to a licensed business which, on June 26, 1970, was regularly engaged in business as an automobile dealer, salvage dealer or scrap processor.

(b) As used in this section, the term "shielded or screened from view" means not visible by someone standing at ground level from outside of the property on which a subject vehicle is located. Placing an inoperable vehicle within an area completely enclosed by either a solid, rigid, opaque fence composed of standard fencing materials [256]or a landscaped arrangement of non-deciduous trees, sufficient in height, spacing, density and circumference to ensure precluding visibility of the subject vehicle by someone standing at ground level from outside of the property on which the subject vehicle is located shall constitute shielding or screening from view the inoperable motor vehicle in compliance with the requirements of this article. [257]The placing, draping or securing of a tarpaulin or other nonrigid cover over or around an inoperable vehicle shall not be sufficient to comply with the requirements of this section, unless the nonrigid cover is opaque, specifically designed for use as a car cover and is designed for use on the specific model of the vehicle being covered.

(c) Any person who is the owner of property within the corporate limits of the town shall remove from such property any inoperable motor vehicles, trailers, or semitrailers that are not kept within a fully enclosed building or structure upon 72 hours notice by the town manager, chief of police or town [258]ordinance officer. Upon the failure of the person to remove the same within the time fixed by such notice, the town, acting by its agents, the town manager, chief of police or town ordinance officer, may remove such inoperable motor vehicles, trailers or semitrailers. If the town, through its agents or employees, removes any such motor vehicles, trailers or semitrailers after having given reasonable notice to the owner, or owners, of the same, the town may dispose of the same after giving additional reasonable notice to the owner, or owners, of the vehicle, or vehicles, of such proposed disposition. The cost of any such removal and disposal shall be chargeable to the owner, or owners, of the vehicle, or vehicles, or the premises and may be collected by the town as taxes and levies are collected; and every cost authorized by this section for which the owner has been assessed shall constitute a lien against the property from which the

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[256] This statement regarding examples of shielding is not in state law and the shield by plantings and landscaping was specifically deleted in 2004. Delete this sentence? Leave as is.

[257] This statement is not in the state law. Leave as is.

[258] Is this title correct? Yes.

PROOFS

vehicle, trailer or semitrailer was removed. Such~~, the~~ lien ~~to~~ shall continue until actual payment of such costs has been made to the town. [259]Notwithstanding the other provisions of this subsection, if the owner of such vehicle can demonstrate that he is actively restoring or repairing the vehicle, and if it is shielded or screened from view, the vehicle and one additional inoperative motor vehicle that is shielded or screened from view and being used for the restoration or repair may remain on the property.

(d) Any person receiving notice of being in violation of this section and failing to comply with any notice given thereof and shall remain in violation for a period of 72 hours shall be guilty of a [260]Class 1 misdemeanor, and prosecution therefore shall not bar the town from proceeding to remove the inoperable vehicles as herein defined as provided for in subsection (b) of this section.

(Code 1972, § 15-40; Code 1992, § 28-1; Ord. No. 2010-2, 5-18-2010)

~~**Cross reference**—Solid waste, weeds, tree trimmings, leaves, ch. 24.~~

State law reference—Authority for above section, Code of Virginia, § 15.2-904.

[261]Sec. 34-2. Signals required by railroad locomotives or diesel engines at crossings; exception.

Within the corporate limits of the town, the steam whistle or horn on each railroad locomotive or diesel engine passing upon the road of every railroad company shall be sharply sounded at least twice at a distance of not less than 275 yards, nor more than 300 yards, from the place where the railroad crosses upon the same level, as any public highway, street or crossing, and the bell on each such locomotive or diesel engine shall be rung, or whistle or horn sounded, continuously or alternately, until the engine has reached such highway crossing; however, the foregoing shall not apply to the highway crossing at Cambria Street (State Route No. 111), at which such signals shall not be permitted.

(Code 1992, § 28-2; Ord. of 3-2-1976)

~~**Editor's note**—An ordinance adopted March 2, 1976, did not specifically amend the Code; hence, codification of the substantive provisions as § 28-2 was at the discretion of the editor.~~

State law reference—Vehicles to stop at grade crossings, Code of Virginia, § 46.2-885; authority of town regarding bells, horns or whistles to be sounded at crossings, Code of Virginia, § 56-414.

Sec. 34-3. Adoption of Code of Virginia.

(a) Pursuant to the authority of Code of Virginia, §§ ~~1-13.39:2~~ 1-220 and 46.2-1313, as amended, all of the provisions and requirements of the laws of the state contained in Code of Virginia, title 18.2, chapter 7, article 2, as amended, and Code of Virginia, title 16.1, chapter 11, article 9, as amended, and Code of Virginia, title 46.2~~ as in force on July 1, 1998~~, including any amendments to those statutes which may be adopted by the state general assembly in the future, except those provisions and requirements the violation of which constitutes a felony, and except those provisions and requirements which, by their very nature, can have no application to or within the town, are adopted and incorporated in this chapter ~~28~~ by reference and made applicable within the town.

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[259] Add this amendment to Code of Virginia, § 15.2-904 adopted in 2004? Yes.

[260] Is class 1 correct? Yes.

[261] This subsection is superseded by the federal rail safety act which is applicable in the town. However, Code of Virginia, § 56-414 states the signals shall be given in towns as their local governing body may require. Is this section still correct? Yes, leave as is.

PROOFS

(b) The following articles of the Code of Virginia, title 46.2, are specifically excluded from such adoption and incorporation: article 2 of chapter 2; articles 6, 13, 14, 15, 16, 17, 18 and 19 of chapter 3; articles 4 and 5 of chapter 6; articles 2 and 23 of chapter 10; and chapter 14.

(c) References to 'Highways of the State' contained in the provisions and requirements hereby adopted and incorporated shall refer to the streets, highways and other public ways within the town. Such provisions and requirements are hereby adopted, mutatis mutandis, and made a part of this chapter. It shall be unlawful for any person, within the town, to violate or fail, neglect or refuse to comply with any provisions or requirements of the Code of Virginia, title 46.2, as amended; Code of Virginia, title 18.2, chapter 7, article 2, as amended; or Code of Virginia, title 16.1, chapter 11, article 9, as amended, which is adopted by this section, and the penalty imposed for violation of any provision or requirement hereby adopted shall be the same penalty imposed for a similar offense under Code of Virginia, title 46.2; Code of Virginia, title 18.2, chapter 7, article 2, as amended; or Code of Virginia, title 16.1, chapter 11, article 9, as amended, unless otherwise stated herein.

(Code 1992, § 28-3; Ord. of 8-4-1998; Ord. No. 2006-3, 9-19-2006)

Sec. 34-4. Removal and disposition of unattended or immobile vehicles.

(a) It is provided that removal for safekeeping of motor vehicles, trailers, semitrailers or parts thereof, to a storage area may be effected if any of the following conditions exist:

(1) It is left unattended on a public highway or other public property and constitutes a traffic hazard;

(2) It is illegally parked;

(3) It is left unattended for more than ten days, either on public property or on private property, without the permission of the property owner, lessee or occupant;

(4) It is immobilized on a public roadway by weather conditions or other emergency situation.

(b) Removal shall be carried out by, or under the direction of, a town law enforcement officer. It is provided, however, that removal of motor vehicles, trailers, semitrailers, and parts thereof, from private property shall not be authorized without the written request of the owner, lessee or occupant of the premises. It is provided that the person at whose request the motor vehicle, trailer, semitrailer, or part of a motor vehicle, trailer or semitrailer is removed from private property shall indemnify the town against any loss or expense incurred by reason of removal, storage or sale thereof. It ~~is also provided that it~~ shall be presumed that such motor vehicle, trailer, semitrailer, or part thereof, is abandoned if it:

(1) Lacks either a current license plate or a current county, city, or town license plate or sticker; or a valid state safety inspection certificate or sticker; and

(2) It has been in a specific location for four days without being moved.

As promptly as possible, each removal shall be reported to the office of the town manager and to the owner of the motor vehicle, trailer or semitrailer. Before obtaining possession of a motor vehicle, trailer or semitrailer, or part thereof, the owner shall pay, to the parties entitled thereto, all costs incidental to its removal and storage and locating the owner. If the owner fails or refuses to pay the cost, or if his identity or whereabouts is unknown and unascertainable after a diligent search has been made, and after notice to him at his last known address, and to the holder of any lien of record with the office of the department of motor vehicles of the commonwealth of the state, against the motor vehicle, trailer or semitrailer, or part of a motor vehicle, trailer or semitrailer, the vehicle shall be treated as an abandoned vehicle under the provisions of the Code of Virginia, article 1 (Code of Virginia, § 46.2-1200 et. seq.), as amended.

PROOFS

(Code 1992, § 28-4; Ord. of 2-1-2000; Ord. No. 2006-3, 9-19-2006)

State law reference—Authority for above section, Code of Virginia, § 46.2-1213.

Sec. 34-5. Authority of town manager relative to parking.

(a) The town manager, except as otherwise provided by this chapter and except as otherwise directed from time to time by the council, shall have power and is hereby authorized to regulate the parking of vehicles within the corporate limits of the town by the erection or placing of proper signs or markers indicating prohibited or limited parking; angle parking; the parking of buses, trucks and other vehicles of various weights; loading and unloading zones; and other signs or markers indicating the place and the manner of parking vehicles in the town.

(b) The town manager, except as otherwise provided by this chapter and except as otherwise directed from time to time by the council, shall have power and is hereby authorized to designate bus stops and to erect signs prohibiting the parking of vehicles other than buses at such stops.

(c) No person shall park a vehicle in violation of the directions contained on any sign or marker erected or placed in accordance with this section. In this chapter, the term "park" or "parking" shall mean the standing of a vehicle, whether occupied or not, other than temporarily for the purpose of, and while actually engaged in, receiving or discharging passengers or loading or unloading merchandise or in obedience to traffic regulations, signs or signals or an involuntary stopping of the vehicle by reason of causes beyond the control of the operator of the vehicle.

(d) The town manager is hereby authorized to determine the time limits for parking on the streets within the corporate limits of the town, including, but not limited to, [262]parking meter limits, limitations provided by posted signs and limitations during peak travel times.

(e) Persons parking motor vehicles in violation of limitations specified on posted parking signs shall be deemed to be in violation thereof for each separate one-hour period or more cited on each parking citation, and each case such citation shall be deemed a separate offense subject to penalties provided in this article.

(Code 1992, § 28-5; Ord. No. 2006-3, 9-19-2006)

State law reference—Authority to delegate regulation of parking, Code of Virginia, § 46.2-1220.

Sec. 34-6. Parking in spaces reserved for persons with disabilities; penalty for violations.

(a) It shall be unlawful for a vehicle not displaying disabled parking license plates, an organizational removable windshield placard, a permanent removable windshield placard or a temporary removable windshield placard issued under Code of Virginia, § 46.2-1241, as amended, or ~~capital~~ DV disabled parking license plates issued under Code of Virginia, § 46.2-739 B, ~~subsection B,~~ as amended, to be parked in a parking space in the town reserved for persons with disabilities that limit or impair their ability to walk or for a person who is not limited or impaired in his ability to walk, to park a vehicle in a parking space so designated, except when transporting a person with such a disability in the vehicle.

(b) ~~It is provided that there be and~~ There is hereby assessed ~~and to be retained~~ a fine of $500.00 for violations of this ~~ordinance~~ section. The fine shall be paid within ten days after the citation or issuance of ticket for violation of the ordinance at the office of the treasurer of the town.

(c) It shall be unlawful for any person to park in any loading zone of a space reserved for persons with disabilities. In this chapter, the term "loading zone of a space reserved for persons with disabilities" shall mean the lined or striped area adjacent to designated disabled parking

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[262] Does the town have metered parking? No, but leave as is in case we want to go back to them.

PROOFS

spots, and often parking spots labeled or marked for van access. It is provided that there be, and there is, hereby assessed and to be retained a fine of $500.00 for violations of this section. The fine shall be paid within ten days after the citation or issuance of ticket for violation of the ordinance at the office of the treasurer of the town.

(d) It is hereby provided that a summons or parking ticket for the offense may be issued by law enforcement officers, volunteers serving in units established pursuant to Code of Virginia, § 46.2-1244, as amended, and other uniformed personnel employed by the locality to enforce parking regulations without the necessity of a warrant being obtained by the owner of the private parking area.

(e) It is hereby provided that in any prosecution charging a violation of this chapter, proof that the vehicle described in the complaint, summons, parking ticket, citation or warrant was parked in violation of this chapter, together with proof that the defendant was, at the time, the registered owner of the vehicle, as required by Code of Virginia, chapter 6, § 46.2-600 et seq., as amended, shall constitute prima facie evidence that the registered owner of the vehicle was the person who committed the violation.

(f) It is hereby provided that no violation of this chapter shall be dismissed for a property owner's failure to comply strictly with the requirements for disabled parking signs set forth in Code of Virginia, § 36-99.11, as amended, provided the space is clearly distinguishable as a parking space reserved for persons with disabilities that limit or impair their ability to walk.

(Code 1992, § 28-5; Ord. No. 2001-6, 11-20-2001)

State law reference—Similar provisions, Code of Virginia, § 46.2-1241.

[263]Sec. 34-7. Parking in public metered spaces; penalty for violations.

No person shall park a vehicle or permit it to stand, whether attended or unattended, in a public metered parking space without paying the specified parking meter amount for the respective time desired. In addition to a fine for a violation of the section, a subsequent fine shall be assessed for each violation in excess of two hours.

(Code 1992, § 28-6; Ord. No. 2002-1, 1-15-2002; Ord. No. 2006-3, 9-19-2006)

Sec. 34-8. Parking near fire hydrants.

~~Where fire hydrants are located at or close to the curbline or edge of the road and face on the public street, a public parking lot or a private road open to the public, the parking of any motor vehicle within 15 feet of such hydrant is prohibited.~~

[264]No person shall park a vehicle or permit it to stand, whether attended or unattended, within 15 feet of any fire hydrant or within 15 feet access to such hydrant as defined by the fire marshal or the entrance to a fire station, within 15 feet of the entrance to a plainly designated building housing rescue squad equipment or ambulances, or within 20 feet from the intersection of curb lines or, if none, then within 15 feet of the intersection of property lines at any highway intersection.

(Code 1992, § 28-7; Ord. No. 2006-3, 9-19-2006)

State law reference—Parking in certain locations, Code of Virginia, § 46.2-1239.

Sec. 34-9. Parking in fire lanes.

It shall be unlawful for any person to park any motor vehicle in a designated fire lane.

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[263] Does the town still have metered parking? No, but leave as is in case we want to go back.
[264] Conform to similar provisions in Code of Virginia, § 46.2-1239. Yes.

PROOFS

(Code 1992, § 28-8; Ord. No. 2006-3, 9-19-2006)

State law reference—Authority to enforce the Fire Prevention Code including fire lanes, Code of Virginia, § 27-98.

Sec. 34-10. Enforcement of sections 34-8 and 34-9.

(a) In addition to town police and other law enforcement officers, the fire marshal is hereby authorized to enforce the provisions of sections 34-8 and 34-9.

(b) In addition to any penalty provided for a violation of sections 34-8 and 34-9, any motor vehicle parked in violation of either section may be moved to a garage or parking lot for storage, at the expense of the owner of the vehicle.

(Code 1992, § 28-9; Ord. No. 2006-3, 9-19-2006)

Sec. 34-11. Parking on wrong side of street.

It shall be unlawful for any person to park any motor vehicle on the wrong or opposite side of the street so as to be facing oncoming traffic.

(Code 1992, § 28-10; Ord. No. 2006-3, 9-19-2006)

Sec. 34-12. Parking so as to block driveway of business, filling station, church or personal residence.

It shall be unlawful for any person to park any vehicle so as to block any driveway of any business establishment, filling station, church or personal residence. In addition to the penalties applied by this article, any motor vehicle parked in violation of this section may be moved to a garage or parking lot for storage, at the expense of the owner of the vehicle. Furthermore, the fire marshal is hereby authorized to enforce the provisions of this section.

(Code 1992, § 28-11; Ord. No. 2006-3, 9-19-2006)

State law reference—Prohibiting parking in certain locations, Code of Virginia, § 46.2-1239.

Sec. 34-13. Parking vehicle without valid license plates.

It shall be unlawful for any person to park or stand any vehicle on any street within the town unless valid license plates are displayed on such vehicle.

(Code 1992, § 28-12; Ord. No. 2006-3, 9-19-2006)

Sec. 34-14. Parking vehicle without valid state inspection sticker.

It shall be unlawful for any person to park or stand any vehicle on any street within the town unless there is displayed on such vehicle a valid state inspection sticker.

(Code 1992, § 28-13; Ord. No. 2006-3, 9-19-2006)

Sec. 34-15. Parking ~~on town-owned or town-leased property~~ prohibited in specified places.

(a) No person shall stand, stop or park a motor vehicle on any town-owned or town-leased property except within properly marked and designated parking spaces in compliance with all authorized signs or markings posted on such property.

~~(b) No person shall stand, stop or park a motor vehicle adjacent to any~~ [265] ~~yellow painted curb on Town-owned or Town leased property.~~

[265] Is this still correct? Yes, but change as amended.

PROOFS

(b) No person shall park a vehicle, except in compliance with the directions of a police officer or traffic-control device, in any of the following places:

(1) On a sidewalk. In this chapter, the term "sidewalk" ~~shall~~ means any walkway, pathway, pedestrian way, footpath or other area along the side of a street especially intended for pedestrian use, including all areas between the curbing or street line and the lot line whether paved or unpaved.

(2) In front of a public or private driveway.

(3) Within an intersection.

(4) On a crosswalk.

(5) Within 20 feet from the intersection of curblines or, if none, then within 15 feet of the intersection of property lines at any highway intersection.

(6) Within 30 feet upon the approach to any flashing beacon, stop sign or traffic control signal located at the side of a roadway.

(7) Between a safety zone and the adjacent curb or within 30 feet of points on the curb immediately opposite the ends of a safety zone, unless a different length is indicated by official signs or markings.

(8) Within 15 feet in either direction of the entrance to a fire station, or within 15 feet of the entrance to a building housing rescue squad equipment or ambulances, provided such buildings are plainly designated.

(9) Alongside or opposite any street excavation or obstruction when such parking would obstruct traffic.

(10) On the roadway side of any vehicle parked at the edge or curb of a street.

(11) Upon any bridge or other elevated structure upon a street or highway or within a tunnel.

(12) At any place where official signs or markings prohibit parking or where the curbs are painted yellow.

(13) In any public alley. In this chapter, the term "public alley" ~~shall~~ means a public right-of-way through the middle of a block to give access to the rear or side of lots or buildings.

(14) Within 15 feet of a driveway entrance except in designated parking spaces.

(15) In a non-metered space in excess of the posted time limit.

(16) More than 18 inches off the curb or edge of the street. When lines indicating parking stalls are designated on the surface of a street, no person shall park, stand or stop any vehicle, unless such vehicle is entirely within the limits of such parking stall.

(c) No person, other than a police officer, shall move a vehicle into any such prohibited area or away from a curb such distance as is unlawful, or start or cause to be started the motor of any motor vehicle, or shift, change or move the levers, brake, starting device, gears or other mechanism of a parked motor vehicle to a position other than that in which it was left by the owner or driver thereof, or attempt to do so.

(d) The chief of police is authorized by order in writing supporting use of this procedure to cause the removal of any motor vehicle found on the public streets, including public alleys, unattended by its owner or operator and improperly parked in such a way as to constitute a violation of law and in such a way as to cause traffic hazard or impediment. If such power is employed, the chief of police shall cause such motor vehicle to be removed for safekeeping to a storage garage or other area and the chief of police, or his designee, shall immediately thereafter cause the order of such removal to be filed among the public records of the police department.

PROOFS

(Code 1992, § 28-14; Ord. No. 2006-3, 9-19-2006)

Sec. 34-16. Parking citations generally.

(a) Any law enforcement officer or other officer charged with enforcing this chapter or other parking regulations of the town shall attach, in plain view, to any vehicle parked in violation of this chapter or any other parking regulation, a citation notifying the owner or operator that such vehicle has been parked in violation of a provision of this chapter or other parking regulation and instructing such owner or operator when and where to report with reference to the violation.

(b) It is hereby provided that a summons or parking ticket for the violation of provisions contained in this chapter may be issued by law enforcement officers and other uniformed personnel employed by the locality to enforce parking regulations without the necessity of a warrant being obtained.

(c) It is hereby provided that in any prosecution charging a violation of any provision of this chapter, proof that the vehicle described in the complaint, summons, parking ticket, citation or warrant was parked in violation of this chapter, together with proof that the defendant was, at the time, the registered owner of the vehicle, as required by Code of Virginia, chapter 6, § 46.2-600 et seq., as amended, shall constitute prima facie evidence that the registered owner of the vehicle was the person who committed the violation.

(Code 1992, § 28-15; Ord. No. 2006-3, 9-19-2006)

State law reference—Enforcement and presumption as to parking violations, Code of Virginia, § 46.2-1220.

[266]Sec. 34-17. Penalty for parking violation; late payment penalty; certification of contest of parking citation.

(a) Unless otherwise provided, any person violating the provisions of this chapter shall, upon conviction, be punished by such fine provided by resolution of town council for the provision violated, as the same may be amended from time to time, provided that a copy of the most current version of such resolution shall be on file in the office of the town treasurer during regular office hours for public inspection. Any violation for which a fine is not specified by such resolution shall be punishable by a fine of $10.00.

(b) All uncontested parking citations paid under this section shall be accounted for by the town treasurer. The contest, by any person, of a parking citation shall be certified in writing, upon an appropriate form, to the general district court by the town treasurer, or the town treasurer's designee.

(c) Any person receiving three or more parking citations issued in a consecutive seven-day period shall be punished by a fine of $100.00 for such third offense and any subsequent offense within a consecutive seven-day period.

(d) ~~Any person who fails to pay an uncontested parking citation within 10 days of its issuance shall also pay a $10.00 late payment penalty in addition to the fine imposed.~~ Failure to pay an uncontested parking citation within ten days of its issuance shall be punishable by a fine of $10.00 in addition to each original fine imposed.

(e) In the event that the town treasurer is advised that any person desires to contest any parking citation, the town treasurer shall certify such fact, in writing, in an appropriate form, to the clerk of the general district court.

(Code 1992, § 28-16; Ord. No. 2006-3, 9-19-2006)

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[266] Is this section still correct? Yes.

PROOFS

[267]Sec. 34-18. Procedure for delinquent parking citations.

(a) The town treasurer or police department shall cause a complaint or summons to be issued for delinquent parking citations.

~~(b) Notwithstanding the provisions of subsection (a) of this section, before any summons shall be issued for the prosecution of a violation of this Code or other ordinance or regulation of the Town regulating parking, the violator shall have been first notified, by certified mail at their last known address or at the address shown for such violator on the records of the state Department of Motor Vehicles, that they may pay the fine provided by law for such violation, within five days of receipt of such notice, and the authorized person issuing such summons shall be notified that the violator has failed to pay such fine within such time. The notice to the violator, required by the provisions of this section, shall be contained in an envelope bearing the words "Law-Enforcement Notice" stamped or printed on the face thereof in all capital letters, bold face type, no smaller than the print type size used for the primary address on the envelope. If "window" envelopes are used, the words "Law-Enforcement Notice" shall be clearly visible through the window of the envelope.~~

(b) Every action to collect unpaid parking citation penalties imposed for violation of an ordinance regulating parking under this chapter shall be commenced within three years of the date upon which such penalty became delinquent.

(Code 1992, § 28-17; Ord. No. 2006-3, 9-19-2006)

Sec. 34-19. Safety equipment required, moped operators and passengers.

(a) Every person operating a moped on a public street or highway of the town shall wear a face shield, safety glasses or goggles approved by the superintendent of state police, or shall have the moped equipped with safety glass or a windshield at all times while operating it; and any operator and any passengers thereon, if any, shall wear on their heads protective helmets of a type approved by the superintendent of state police.

(b) Any person who violates this section shall be guilty of a traffic infraction and shall be subject to a fine of not more than ~~fifty dollars (~~$50.00~~)~~.

(c) A violation of this section shall not constitute negligence, be considered in mitigation of damages of whatever nature, be admissible in evidence or be the subject of comment by counsel in any action for the recovery of damages arising out of the operation, ownership or maintenance of a moped, nor shall anything in this section change any existing law, rule or procedure pertaining to any civil action.

(Code 1992, § 28-18; Ord. No. 2009-2, 1-20-2009)

Sec. 34-20. Helmets required, riders of bicycles and electric power-assisted bicycles.

(a) Definitions.

Bicycle, for the purpose of this section, means a device propelled solely by human power, upon which a person may ride either on, or astride, a regular seat attached thereto, having two or more wheels in tandem, including children's bicycles, except a toy vehicle intended for use by young children. A bicycle shall be a vehicle while operated on the highway.

Electric power-assisted bicycle, for the purpose of this section, means a vehicle that travels on not more than three wheels in contact with the ground and is equipped with:

(1) Pedals that allow propulsion by human power; and

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[267] Is this section still correct? Delete B and Delete C unless Code of Virginia has a timeframe specified, then use it (rather than three years).

PROOFS

(2) An electric motor with an input of no more than 1,000 watts that reduces the pedal effort required of the rider.

An electric power-assisted bicycle shall be a vehicle when operated on a highway.

Highway, for the purpose of this section, means the entire width between the boundary lines of every way or place open to the use of the public for purposes of vehicular travel in the commonwealth, including the streets and alleys, and the entire width between the boundary lines of every way or place used for purposes of vehicular travel on any property owned, leased or controlled by the town.

(b) Every person 14 years of age or younger shall wear a protective helmet on their head that at least meets the consumer product safety commission standard whenever riding or being carried on a bicycle, or an electric power-assisted bicycle on any highway, sidewalk or public bicycle path.

(1) Violation of this section shall be punishable by a fine of $25.00. However, such fine shall be suspended:

a. For first-time violators; and

b. For violators who, subsequent to the violation but prior to imposition of the fine, purchase helmets of the type required by this section.

(2) Violation of this section shall not constitute negligence, or assumption of risk, be considered in mitigation of damages of whatever nature, be admissible in evidence or be the subject of comment by counsel in any action for the recovery of damages arising out of the operation of any bicycle or electric power-assisted bicycle, nor shall anything in this section change any existing law, rule or procedure pertaining to any civil action.

(Code 1992, § 28-19; Ord. No. 2009-4, 5-19-2009; Ord. No. 2009-5, 8-4-2009)

State law reference—Authority to require riders to wear helmets, Code of Virginia, § 46.2-906.1.

Sec. 34-21. Town manager authority to reduce speed limit.

The town manager is authorized to reduce, for a temporary period not to exceed 60 days, without engineering or traffic investigation, the speed limit on any portion of any highway or road of the town on which work is being done or where the highway or road is under construction or repair.

(Ord. No. 2011-3, § 28-20, 8-2-2011)

Sec. 34-22. Idling of vehicles; violation.

Any person who idles a vehicle or allows a vehicle to idle in any residential district, as defined in the zoning ordinance, for a period exceeding 15 minutes in any 24-hour period, except for construction or maintenance equipment for construction or maintenance projects and for safety or emergency operations purposes, shall be guilty of a Class 4 misdemeanor for the first offense and a Class 3 misdemeanor for all subsequent offenses and shall be punishable as provided in section 1-11.

(Ord. No. 2011-4, § 28-21, 10-18-2011)

Sec. 34-23. Traffic calming program.

(a) The town traffic calming program, as may be amended from time to time, is a program designed to protect residential neighborhoods from excessive speeds and volumes of motor vehicles; increase safety, access, comfort and convenience for pedestrians, bicyclists, and motorists; and promote a partnership between town staff and neighborhood residents in the development of traffic calming measures.

PROOFS

(b) Pursuant to the procedures set forth in the traffic calming program, an individual, neighborhood or neighborhood association may identify areas of traffic related concerns, bring those concerns to the attention of the town, and provide suggestions for traffic calming measures.

(c) Pursuant to the traffic calming program procedure, concerns will be evaluated and traffic calming recommendations will be developed as appropriate.

(d) All recommended traffic calming measures shall require approval by the town council, except those implemented pursuant to the authority of the town manager and town engineer, as set forth in the traffic calming program and/or as authorized by state and local law.

(e) No provision in the traffic calming program shall be interpreted to be in conflict with other provision of the town code, or limit in any way the authority granted to the town pursuant to the Virginia Code or its Charter to control its streets, sidewalks, and right-of-ways and regulate traffic and motor vehicles within the town.

(Ord. No. 2012-7, § 28-22, 8-21-2012)

Sec. 34-24. Reimbursement of expenses incurred in responding to DUI and other traffic accidents or incidents.

(a) A person convicted of violating any of the following provisions shall, at the time of sentencing or in a separate civil action, be liable for restitution of reasonable expenses incurred by the town, its police department or by any volunteer fire or rescue squad, or any combination thereof, when providing an appropriate emergency response to any accident, incident or when issuing any arrest warrant or summons related to the following:

(1) The provisions of Code of Virginia, §§ 18.2-36.1, 18.2-51.4, 18.2-266, 18.2-266.1, 29.1-738, 29.1-738.02 or 46.2-341.24, as amended, or a similar town ordinance, if any, when such operation of a motor vehicle, engine, train or watercraft while so impaired is the proximate cause of the accident or incident;

(2) The provisions of ~~article 7,~~ Code of Virginia, § 46.2-852, et seq., as amended, relating to reckless driving, when such reckless driving is the proximate cause of the accident or incident;

(3) The provisions of ~~article 1,~~ Code of Virginia, § 46.2-300, et seq., as amended, related to driving without a license or driving with a suspended or revoked license; and

(4) The provisions of Code of Virginia, § 46.2-894, as amended, relating to improperly leaving the scene of an accident.

(b) Personal liability under this section for reasonable expenses of an approcv riate emergency response, pursuant to subsection (a) of this section, shall not exceed $1,000.00 in the aggregate for a particular accident, arrest or incident occurring in the town. In determining reasonable expenses, the town may bill a flat fee of $350.00 or a minute-by-minute accounting of the actual costs incurred. As used in this section, the term "appropriate emergency response" includes all costs of providing law-enforcement, firefighting, rescue and emergency medical services. The court may order as restitution the reasonable expenses incurred by the town for responding law enforcement, firefighting, rescue and emergency medical services. The provisions of this section shall not limit any remedy available to the town or volunteer rescue squad to recover the reasonable expenses of an emergency response to an accident or incident not involving impaired driving, operation of a vehicle or other conduct as set forth herein.

(c) The police department shall compile a report of the reasonable expenses of the appropriate emergency response for each accident, arrest warrant, summons or incident and forward that information to the commonwealth's attorney's office or the accounting department for appropriate proceedings. The fire department and rescue squad shall have the same reporting

PROOFS

requirements, except for accidents, arrest warrants, summons or incidents for which restitution is sought in the underlying criminal case.

(Ord. No. 2012-12, § 28-23, 12-18-2012)

[268]**Sec. 34-25. Loading zones.**

Where a loading and unloading zone has been set apart, the following regulations shall apply with respect to the use of such areas:

(1) No person shall stop, stand or park a vehicle for any purpose or length of time, other than for the expeditious unloading and delivery or pickup and loading of materials, in any place marked as a curb loading zone during hours when the provisions applicable to such zones are in effect. All delivery vehicles, other than regular delivery trucks, using such loading zones shall be identified by the owner's or company's name in letters three inches high on both sides of the vehicle.

(2) The driver of a passenger vehicle may stop temporarily in a space marked as a curb loading zone for the purpose of, and while actually engaged in, loading or unloading passengers or bundles when such stopping does not interfere with any vehicle used for the transportation of materials which is waiting to enter, or is about to enter, such loading space.

PROOFS

[268] This section was apparently added by the city. We did not have an ordinance. Is that correct?

Chapter 35

RESERVED

PROOFS

Chapter ~~29~~ 36

UTILITIES*

~~WATER AND SEWERS*~~

***Charter reference**—Water and sewer services, §§ 3.09, 4.06, 6.02 et seq.

~~**Cross reference**—Administration, ch. 2; buildings, ch. 9; erosion and sediment control, ch. 10; fire protection, ch. 12; obstruction of access to fire hydrants, § 12-6; health and sanitation, ch. 14; toilets and toilet facilities in food establishments, § 14-46; water supply in food establishments, § 14-47; nuisances, ch. 16; public utilities, ch. 21; laying of pipes, conduits, etc., § 21-5; solid waste, weeds, tree trimmings, leaves, ch. 24; openings in streets and sidewalks, § 25-66 et seq.; subdivisions, ch. 26; purpose of subdivision regulations, § 26-1; general subdivision regulations, § 26-4; procedure for making and recording plats of subdivisions, § 26-5; review and approval process for subdivision plats, § 26-6; required improvements in subdivisions, § 26-7; floodplain districts, § 30-121 et seq.; mobile home parks, § 30-156 et seq.~~

State law reference—Municipal water supply, Code of Virginia, § ~~15.1-37~~ 15.2-2111 ~~15.1-332.1 et seq.~~; public utilities, Code of Virginia, § ~~15.1-292~~ 15.2-2109 et seq.; sewage disposal generally, Code of Virginia, §§ ~~15.1-317~~ 15.2-2123, 32.1-163 et seq., 32.1-163 et seq.; public water supplies, Code of Virginia, § 32.1-167 et seq.; State Water Control Law, Code of Virginia, § 62.1-44.2 et seq.

~~Article I. In General~~

~~Sec. 29-1. Definitions.~~

~~Sec. 29-2. Water and sewer connections permit--Required.~~

~~Sec. 29-3. Same--Application.~~

~~Sec. 29-4. Buildings to be separately connected to water and sewer system.~~

~~Sec. 29-5. Town to tap water mains and run water service line from main to meter.~~

~~Sec. 29-6. Location of water meters.~~

~~Sec. 29-7. Town to tap sewer main and run sewer service line.~~

~~Sec. 29-8. Inspection of connections and service lines.~~

~~Sec. 29-9. Covering uninspected connections or service pipes prohibited.~~

~~Sec. 29-10. Reserved.~~

~~Sec. 29-11. Industrial pretreatment and equalization.~~

~~Sec. 29-12. Cutoff valve on supply line between water meter and building required.~~

~~Sec. 29-13. Cutoff valve inside meter box for Town use only.~~

~~Sec. 29-14. Tampering with or obstructing water and sewer system prohibited.~~

~~Sec. 29-15. Compliance with article.~~

~~Secs. 29-16--29-35. Reserved.~~

~~Article II. Extensions~~

~~Sec. 29-36. Petition by property owners.~~

~~Sec. 29-37. Action by Council--Study of proposal.~~

~~Sec. 29-38. Same--Report to petitioners.~~

~~Sec. 29-39. Same--Determination of size of mains, etc., materials, location and elevation.~~

~~Sec. 29-40. Property of Town.~~

~~Secs. 29-41--29-55. Reserved.~~

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~~Article III. Charges and Rates~~

~~Sec. 29-56. Water main extensions.~~

~~Sec. 29-57. Water connections.~~

~~Sec. 29-58. Water rates.~~

~~Sec. 29-59. Sewer main extensions.~~

~~Sec. 29-60. Sewer connections.~~

~~Sec. 29-61. Industries and high strength wastes.~~

~~Sec. 29-62. Sewer service rates.~~

~~Sec. 29-63. Water and sewer main extensions to developments.~~

~~Secs. 29-64--29-80. Reserved.~~

~~Article IV. Disposition of Human Excrement~~

~~Sec. 29-81. Approved methods of disposal.~~

~~Sec. 29-82. Houses, etc., to be equipped with approved method of disposal as prerequisite to use.~~

~~Sec. 29-83. Flush toilet required; when septic tanks allowed.~~

~~Sec. 29-84. Septic tank systems--Specifications.~~

~~Sec. 29-85. Same--Use.~~

~~Sec. 29-86. Use of privies prohibited.~~

~~Sec. 29-87. Procedures upon discovery of violation of article.~~

~~Sec. 29-88. Misuse or neglect of flush toilets prohibited.~~

~~Sec. 29-89. Prohibited disposal.~~

~~Sec. 29-90. Right of entry of health officers.~~

~~Sec. 29-91. Obstructing Town officers, etc., in discharge of duties.~~

~~Secs. 29-92--29-110. Reserved.~~

~~Article V. Cross Connection Control and Backflow Prevention~~

~~Sec. 29-111. Definitions.~~

~~Sec. 29-112. Adoption of State regulations.~~

~~Sec. 29-113. Duty of Building Inspector.~~

~~Sec. 29-114. Right of entry.~~

~~Sec. 29-115. Compliance with article.~~

~~Sec. 29-116. Enforcement.~~

~~Sec. 29-117. Article supplemental to Building Code.~~

~~Secs. 29-118--29-135. Reserved.~~

~~Article VI. Administrative Procedures and Charges~~

~~Sec. 29-136. Service deposits.~~

~~Sec. 29-137. Penalty for nonpayment.~~

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~~Sec. 29-138. Testing.~~

~~Sec. 29-139. Penalties and liabilities.~~

~~Sec. 29-140. Appeals as to industrial cost recovery.~~

~~Secs. 29-141--29-150. Reserved.~~

~~Article VII. Sewer Use~~

~~Sec. 29-151. Definitions.~~

~~Sec. 29-152. Notice of violations.~~

~~Sec. 29-153. Enforcement.~~

~~Sec. 29-154. Prohibited discharges.~~

~~Sec. 29-155. Powers of Town relative to prohibited discharges.~~

~~Sec. 29-156. Accidental discharge of prohibited wastes.~~

~~Sec. 29-157. Approval, maintenance, etc. of pretreatment and flow control facilities.~~

~~Sec. 29-158. Dilution prohibition.~~

~~Sec. 29-159. Observation, sampling and measuring facilities.~~

~~Sec. 29-160. Sampling, grab samples and analyses.~~

~~Sec. 29-161. Authority of Town agents.~~

~~Sec. 29-162. Termination of service.~~

~~Sec. 29-163. Discharge permit--Required.~~

~~Sec. 29-164. Same--Application.~~

~~Sec. 29-165. Same--Evaluation of data; issuance.~~

~~Sec. 29-166. Same--Conditions.~~

~~Sec. 29-167. Same--Duration; extension; modification.~~

~~Sec. 29-168. Same--Transfer.~~

~~Sec. 29-169. Same--Revocation.~~

~~Sec. 29-170. Same--Appeals.~~

~~Sec. 29-171. Hauled Wastes.~~

~~Sec. 29-172. Bypass.~~

~~Sec. 29-173. Upset.~~

~~Sec. 29-174. Costs.~~

~~Sec. 29-175. Miscellaneous Provisions.~~

~~Article VIII. Water Conservation~~

~~Sec. 29-176. Authority.~~

~~Sec. 29-177. Water supply and drought stages.~~

~~Sec. 29-178. Additional measures.~~

~~Sec. 29-179. Violations and penalties.~~

~~Sec. 29-180. Appeals.~~

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~~Sec. 29-181. Public notice and duration of restrictions.~~

ARTICLE I. IN GENERAL

Sec. 36-1. Definitions.

~~The words and phrases used in this article shall be, unless otherwise indicated, defined as follows, for both domestic and industrial wastes:~~

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:

Administrative officer means any officer referred to in this chapter, by title, or other official designated by the town manager, or his duly authorized deputy, agent or representative.

Approval authority means the official designated by the town manager, or his duly authorized deputy, agent or representative.

BOD (denoting biochemical oxygen demand) means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20 degrees Celsius, expressed in parts per million. The laboratory determination shall be made in accordance with the procedures set forth in standard methods.

Collector sewer main means a sewer main designed and constructed to receive sewage from the building connections or laterals and other collector sewers and carry it to an interceptor sewer or the point of disposal. A collector sewer normally serves only a portion of one drainage area or basin.

Combined sewer means a sewer receiving both surface runoff and sewage.

Domestic sewage means waterborne wastes normally discharging from the sanitary conveniences of dwellings (including apartment houses and hotels), office buildings, factories and institutions, free from stormwater, surface water and industrial wastes.

Industrial wastes means all waterborne solids, liquids or gaseous wastes resulting from any industrial, manufacturing, commercial or food processing operation or process, or from the development of any natural resource, or any mixture of these with water or domestic sewage as distinct from normal domestic sewage.

Interceptor sewer main means a sewer main designed and constructed to intercept or receive sewage from all collector sewers and laterals within one or more drainage areas and carry it to a larger interceptor sewer or the point of disposal.

Normal domestic sewage means normal sewage for the town, in which concentration of suspended materials and five-day 20 degrees Celsius BOD does not exceed 300 parts per million and 250 parts per million, respectively.

Sanitary sewer means a sewer which carries sewage and to which stormwaters, surface waters and groundwaters are not intentionally admitted.

Sewage means a combination of water-carried waste from residences, business buildings, institutions and industrial establishments, together with such groundwaters, surface waters and stormwaters as may be present.

Sewage treatment plant means any arrangement of devices and structures used for treating sewage.

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

Sewer means a pipe or connection for carrying sewage.

PROOFS

Sewer lateral means a pipe which receives sewage from a building and carries it to the collector or interceptor sewer.

Suspended solids means solids that either float on the surface of, or are in suspension in, water, sewage or other liquids and which are removable by laboratory filtering. Quantitative determination of suspended solids shall be made in accordance with procedures set forth in standard methods.

(Code 1972, § 29-1; Code 1992, § 29-1; Ord. No. 2009-6, 8-19-2009)

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

[269]Sec. 36-2. Water and sewer connections permit required.

It shall be unlawful for any person to connect, or attempt to connect, any pipe to the town's water or sewer lines without a permit.

(Code 1972, § 29-2; Code 1992, § 29-2)

Sec. 36-3. Permit application.

Applications for a permit for water and sewer connections shall be made, in writing, on forms furnished by the town, signed by the property owner, or his agent, giving all information required.

(Code 1972, § 29-3; Code 1992, § 29-3)

Sec. 36-4. Buildings to be separately connected to water and sewer system.

Buildings shall be provided with separate sanitary sewer connections and water meter connections at the property line. The connection of more than one building to the same sewer lateral or water service line will not be allowed, except by written permission of the town council or its representative.

(Code 1972, § 29-4; Code 1992, § 29-4)

~~Cross reference— Buildings, ch. 9.~~

Sec. 36-5. Town to tap water mains and run water service line from main to meter.

The town shall make the tap to the water main in the street and shall run the water service line from the main to the water meter. The town shall determine the size of the water service line and meter needed for the service required.

(Code 1972, § 29-5; Code 1992, § 29-5)

Sec. 36-6. Location of water meters.

[270]Water meters shall be located in the most practical and convenient place in the street right-of-way or public utility easement abutting the property to be served.

(Code 1972, § 29-6; Code 1992, § 29-6)

Sec. 36-7. Town to tap sewer main and run sewer service line.

(a) The town shall make the tap to the sewer main in the street and run the sewer service line from the sewer main in the street as near as practicable to the street right-of-way abutting the property to be served.

(b) The town shall determine the size of the sewer lateral which is needed for the services required.

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[269] Are the sections in this article regarding connections and this permit still correct? Yes.

[270] There appears to be a good part of this section missing? Yes, original wording plus edit.

PROOFS

(Code 1972, § 29-7; Code 1992, § 29-7)

Sec. 36-8. Inspection of connections and service lines.

After a permit to make connection with the town's water or sewer pipes has been granted, each such connection and the pipes running therefrom to the house or building shall be inspected and approved by a designated official of the town before the pipes are covered and before the service can be used.

(Code 1972, § 29-8; Code 1992, § 29-8)

Sec. 36-9. Covering uninspected connections or service pipes prohibited.

Any person covering a water or sewer connection or water or sewer service line that has not been inspected and approved as provided in section 36-8 shall be guilty of a Class 4 misdemeanor. The guilty party shall be required to uncover such connection or pipes so proper inspection can be made.

(Code 1972, § 29-9; Code 1992, § 29-9)

~~**Sec. 29-10. Reserved.**~~

~~**Editor's note**—An ordinance adopted September 6, 1994, repealed § 29-10 in its entirety. Formerly, § 29-10 pertained to use of public sewers and derived from § 29-10 of the 1972 Code. Similar provisions are located in Art. VII, § 29-151 et seq.~~

[271]Sec. 36-10. Industrial pretreatment and equalization.

If the town permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the town and subject to the requirements of all applicable codes, ordinances and laws.

(Code 1972, § 29-11; Code 1992, § 29-11)

Sec. 36-11. Cutoff valve on supply line between water meter and building required.

On each water service, there shall be required a water cutoff valve located on the supply line on the premises of the property owner between the town's water meter and the building to be served. This cutoff may be in the basement of a building or, if no basement, then in the yard with an extension rod or handle to the top of the ground or a valve box provided to make the cutoff valve accessible at all times, and all shall be kept in good repair.

(Code 1972, § 29-12; Code 1992, § 29-12)

Sec. 36-12. Cutoff valve inside meter box for town use only.

The water cutoff valve inside the town's meter box is not for the use of water customers, and is to be used only by the town.

(Code 1972, § 29-13; Code 1992, § 29-13)

Sec. 36-13. Tampering with or obstructing water and sewer system prohibited.

(a) It shall be unlawful for any person to open or tamper with, including the obstruction of, any water meter, meter box, lid, valve, valve box, manhole, fire hydrant, pipe, fence, building, reservoir or any property of the town used in connection with the town's water and sewer system. The town shall have the right to discontinue service to the property on which the tampering occurred and/or remove the obstruction, including, but not limited to, the towing of vehicles blocking access to the town's water meters or other facilities, without liability therefor, in order to

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[271] Is this superseded by the article on sanitary sewer use regulations? No, leave.

PROOFS

protect the health and safety of its customers, prevent or stop the theft of service and to access, repair or maintain its infrastructure.

(b) In addition, incidents of tampering with or obstruction of town utility facilities shall be reported to the town police department or other appropriate law enforcement agency for investigation and may be prosecuted civilly or criminally pursuant to Code of Virginia, §§ 8.01-44.7, 18.2-162.1 and 18.2-163.

(Code 1972, § 29-14; Code 1992, § 29-14; Ord. No. 2013-5, § 29-14, 4-16-2013)

~~**Cross reference**— Fire protection, ch. 12.~~

Sec. 36-14. Compliance with ~~article~~ chapter.

It shall be unlawful for any person to fail, neglect or refuse to comply with this article. Except as otherwise provided in this chapter, any violation of this chapter shall constitute a Class 1 misdemeanor.

(Code 1972, § 29-15; Code 1992, § 29-15)

Secs. 36-15--36-31. Reserved.

[272]ARTICLE II. EXTENSION OF WATER OR SEWER SYSTEMS*

~~***Cross reference**— Town Council, § 2-31 et seq.~~

Sec. 36-32. Petition by property owners.

Property owners desiring water or sewer service in sections of the town where no water or sewer mains exist shall present a petition to the town council requesting such extension of water and sewer mains, signed by all of the property owners desiring such extension.

(Code 1972, § 29-16; Code 1992, § 29-36)

Sec. 36-33. Action by council; study of proposal.

The town council shall make a study of each proposal, as set out in the petition, after first having made through its proper agencies a survey and estimated cost of such project to determine whether or not such proposal is practical and justifiable.

(Code 1972, § 29-17; Code 1992, § 29-37)

Sec. 36-34. Report to petitioners.

The town council shall make a report to the property owners filing a petition as to whether or not the project is practical and justifiable. Should this report be favorable the procedures outlined in sections 36-61 and 36-64 shall be followed.

(Code 1972, § 29-18; Code 1992, § 29-38)

Sec. 36-35. Determination of size of mains, etc., materials, location and elevation.

In all projects for the extension of water mains and sewer mains, the town ~~Council~~ manager shall be the sole judge as to the size of such water and sewer mains, laterals, manholes, valves, etc., and as to the materials used in the construction of the same, and shall determine the location and elevation of all such mains and laterals.

(Code 1972, § 29-19; Code 1992, § 29-39)

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[272] Is this article current and correct? Yes.

PROOFS

Sec. 36-36. Property of town.

All extensions of water and sewer mains, pipes, valves, manholes, laterals, etc., and all appurtenances thereto, shall become and remain the property of the town and shall become a part of its general water system and sewer system and, as such, subject to all rules and regulations as may be, from time to time, adopted by the town council.

(Code 1972, § 29-20; Code 1992, § 29-40)

Secs. 36-37--36-60. Reserved.

[273]ARTICLE III. CHARGES AND RATES

Sec. 36-61. Water main extensions.

The cost of water main extensions within the corporate limits which are not included in the capital improvements program of the town may be shared by the property owners requesting the extension by their contributing to the cost of the extension at a per linear foot rate to be determined by the council in accordance with the width of frontage of each property owner's lot, or lots, which will be served by the extension. This per linear foot cost will be in addition to regular water connection fees and will be paid at the time of connection. The town council may require that one-third of the estimated cost be paid by the property owners prior to starting the extension.

(Code 1972, § 29-21; Code 1992, § 29-56)

Sec. 36-62. Water connections.

(a) The costs for water connections shall be as set forth herein or as established in the latest edition of the town water and sewer utilities service fee schedule, which may be amended from time to time by the town council.

(b) If a property owner desires more than one water connection to serve a particular property or structure, each water connection will be made at the regular established connections charge.

(c) Where the service line already provided to serve a particular property or structure needs to be changed, thereby requiring the construction of additional service lines, the charges for any additional service lines will be made at actual cost to the property owner rather than the established charges for such connections.

(d) All fees and charges for water connections shall be paid in full before any permit is granted and before any water connection is made to the town's water system.

(Ord. of 9-5-89, § 29-22; Code 1992, § 29-57; Ord. No. 2002-6, 7-2-2002; Ord. No. 2009-6. 8-19-2009)

State law reference—Mandatory water connections, Code of Virginia, § 15.2-2111.

[274]Sec. 36-63. Water rates.

Water rates shall be as set forth herein or as established in the latest edition of the town ~~of Christiansburg~~ water and sewer utilities service fee schedule, which may be amended from time to time by the town council.

(Code 1992, § 29-58; Ord. of 7-17-1990, § 29-23; Ord. of 6-15-1993; Ord. of 6-21-1994; Ord. of 3-18-1997; Ord. No. 2001-3, 8-7-2001; Ord. No. 2003-3, 6-17-2003; Ord. No. 2004-3, 6-15-2004; Ord. No. 2005-3, 6-7-2005; Ord. No. 2006-2, 6-6-2006; Ord. No. 2007-2, 5-15-2007; Ord. No. 2008-3, 6-3-2008; Ord. No. 2009-3, 5-19-2009; Ord. No. 2009-6, 8-19-2009)

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[273] Is this article current and correct? Yes.

[274] Water and sewer rates are on file in the town offices? Yes.

PROOFS

Sec. 36-64. Sewer main extensions.

The costs for sewer main extensions shall be as set forth herein or as established in the latest edition of the town water and sewer utilities service fee schedule, which may be amended from time to time by the town council.

(Code 1972, § 29-24; Code 1992, § 29-59; Ord. No. 2009-6 of 8-19-2009)

Sec. 36-65. Sewer connections.

(a) The costs for sewer connections shall be as set forth herein or as established in the latest edition of the Town Water and Sewer Utilities Service Fee Schedule which may be amended from time to time by the town council.

(b) If a property owner desires more than one sewer connection to serve a particular property or structure, each additional connection will be at the regular established connection charge, not to include a front footage charge.

(c) Where laterals already provided to serve a particular property or structure need to be changed, thereby requiring the construction of additional laterals, the charges for any additional sewer lateral will be made at actual cost to the property owner rather than the established charges for such connection.

(d) All fees and charges for sewer connections shall be paid in full before any permit is granted and before any sewer connection is made to the town's sewer system.

(Code 1992, § 29-60; Ord. of 9-5-1989, § 29-25; Ord. No. 2002-6, 7-2-2002; Ord. No. 2009-3, 5-19-2009; Ord. No. 2009-6, 8-19-2009)

Sec. 36-66. Industries and high strength wastes.

All industries, businesses and other sewer users discharging any wastes to the sewers other than normal domestic sewage shall apply for an industrial waste discharge permit, in writing, on forms furnished by the town.

(Code 1972, § 29-26; Code 1992, § 29-61)

[275]Sec. 36-67. Sewer service rates.

(a) *Sewer service rates.* Sewer service rates shall be as set forth herein or as established in the latest edition of the town water and sewer utilities service fee schedule, which may be amended from time to time by the town council.

(b) *Base rates for all sewage works users.*

(1) *User charge system.* All users of the town's sewage works shall be required to pay a user charge to recover the operation and maintenance expenses for the sewage works. The user charge payment shall be based on flow meter readings with a minimum rate for the first 4,000 gallons bimonthly, and a flat rate for each additional 1,000 gallons.

(2) *Debt service and reserve fund.* Capital costs shall be recovered based on a minimum rate for the first 4,000 gallons bimonthly, and a flat rate for each additional 1,000 gallons.

The method of determining the quantity for bimonthly billing shall be through the use of the individual water meter or sewage flow meter. This rate structure shall be subject to review and revision on an annual basis using actual operating and maintenance and debt service cost figures to determine the base rate for the following year.

(c) *High strength surcharge.*

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[275] Water and sewer rates are on file in the town offices? Yes.

PROOFS

(1) All users who discharge a waste which contains more than 250 milligrams per liter of BOD, or more than 300 milligrams per liter of suspended solids, shall pay a surcharge on the amount of BOD and suspended solids that exceed the above amounts.

(2) Surcharges for high strength shall be based on samples collected and analyzed by the town or from results submitted to the town in accordance with the requirements of an industrial discharger permit. Samples shall be collected on a periodic basis, but not less than once a year.

(3) High strength wastes will only be accepted when it can be demonstrated that they will not damage the collection or treatment facilities and will not impair the treatment process.

(4) The bimonthly rate for high strength wastes shall be calculated on the basis of the number of pounds of BOD and suspended solids discharged to the sewer in excess of 250 milligrams per liter of BOD, and 300 milligrams per liter of suspended solids.

(Code 1972, § 29-27; Code 1992, § 29-62; Ord. of 6-2-1987, § 29-27; Ord. of 7-2-1996; Ord. of 3-18-1997; Ord. No. 2006-2, 6-6-2006; Ord. No. 2007-2, 5-15-2007; Ord. No. 2008-03, 6-3-2008; Ord. No. 2009-3, 5-19-2009; Ord. No. 2009-6, 8-19-2009)

Sec. 36-68. Water and sewer main extensions to developments.

(a) When a proposed development within the corporate limits is located a distance greater than 250 feet from the water or sewer system and an extension to either system is required to serve the development, the town may participate in the cost of the extension.

(b) The developer must install water and sewer mains within a development in accordance with the subdivision and zoning ordinances of the town.

(Code 1972, § 29-28; Code 1992, § 29-63)

~~**Cross reference**— Subdivisions, ch. 26; zoning, ch. 30.~~

Secs. 36-69--36-94. Reserved.

[276]ARTICLE IV. DISPOSITION OF HUMAN EXCREMENT~~*~~

~~***Cross reference**— Health and sanitation, ch. 14.~~

~~**Sec. 29-81. Approved methods of disposal.**~~

~~For the purpose of this article, the following shall be deemed to be approved methods of disposal of human excrement:~~

~~— A properly installed flush toilet connected to the Town's sanitary sewer system.~~

~~— A properly installed flush toilet connected to an approved, properly constructed septic tank and drainage system.~~

~~(Code 1972, § 29-29; Code 1992, § 29-81)~~

Sec. 36-95. Houses, etc., to be equipped with approved method of disposal as prerequisite to use.

It shall be unlawful for the owner of any house or other building, trailer or any structure of any description used as human habitation or where human beings congregate, work or are employed in the town, or the representative or agent of such owner to use or occupy or to rent or lease the same for use or occupancy by any person any such house, building, trailer or structure

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[276] This article appears to be superseded by the Statewide Building Code? Changed.

PROOFS

unless, or until, such house, building or structure shall have been equipped with an approved method of disposal of human excrement of such construction as will comply with the requirements of this article.

(Code 1972, § 29-30; Code 1992, § 29-82)

Sec. 36-96. Flush toilet required; when septic tanks allowed.

A properly installed flush toilet connected to the town's sanitary sewer system shall always be required, except in extreme cases where it would be physically impossible to connect a sanitary flush toilet to the town's sanitary sewer system due to unusual elevation where a sewer service line from the premises could not reach the sanitary sewer system. In such event, an approved septic tank may be used with the approval of the town and the local health officer, or his representative.

(Code 1972, § 29-31; Code 1992, § 29-83)

[277]~~**Sec. 29-84. Septic tank systems--specifications.**~~

~~All septic tank systems installed in the Town shall conform to the then current specifications of the State Department of Health. A permit for the installation of such system must be obtained from the State Department of Health by the property owner.~~

~~(Code 1972, § 29-32; Code 1992, § 29-84)~~

~~**State law reference**--Appeals from denials of septic tank permits, Code of Virginia, § 32.1-164.1.~~

Sec. 36-97. Use of septic systems.

(a) It shall be unlawful for the owner of any house, building, trailer or structure of any description used as human habitation or where human beings congregate, work or are employed to continue the use of any existing septic tank for the disposal of human excrement in the town, unless such septic tank and field drainage conform to section 36-96. Any existing septic tanks that cannot meet the requirements set forth in such section shall be illegal, the use of the same shall be discontinued and the premises connected with the town's sanitary sewer system.

(b) Where the town's sanitary sewer system is available, it shall be unlawful to pump out or repair any existing septic tank or to repair or extend the drainfield when it becomes inoperative from any cause or as a preventive measure. It shall be discarded and the premises connected as stated above.

(Code 1972, § 29-33; Code 1992, § 29-85)

[278]**Sec. 36-98. Use of privies prohibited.**

It shall be unlawful for the owner of any house, building, trailer or structure of any description used as human habitation or where human beings congregate, work or are employed to continue the use of any privy for the disposal of human excrement in the town, and such privy shall be demolished, removed and the pit filled.

(Code 1972, § 29-34; Code 1992, § 29-86)

Sec. 36-99. Procedures upon discovery of violation of article.

If upon inspection, the health officer, his agent or authorized subordinate, or an inspector appointed by the town council, shall find any violations of this article, he shall direct, by written

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[277] Superseded by Code of Virginia, § 32.1-163 et seq. on onsite sewage systems? Delete.
[278] Still necessary to keep? Keep.

PROOFS

notice, the person responsible, that the necessary corrections be made within such reasonable time as shall be specified in such notice.

(Code 1972, § 29-35; Code 1992, § 29-87)

Sec. 36-100. Misuse or neglect of flush toilets prohibited.

It shall be unlawful for any owner, tenant or lessee of any premises properly supplied with a sanitary flush toilet or other approved device for the disposal of human excrement to misuse or neglect the same so as to allow or cause it to cease to be sanitary.

(Code 1972, § 29-36; Code 1992, § 29-88)

[279]Sec. 36-101. Prohibited disposal.

(a) No owner of any premises in the town shall construct, maintain or permit any arrangement for the disposal of human excrement which allows flies or animals to have access thereto or which endangers any source of drinking water.

(b) No person shall deposit in the town any human excrement upon the surface of the ground or in any place where it may endanger any source of drinking water or be accessible to flies or to animals.

(c) It shall be unlawful for any person in the town to throw out, deposit or bury within the corporate limits of the town any solid or liquid excreta from human bodies or to dispose of such substance in any manner other than prescribed by this article.

(Code 1972, § 29-37; Code 1992, § 29-89)

Sec. 36-102. Right of entry of health officers.

The health officer, or his agent or authorized subordinate, or an inspector appointed by the town council, may enter all premises in the town in the discharge of his duties under this article.

(Code 1972, § 29-38; Code 1992, § 29-90)

Sec. 36-103. Obstructing town officers, etc., in discharge of duties.

Any person who, in any manner, obstructs town officers and employees or local health authorities in the proper discharge of their duties prescribed in this article shall be guilty of a Class 1 misdemeanor.

(Code 1972, § 29-39; Code 1992, § 29-91)

Secs. 36-104--36-121. Reserved.

[280]ARTICLE V. CROSS CONNECTION CONTROL AND BACKFLOW PREVENTION*

~~***Cross reference**— Buildings, ch. 9.~~

Sec. 36-122. Definitions.

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

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

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[279] See sewer use regulations in article VII. Keep.

[280] Is this article correct and current? Yes.

PROOFS

Air gap separation means the unobstructed vertical distance through the free atmosphere between the lowest opening from any pipe or faucet supplying pure water to a tank, plumbing fixture or other device and the rim of the receptacle.

Auxiliary water system means any water system on, or available to, the premises other than the waterworks. These auxiliary waters may include water from a source such as wells, lakes or streams; or process fluids; or used water. ~~They~~ These auxiliary waters may be polluted or contaminated or objectionable, or constitute an unapproved water source or system over which the water purveyor does not have control.

Backflow means the flow of water or other liquids, mixtures or substances into the distribution piping of a waterworks from any source, or sources, other than its intended source.

Backflow prevention device means any approved device, method or type of construction intended to prevent backflow into a waterworks.

Consumer means a person who drinks water from a waterworks.

Consumer's water system means any water system located on the consumer's premises, supplied by or, in any manner, connected to a waterworks.

Containment means preventing backflow into a waterworks from a consumer's water system by installing an appropriate backflow prevention device at the service connection.

Contaminant means any objectionable or hazardous physical, chemical, biological or radiological substance or matter in water.

Cross connection means any connection or structural arrangement, direct or indirect, to the waterworks whereby backflow can occur.

Degree of hazard means the level of health hazard, as derived from an evaluation of the potential risk to health and the adverse effect upon the waterworks.

Distribution main means a water main whose primary purpose is to provide treated water to service connections.

~~[281]~~ ~~*Division of water supply engineering* means the Commonwealth of Virginia, Virginia Department of Health, Office of Water Programs, Division of Water Supply Engineering.~~

Domestic use or usage means normal family or household use, including drinking, laundering, bathing, cooking, heating, cleaning and flushing toilets-~~[282]~~ ~~(see Appendix A for Title 32.1, Article 2, Code of Virginia, 1950, as amended)~~.

Double gate-double checkvalve assembly means an approved assembly composed of two single, independently acting checkvalves including tightly closing shutoff valves located at each end of the assembly and petcocks and test gauges for testing the watertightness of each checkvalve.

Entry point means the place where water from the source is delivered to the distribution system.

Health hazard means any condition, device or practice in a waterworks, or its operation, that creates, or may create, a danger to the health and well-being of the water consumer.

Isolation means installing an appropriate backflow preventive device on the plumbing fixture at the source of the potential contamination to isolate the fixture from the contamination. Isolation

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[281] Is this still correct? delete.

[282] Delete reference to Appendix A which is apparently the state law? Delete.

PROOFS

of an area or zone within a premises water supply system confines the potential source of contamination to a specific area or zone.

Maximum contaminant level means the maximum permissible level of a contaminant delivered to the free flowing outlet of the ultimate user of a waterworks, except in the cases of turbidity and Volatile Organic Compounds [283](VOCs), where the maximum permissible level is measured at each entry point to the distribution system. Contaminants added to the water under circumstances controlled by the user, except those resulting from corrosion of piping and plumbing caused by water quality, are excluded from this definition. The term "maximum contaminant levels" may be either: "

[284](1) Primary maximum containment level (PMCL), meaning based on health considerations; or

[285](2) Secondary maximum containment level (SMCL), meaning based on aesthetic considerations.

Plumbing fixture means a receptacle or device which is either permanently or temporarily connected to the water distribution system of the premises, and demands a supply of water therefrom; or discharges used water, waste materials or sewage either directly or indirectly to the drainage system of the premises; or requires both a water supply connection and a discharge to the drainage system of the premises.

Pollution means the presence of any foreign substance, chemical, physical, radiological or biological, in water that tends to degrade its quality so as to constitute an unnecessary risk or impair the usefulness of the water.

Pollution hazard means a condition through which an aesthetically objectionable or degrading material may enter the waterworks or a consumer's water system.

Premises means a piece of real estate; house or building, and its land.

Process fluid means any fluid or solution which may be chemically, biologically, or otherwise contaminated or polluted, which would constitute a health, pollutional or system hazard if introduced into the waterworks. This includes, but is not limited to:

(1) Polluted or contaminated waters.

(2) Process waters.

(3) Used waters originating from the waterworks which may have deteriorated in sanitary quality.

(4) Cooling waters.

(5) Contaminated natural waters taken from wells, lakes, streams or irrigation systems.

(6) Chemicals in solution or suspension.

(7) Oils, gases, acids, alkalis and other liquid and gaseous fluids used in industrial or other processes, or for firefighting purposes.

Pure water or *potable water* means water fit for human consumption and use which is sanitary and normally free of minerals, organic substances and toxic agents in excess of reasonable

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[283] What is VOCs? Changed.

[284] Should this be "primary maximum contaminant level" (PMCL)? Yes.

[285] Should this be "secondary maximum contaminant level" (SMCL)? Yes.

PROOFS

amounts for domestic usage in the area served and normally adequate in quantity and quality for the minimum health requirements of the persons served.[286] ~~(see Appendix A for title 32.1, article 2, Code of Virginia, 1950, as amended~~.

Reduced pressure principle backflow prevention device (RPZ device) means a device containing a minimum of two independently acting checkvalves together with an automatically operated pressure differential relief valve located between the two checkvalves. During normal flow, and at the cessation of normal flow, the pressure between these two checks shall be less than the supply pressure. In case of leakage of either checkvalve, the differential relief valve, by discharging to the atmosphere, shall operate to maintain the pressure between the checkvalves at less than the supply pressure. The unit must include tightly closing shutoff valves located at each end of the device, and each device shall be fitted with properly located test cocks. These devices must be of the approved type.

Service connection means the point of delivery of water to a customer's building service line as follows:

(1) If a meter is installed, the service connection is the downstream side of the meter;

(2) If a meter is not installed, the service connection is the point of connection to the waterworks;

(3) When the water purveyor is also the building owner, the service connection is the entry point to the building.

System hazard means a condition posing an actual, or threat of, damage [danger] to the physical properties of the waterworks or a consumer's water supply system.

Used water means any water supplied by a water purveyor from the waterworks to a consumer's water supply system after it has passed through the service connection.

Water supply means the water that shall have been taken into a waterworks from all wells, streams, springs, lakes and other bodies of surface water (natural or impounded), and the tributaries thereto, and all impounded groundwater; but the term "water supply" shall not include any waters above the point of intake of such waterworks.[287] ~~(see Appendix A for Title 32.1, Article 2, Code of Virginia, 1950, as amended)~~.

Water supply system means the water service pipe, water distributing pipes and necessary connecting pipes, fittings, control valves and all appurtenances in, or adjacent to, the building or premises.

Waterworks.

(1) The term "waterworks" means a system that serves piped water for drinking or domestic use to:

a. The public;

b. At least 15 connections; or

c. An average of 25 individuals for at least 60 days out of the year.

(2) The term "waterworks" shall include all structures, equipment and appurtenances used in the storage, collection, purification, treatment and distribution of pure water, except

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[286] Delete this reference to appendix A? delete.

[287] Delete this reference to appendix A? yes.

PROOFS

the piping and fixtures inside the building where such water is delivered. [288] ~~(see Appendix A for Title 32.1, Article 2, Code of Virginia, 1950, as amended)~~.

Waterworks owner or *water purveyor* means an individual, group of individuals, partnership, firm, association, institution, corporation, government entity or the federal government which supplies, or proposes to supply, water to any person within the state from, or by means of, any waterworks ~~(see Appendix A for Title 32.1, Article 2, Code of Virginia, 1950, as amended)~~.

(Code 1972, § 29-42; Code 1992, § 29-111; Ord. of 1-5-1993)

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

Sec. 36-123. Adoption of state regulations and cross connection program.

The town hereby adopts, by reference, the following:

(1) ~~"VR 355-18-006, Article III~~ 12 VAC 5-590-580 et seq., "Cross Connection and Backflow Prevention in Waterworks," of the Commonwealth of Virginia Waterworks Regulations.

(2) "The Town of Christiansburg Cross Connection and Backflow Prevention Program."

(Code 1972, § 29-41; Code 1992, § 29-112; Ord. of 1-5-1993)

Sec. 36-124. Duty of building inspector.

It shall be the duty of the town building inspector to make inspections of properties served by the town system where cross connection with the system is deemed possible. The frequency of inspections and reinspections, based on potential health hazards involved, shall be established by the town in the cross connection control and backflow prevention program and as approved by the state department of health.

(Code 1972, § 29-43; Code 1992, § 29-113; Ord. of 1-5-1993; Ord. No. 2009-6, 8-19-2009)

Sec. 36-125. Right of entry.

The town building inspector shall have the right to enter, at any reasonable time, properties served by a connection to the town system for the purpose of inspecting the piping system, or systems, for cross connections. Upon request, the owner or occupant of property served shall furnish to the building inspector pertinent information regarding the piping system, or systems, on such property. The refusal of such information or refusal of access, when requested, shall be deemed evidence of the presence of cross connection.

(Code 1972, § 29-44; Code 1992, § 29-114; Ord. of 1-5-1993)

Sec. 36-126. Compliance with article.

The town may deny or discontinue the water service to a consumer if the required backflow prevention device is not installed. If it is found that the device has been removed or bypassed or if a cross connection exists on the premises, or if the pressure in the system is lowered below ten psi gauge, the town shall take positive action to ensure that the system is adequately protected at all times. Water service to such premises shall not be restored until the deficiencies have been corrected or eliminated in accordance with Commonwealth of Virginia Waterworks Regulations, 12 VAC 5-590-20 et seq., and to the satisfaction of the town.

(Code 1972, § 29-45; Code 1992, § 29-115; Ord. of 1-5-1993; Ord. No. 2009-6, 8-19-2009)

PROOFS

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[288] Delete this reference to appendix A? yes.

Sec. 36-127. Enforcement.

The potable water made available on the properties served by the town system shall be protected from possible contamination or pollution by the enforcement of this article and the town plumbing code. Any water outlet which could be used for potable or domestic purposes and is not supplied by the potable system must be labeled as "water unsafe for drinking" in a conspicuous manner.

(Code 1972, § 29-46; Code 1992, § 29-116; Ord. of 1-5-1993)

Sec. 36-128. Article supplemental to building code.

This article is a supplement to the Virginia Uniform Statewide Building Code.

(Code 1972, § 29-47; Code 1992, § 29-117; Ord. of 1-5-1993)

Secs. 36-129--36-154. Reserved.

[289]ARTICLE VI. ADMINISTRATIVE PROCEDURES AND CHARGES

Sec. 36-155. Service deposits.

(a) Service deposit rates shall be as set forth herein or as established in the latest edition of the town water and sewer utilities service fee schedule, which may be amended from time to time by the town council.

(b) Before the town shall furnish service under this chapter to any person who has not established credit with it, the applicable service deposits shall be paid.

(c) A service deposit may be transferred from one location to another for the customer who paid the deposit; provided, that all amounts owed in connection with service at the old location are paid in full.

(Code 1972, § 29-48; Code 1992, § 29-136; Ord. No. 2005-3, 6-7-2005; Ord. No. 2006-2, 6-6-2006; Ord. No. 2009-6, 8-19-2009)

Sec. 36-156. Penalty for nonpayment.

(a) Penalties for nonpayment shall be as set forth herein or as established in the latest edition of the town water and sewer utilities service fee schedule, which may be amended from time to time by the town council.

(b) All bills for service, including industrial surcharge and industrial cost recovery, shall be payable bimonthly and become due on the first day of the month next succeeding the two months during which the service was furnished. A penalty of ten percent shall be added to any bill remaining unpaid after the 25th of the month next succeeding the two months during which the service was furnished. When any bill remains unpaid after the tenth day of the second month succeeding the two months during which the service was furnished, such bill shall be delinquent and the service discontinued unless such bill and penalty are paid prior to the commencement of any action by an employee or agent of the town in connection with cutting off or discontinuing such service or after service has been discontinued. The service shall be discontinued or shall not be restored, as the case may be, until all bills, penalty and a service charge have been paid.

(c) When service for any customer has been discontinued for nonpayment, service shall not be furnished for any applicant in a different name if the service would be for the same family or

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[289] Is this article current and correct? Yes.

PROOFS

part of the same family served at the time of discontinuation, until the provisions of [290]subsection (c) of this section have been met.

(d) If any person applies for service while owing a balance for service previously furnished, regardless of the length of time the same has been owing, service shall not be furnished until all amounts in connection with past services furnished, as provided for in this article, have been paid in full, together with six percent interest compounded annually, which shall be charged on any bill which has been past due for one year or more. If a customer moves from one location to another and desires services at the new location, all amounts owed in connection with service at the old location must be paid in full before service shall be furnished at the new location.

(Code 1972, § 29-49; Code 1992, § 29-137; Ord. of 11-17-1998; Ord. No. 2009-6, 8-19-2009)

Sec. 36-157. Testing.

All tests and determinations shall be made in accordance with the latest edition of Standard Methods for the Examination of Water and Wastewater.

(Code 1972, § 29-50; Code 1992, § 29-138)

Sec. 36-158. Penalties and liabilities.

(a) Except as otherwise provided in this chapter, any person who violates this chapter shall be guilty of a Class 3 misdemeanor, and each day such violation continues shall constitute a separate offense.

(b) In addition to any other penalties provided:

(1) Every user of the town's sewerage system shall be civilly liable in damages to the town for any injuries to the town's sewerage system, or any injuries to third persons for which the town is liable, caused by, or resulting from, a violation of any of the provisions of this chapter.

(2) Every user of the town's sewerage system shall be civilly liable in damages to the town for any injuries to the town's sewerage system, or any injuries to third persons for which the town is liable, caused by, or resulting from, such user discharging into the town's sewerage system sewage or waste of a nature or in quantities prohibited by the statutes of the state or prohibited by the state health department or any subdivision thereof, or prohibited by any other state agency.

(3) Every user of the town's sewerage system shall be liable as hereinabove provided in subsections (1) and (2) <u>of this section</u> if any such damage is caused by such user, any member or guest of his household, or by any of his agents, servants or employees.

(Code 1972, § 29-51; Code 1992, § 29-139)

Sec. 36-159. Appeals as to industrial cost recovery.

(a) An industrial user or other aggrieved party may appeal to the water and sewer committee of the town on the issues of:

(1) Exclusion from the industrial cost recovery plan by reason of contract or the discharge of primarily segregated domestic wastes; and/or

(2) On the issue of the amount of the industrial cost recovery assessment with particular regard to flow, five-day biochemical oxygen demand and the concentration of suspended solids.

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[290] Change this reference to (b)?

PROOFS

(b) Any existing industrial user may apply within one year of the effective date of the plan for exclusion from participation in the plan on the basis provided above. New industrial users (those who connect to the town service system after the effective date of the plan) shall have one year from the date of their initial connection in which to apply for exclusion. An application for exclusion shall include a schematic diagram of the user's production process waste pretreatment and a conveyance system, and a series of waste strength tests in conformance with town-accepted procedures and guidelines, which shall be available on request; all such diagrams shall be certified as accurate by an engineer licensed in the state. All such test results shall be certified as having been performed in accordance with town-accepted procedures and their accuracy shall be certified by a qualified chemist or laboratory located within the state.

(c) Within 30 days after the mailing date of each industrial cost recovery bill, an industrial user who is included within the plan may file an application for exclusion or an application for redetermination of assessment with the water and sewer committee of the town, but only in the event of a substantial change in quality or quantity of effluent discharge by such user arising subsequent to the last redetermination. Such changes shall be certified by a qualified chemist or laboratory as having occurred and such a chemist or laboratory shall also certify that tests indicating the substantial changes aforesaid were conducted in accordance with town-accepted procedures.

(d) All applications shall set forth the industrial user's name, address and its town account number, along with a brief statement of the reasons it is petitioning and the factual basis for the application. Applications shall set forth the names of the officers, attorneys, employees and witnesses who will be appearing before the water and sewer committee of the town. Applications shall be filed with three copies and sent by registered mail to the water and sewer committee of the town at the place for which payment of charges is specified in the industrial cost recovery bill for which the appeal is taken.

(e) The water and sewer committee of the town shall notify the applicant, by mail, of the time and place for hearing, such notice to be given within 30 days after receipt of any application. The hearing shall be conducted on the application not less than ten days after mailing of such notice. The hearing shall be held as an informal consultation and conference at which the applicant, in person or by counsel, shall present his argument, evidence, data and proof in connection with the issues submitted. A representative from the town may then present its factual basis for the exclusion or assessment under consideration. The water and sewer committee of the town shall not be bound by the usual rules of evidence, but may conduct the hearing in such a manner as in its judgment will expeditiously and accurately determine the substantial rights of the industrial user and the town. All hearings may be stenographically or electronically recorded. The water and sewer committee of the town shall make findings of fact and its decision shall be made known to the applicant.

(f) Rehearings may be allowed by the water and sewer committee of the town for good cause shown and the procedure for rehearings shall be substantially the same as delineated in ~~the paragraphs above~~ this section.

(Code 1972, § 29-52; Code 1992, § 29-140)

PROOFS

Secs. 36-160--36-186. Reserved.

[291]ARTICLE VII. SEWER USE*

~~***Editor's note**— An ordinance adopted September 6, 1994, amended the Code by adding a new § 29-10. In order to provide for better classification and facilitate usage of this Code, such new provisions were included as §§ 29-151–29-173 at the discretion of the editor.~~

Sec. 36-187. Definitions.

~~For the purpose of this article, the words and phrases set forth in this section shall have the following meanings:~~

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

Act refers to the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 USC 1251 et seq.

Approval authority means the director of the water division of the state department of environmental quality.

Authorized or *duly authorized representative of the user* ~~shall~~ means:

(1) If the user is a corporation:

a. The president, secretary, treasurer or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or

b. The manager of one or more manufacturing, production or operating facilities, provided the manager is authorized to make management decisions that govern the operation of the regulated facility, including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to ensure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for individual wastewater discharge permit [or general permit (optional)] requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

(2) If the user is a partnership or sole proprietorship: a general partner or proprietor, respectively.

(3) If the user is a federal, state or local governmental facility: a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.

(4) The individuals described in subsections (1) through (3) of this section, may designate a duly authorized representative, if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the ~~city~~ town.

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[291] Is this article current and correct? Yes. If retained, review with similar definitions in section 29-1? Leave as is.

PROOFS

Best Management practices (BMPs) means schedules of activities, prohibitions of practices, maintenance procedures and other management practices to implement the prohibitions listed in section 2.1 A and B (40 CFR 403.5(a)(1) and (b)). BMPs include treatment requirements, operating procedures and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.

BOD (biochemical oxygen demand) means the quantity of oxygen by weight, expressed in mg/L, utilized in the biochemical oxidation of organic matter under standard laboratory conditions for five days at a temperature of 20 degrees centigrade.

Building sewer means that part of the lowest horizontal piping of a drainage system which receives the discharge from soil waste and other drainage pipes inside the walls of the building and conveys it to the lateral sewer, which begins at the property line of the building in question. The building sewer extends from the property line to the building in question.

Categorical pretreatment standard or categorical standard refers to any regulation containing pollutant discharge limits promulgated by EPA in accordance with sections 307(b) and (c) of the Act (33 U.S.C. section 1317) that apply to a specific category of users and that appear in 40 CFR chapter I, subchapter N, parts 405-471.

CFR means the Code of Federal Regulations.

COD (chemical oxygen demand) means the measure, expressed in mg/L, of the oxygen-consuming capacity of inorganic and organic matter present in water or wastewater, expressing the amount of oxygen consumed from a chemical oxidant in a specific approved test, but not differentiating between stable and unstable organic matter and thus not necessarily correlating with biochemical oxygen demand.

COD-BOD ratio means the ratio of the value of COD to BOD, as these values are defined above.

Composite sample means a combination or resultant sample compiled of individual samples of water or wastewater taken at selected intervals, generally hourly, for a specified period of time. The individual samples may be of equal volume or proportional to flow at the time of sampling prior to compositing.

Control manhole means a manhole giving access to a building sewer at some point before the building sewer discharge mixes with other discharges in the public sewer.

Control point means a point of access to a source of discharge before the discharge mixes with other discharges in the public sewer.

EPA means the U.S. environmental protection agency.

EPA methods means methods for chemical analysis of water and wastes, published by the U.S. environmental protection agency, most current ~~addition [~~edition~~]~~.

Garbage means animal and vegetable wastes and residue from the preparation, cooking and dispensing of food and from the handling, processing, storage and sale of food products and produce.

Grab sample means a single sample of wastewater taken at neither a set time or flow over a period of time not to exceed 15 minutes.

Incompatible waste means a waste which is not susceptible to adequate treatment by the wastewater treatment plant.

Indirect discharge or *discharge* refers to the introduction of pollutants into the POTW from any nondomestic source.

PROOFS

Industrial user or *significant industrial user* means any user that is a source of indirect discharge. Indirect discharge means the introduction of pollutants, regulated by section 307(b), (c) and (d) of the Clean Water Act, from a nondomestic source into the POTW.

Industrial waste means waste resulting from any process of industry, manufacturing, trade or business from the development of any natural resource, or any mixture of the waste with water or normal wastewater, or distinct from normal wastewater.

Interference means a discharge which, alone or in conjunction with a discharge, or discharges, from other sources, either inhibits or disrupts the POTW, its treatment processes or operations, or its sludge processes, use or disposal; or therefore is a cause of a violation of any requirement of the POTW's NPDES permit (including an increase in the magnitude or duration of a violation) or of the prevention of sewage sludge use or disposal in compliance with all applicable statutory provisions and regulations or permits issued thereunder (or more stringent state or local regulations), including, but not limited to, the following: section 405 of the Clean Water Act, the Solid Waste Disposal Act (including title II, more commonly referred to as the Resource Conservation and Recovery Act, and including state regulations contained in any state sludge management plan prepared pursuant to subtitle D of the Solid Waste Disposal Act), the Clean Air Act, the Toxic Substances Control Act and the Marine Protection Research and Sanctuaries Act.

Lateral sewer means the extension from the building sewer to the public sewer or other place of disposal. This sewer extends from the property line to the public sewer line.

Milligrams per liter (mg/L) means the same as parts per million when the specific gravity of the liquid is 1.0, and is a weight-to-volume ratio; the milligram per liter value multiplied by the factor 8.34 shall be equivalent to pounds per million gallons of water.

New source.

(1) The term "new source" means any building, structure, facility or installation from which there is, or may be, a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under section 307(c) of the Clean Water Act, which will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:

   a. The building, structure, facility or installation is constructed at a site at which no other source is located;

   b. The building, structure, facility or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or

   c. The production or wastewater generating processes of the building, structure, facility or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant and the extent to which the new facility is engaged in the same general type of activity as the existing source should be considered.

(2) Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility or installation meeting the criteria of subsection (2) or (3) of this definition, but otherwise alters, replaces or adds to existing process or production equipment.

(3) The term "construction of a new source," as defined under this definition, has commenced if the owner or operator has:

   a. Begun, or caused to begin, as part of a continuous on-site construction program:

PROOFS

1. Any placement, assembly or installation of facilities or equipment; or
2. Significant site preparation work, including clearing, excavation or removal of existing buildings, structures or facilities which is necessary for the placement, assembly or installation of new source facilities or equipment; or

b. Entered into binding contractual obligations for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase, or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering and design studies do not constitute a contractual obligation under this subsection.

Normal user means any user discharging waste of a strength less than, or equal to, that of normal wastewater and at a flow rate of less than 25,000 gallons per day.

Normal wastewater means wastewater discharged into the public sewer in which all of the following average concentrations and flows are not exceeded:

(1) BOD: Less than, or equal to, 250 mg/L.

(2) Suspended solids: Less than, or equal to, 300 mg/L.

(3) Flow: Less than 25,000 gallons per day.

(4) No toxic or harmful substances are present.

NPDES permit means pollutant discharge elimination system permit.

Overload means the imposition of organic or hydraulic loading on the wastewater treatment plant in excess of its engineered design capacity.

Pass through means a discharge which exits the POTW into the waters of the United States in quantities or concentrations which, alone, or in conjunction with, a discharge or discharges from other sources, is a cause of a violation of any requirement of the POTW's NPDES permit (including an increase in the magnitude or duration of a violation).

pH means the logarithm (base [292]10) of the reciprocal of the hydrogen ion concentration expressed in grams per liter.

Plant means the town's wastewater treatment facility.

Pretreatment means application of physical, chemical and biological processes to reduce the amount of pollutants in, or alter the nature of, the pollutant properties in a wastewater prior to discharging such wastewater into the wastewater collection system.

Pretreatment requirement ~~shall~~ means any substantive or procedural requirement related to pretreatment imposed on an industrial user, other than a pretreatment standard.

Pretreatment standards or *standards* means all applicable federal rules and regulations (including specifically those regulations found in 40 CFR, chapter I, subchapter N, parts 405-471) implementing section 307 of the Federal Water Pollution Control Act and the Clean Water Act of 1977, and including prohibited standards, as amended, as well as nonconflicting state and local standards. In case of conflict of regulations, the most stringent thereof shall be applied.

Public sewer means pipe or conduit carrying wastewater, or unpolluted wastewater, in which owners or abutting properties shall have the use.

Publicly owned treatment works (POTW) means the town's public sanitary sewerage system. ~~This~~ The term "publicly owned treatment works" includes any devices or systems used in the

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[292] Is this 10 or 1.0? It is 10.

PROOFS

collection, storage, treatment, recycling or reclamation of sewage or industrial wastes of a liquid nature and any conveyances, which convey wastewater to a treatment plant.

Sanitary sewer means a public sewer that conveys domestic wastewater or industrial wastes, or a combination of both, and into which stormwater, surface water, groundwater and other unpolluted waters are not intentionally passed.

Sewer means a pipe or conduit for carrying normal sanitary or industrial wastewater.

Significant industrial user ~~means:~~.

(1) The term "significant industrial user" means all categorical industrial users.

(2) The term "significant industrial user" also means noncategorical industrial users that:

a. Discharge 25,000 gallons, or more, of process wastewater per day (This excludes sanitary, non-contact cooling and boiler blowdown wastewater.);

b. Discharge process wastewater which makes up five percent, or more, of the dry weather average hydraulic or organic capacity of the treatment works;

c. Is subject to categorical pretreatment standards; or

d. Has, in the town's opinion, a reasonable potential to adversely affect the treatment works (causing pass through, interference, sludge contamination or danger to the POTW).

(3) The town may determine that an industrial user subject to categorical pretreatment standards is a non-significant categorical industrial user rather than a significant industrial user on a finding that the industrial user never discharges more than 100 gallons per day (gpd) of total categorical wastewater (excluding sanitary, noncontact cooling and boiler blowdown wastewater, unless specifically included in the pretreatment standard) and the following conditions are met:

a. The industrial user, prior to the town's finding, has consistently complied with all applicable categorical pretreatment standards and requirements;

b. The industrial user annually submits the certification statement required in section 29-160(l) (see 40 CFR 403.12(q)), together with any additional information necessary to support the certification statement; and

c. The industrial user never discharges any untreated concentrated wastewater.

(4) Upon a finding that a user meeting the criteria in subsection (2) of this definition has no reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement, the town may at any time, on its own initiative or in response to a petition received from an industrial user, and in accordance with procedures in 40 CFR 403.8(f)(6), determine that such user should not be considered a significant industrial user.

Significant noncompliance ~~shall~~ means:

(1) Chronic violations of wastewater discharge limits, defined here as those in which 66 percent, or more, of all the measurements taken for the same pollutant parameter during a six-month period exceed (by any magnitude) a numeric pretreatment standard or requirement;

(2) Technical review criteria (TRC) violations, defined here as those in which 33 percent, or more, of wastewater measurements taken for each pollutant parameter during a six-month period equals or exceeds the product of the numeric pretreatment standard or

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requirement multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH);

(3) Any other violation of a pretreatment standard or requirement (daily maximum, long-term average, instantaneous limit or narrative standard) that the town determines has caused, alone or in combination with other discharges, interference or pass through, including endangering the health of POTW personnel or the general public;

(4) Any discharge of a pollutant that has caused imminent endangerment to the public or to the environment, or has resulted in the [293]town exercise of his emergency authority to halt or prevent such a discharge;

(5) Failure to meet, within 90 days of the scheduled date, a compliance schedule milestone contained in an individual wastewater discharge permit or enforcement order for starting construction, completing construction or attaining final compliance;

(6) Failure to provide, within 45 days after the due date, any required reports, including baseline monitoring reports, reports on compliance with categorical pretreatment standard deadlines, periodic self-monitoring reports and reports on compliance with compliance schedules;

(7) Failure to accurately report noncompliance; or

(8) Any other violations, which may include a violation of best management practices, which the town determines will adversely affect the operation or implementation of the local pretreatment program.

Slug load or slug discharge ~~shall~~ means any discharge at a flow rate or concentration which could cause a violation of any prohibited discharge standard of this article or any discharge of a nonroutine, episodic nature, including, but not limited to, an incidental spill or a noncustomary batch discharge.

Standard methods means the examination and analytical procedures set forth in the latest edition, at the time of analysis, of standard methods for the examination of water and wastewater, as prepared, approved and published jointly by the American Public Health Association, the American Water Works Association and the Water Pollution Control Federation.

Suspended solids means solids measured in mg/L that either float on the surface of, or are in suspension in, water, wastewater or other liquids, and which are largely removable by a laboratory filtration device.

To discharge means and includes to deposit, conduct, train, emit, throw, run, allow to seep or otherwise release or dispose of, or to allow, permit or suffer any of these acts or omissions.

Town means the town which may act through its town manager, or his or her duly authorized agents.

Unpolluted wastewater means water containing:

(1) No free or emulsified grease or oil.

(2) No acids or alkalis.

(3) No phenols, or other substances producing taste or odor in the receiving water.

(4) No toxic or poisonous substances in suspension, colloidal state or solution.

(5) No noxious or otherwise obnoxious or odorous gases.

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[293] Something is missing after town or change “his” to “its”?

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(6) Not more than ten mg/L each of suspended solids and BOD.

(7) Color not exceeding 50 units, as measured by the platinum-cobalt method [294]~~or~~ of determination, as specified in Standard Methods.

User means any person who discharges, causes or permits the discharge of wastewater into the public sewer.

Waste means rejected, unutilized or superfluous substances in liquid, gaseous or solid form resulting from domestic, agricultural or industrial activities.

Wastewater means a combination of the liquid and water-carried waste from residences, business buildings, institutions and industrial establishments, together with any groundwater, surface water and stormwater that may be present to a small extent.

Wastewater treatment system means and includes all facilities for collection, pumping, treating and disposing of wastewater and industrial wastes.

(Code 1992, § 29-151; Ord. of 9-6-1994; Ord. No. 2009-6, 8-19-2009)

Sec. 36-188. Notice of violations.

The town shall serve persons discharging wastewater into the public sewer, in violation of this article, with written notice stating the nature of the violation and providing for penalties as necessary or appropriate. Within 30 days of the date of this notice, a plan for the satisfactory correction thereof shall be submitted to the town by the user.

(Code 1992, § 29-152; Ord. of 9-6-1994; Ord. No. 2009-6, 8-19-2009)

Sec. 36-189. Enforcement.

(a) The town may enforce violations of, or deviations from, the standards of this article by suit for injunction or other appropriate legal action or suit.

(b) The town may seek and recover, by legal action or suit, from any industrial user, monetary compensation for damages to its public sanitary sewage system, and the POTW's treatment system, caused by the industrial user's violation of, or deviation from, the standards of this article.

(c) A person who violates the provisions of this article shall be guilty of a Class 1 misdemeanor and, upon conviction, is punishable by a maximum fine of up to $2,500.00 per violation per day and confinement in jail for not more than 12 months, either or both. In the event of a violation, the town shall also have the right to terminate the sewer and water connections.

(d) In addition to proceeding under authority of subsection (c) of this section, the town is entitled to pursue all other criminal and civil remedies to which it is entitled under authority of state statutes or other ordinances of the town against a person conducting a prohibited discharge or violating a pretreatment standard or requirement, including, without limitation, injunctive relief.

(e) Any person who knowingly makes any false statements, representations or certifications in any application, record, report, plan or other document files required to be maintained pursuant to this article, or wastewater permit, or who falsifies, tampers with or knowingly renders inaccurate any monitoring devices or method required under this article shall, upon conviction, be punishable by a maximum fine of $2,500.00 per violation, per day, or imprisonment for not more than one year, or both.

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[294] Should this be “of?”

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(f) The town shall be authorized to implement such other program and enforcement mechanisms as are consistent with regulatory guidelines and are deemed appropriate.

(g) The town shall publish annually, in the largest daily newspaper published in the municipality where the publicly owned treatment works (POTW) is located, a list of the users which, during the previous calendar year, were in significant noncompliance with applicable pretreatment standards and requirements. The term "significant noncompliance" shall mean:

(1) Chronic violations of wastewater discharge limits, defined here as those in which 66 percent or more of wastewater measurements taken during a six-month period exceed (by any magnitude) the daily maximum limit or average limit for the same pollutant parameter by any amount;

(2) Technical review criteria (TRC) violations, defined here as those in which 33 percent or more of wastewater measurements taken for each pollutant parameter during a six-month period equals or exceeds the product of the daily maximum limit or the average limit multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH);

(3) Any other discharge violation that the town believes has caused, alone or in combination with other discharges, interference or pass through, including endangering the health of POTW personnel or the general public;

(4) Any discharge of pollutants that has caused imminent endangerment to the public or to the environment, or has resulted in the town's exercise of its emergency authority to halt or prevent such discharge;

(5) Failure to meet, within 90 days of the scheduled date, a compliance schedule milestone contained in a wastewater discharge permit or enforcement order for starting construction, completing construction or attaining real compliance;

(6) Failure to provide, within 30 days after the due date, any required reports, including baseline monitoring reports, reports on compliance with categorical pretreatment standard deadlines, periodic self-monitoring reports and reports on compliance with the compliance schedules;

(7) Failure to accurately report noncompliance; or

(8) Any other violations which the town determines will adversely affect the operation or implementation of the local pretreatment program.

(h) Information and data on a user obtained from reports, surveys, wastewater discharge permit applications, individual wastewater discharge permits and monitoring programs, and from the town's inspection and sampling activities, shall be available to the public without restriction, unless the user specifically requests, and is able to demonstrate to the satisfaction of the town, that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets under applicable state law. Any such request must be asserted at the time of submission of the information or data. When requested and demonstrated by the user furnishing a report that such information should be held confidential, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available immediately upon request to governmental agencies for uses related to the NPDES program or pretreatment program, and in enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics and other effluent data, as defined at 40 CFR 2.302, shall not be recognized as confidential information and shall be available to the public without restriction.

(i) The town may enter into consent orders, assurances of compliance or other similar documents establishing an agreement with any user responsible for noncompliance. Such

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documents shall include specific action to be taken by the user to correct the noncompliance within a time period specified by the document.

(j) When the town finds that a user has violated, or continues to violate, any provision of this article, an individual wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, the town may issue an order to the user responsible for the discharge directing that the user come into compliance within a specified time. If the user does not come into compliance within the time provided, sewer service may be discontinued, unless adequate treatment facilities, devices or other related appurtenances are installed and properly operated. Compliance orders also may contain other requirements to address the noncompliance, including additional self-monitoring and management practices designed to minimize the amount of pollutants discharged to the sewer. A compliance order may not extend the deadline for compliance established for a pretreatment standard or requirement, nor does a compliance order relieve the user of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking any other action against the user.

(k) The town shall implement appropriate enforcement responses, as required. The town may take any, all, or any combination of these actions against a noncompliant user. Enforcement of pretreatment violations will generally be in accordance with the town's enforcement response plan. However, the town may take other action against any user when the circumstances warrant. Further, the town is empowered to take more than one enforcement action against any noncompliant user.

(Code 1992, § 29-153; Ord. of 9-6-1994; Ord. No. 2002-7, 8-6-2002; Ord. No. 2009-6, 8-19-2009)

Sec. 36-190. Prohibited discharges.

It shall be unlawful for any person or user to discharge, cause to be discharged, or permit to be discharged into the wastewater treatment system any of the following waters, wastes or effluents:

(1) Any waste which, by itself or by interaction with other waste, may:

a. Injure or interfere with wastewater treatment processes or facilities.

b. Constitute a hazard to humans or animals.

c. Create a hazard in receiving waters of the wastewater treatment plant effluent.

d. Violate any pretreatment standards promulgated by EPA and contained in 40 CFR chapter I, subchapter N, parts 404-471.

e. Cause interference, as defined in this article, in 40 CFR 403.3(i) and in section 1.1 of the State Water Control Regulations ~~VR680-14-01~~ [295]9 VAC 25-30-10 et seq., as amended; water control law, Code of Virginia, § 62.1-44.2 et seq.

f. Any pollutant which, by itself or by interaction with other wastes, creates a fire or explosion hazard in the POTW, including, but not limited to, any waste with a closed-cup flashpoint of less than 140 degrees Fahrenheit using the test methods specified in 40 CFR 261.21.

g. Any pollutant which, by itself or by interaction with other wastes, results in toxic gases, vapors or fumes in the POTW in a quantity that may cause acute worker health and safety problems.

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[295] What is the correct citation? This cite has been repealed and the state water control law is Code of Virginia, § 62.1-44.2 et seq.? change.

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h. Any waste which, by itself or by interaction with other wastes, possesses a pH less than 5.5.

i. Any trucked or hauled pollutants, except at discharge points designated by the town.

(2) Any water or wastewater discharge which contains:

a. Any liquids, solids or gases which, by reason of their nature or quantity, are, or may be, sufficient, either alone or by interaction with other substances, to cause fire or explosion or be injurious in any other way to the wastewater treatment system or to the operation of the system. Prohibited materials include, but are not limited to, gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides and sulfides.

b. Fats, wax, grease or oils, whether emulsified or not, in excess of 100 mg/L or containing substances which may solidify or become viscous at temperatures between 32 and 150 degrees Fahrenheit.

c. Heat in amounts which will inhibit biological activity in publicly owned treatment works resulting in interference, but in any case, heat in such quantities that wastewater temperatures at the entrance to the treatment plant exceed 40 degrees Celsius or 104 degrees Fahrenheit, unless the approval authority approves alternate temperature limits.

d. Ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tars, plastics, wood, whole blood, paunch manure, hair, hides or fleshings, entrails, paper products (other than those used for personal hygiene), slops, chemical residue, paint residue, bones, animal guts or tissue, spent lime, stone or marble dust, grass clippings, spent grain, spent hops, asphalt residues, residues from refining or processing of fuel or lubricating oils, bulk solids or any other solid or viscous substance present in sufficient quantities which will obstruct the flow in sewers, interfere with the wastewater treatment processes, or cause overloading of the wastewater treatment system.

e. Any waters or wastes having a pH lower than 5.5 or higher than 9.0, at any time, or having any other corrosive property capable of causing damage or hazard to structures, equipment or personnel at the wastewater treatment plant.

f. Strong acid or concentrated plating solutions, whether neutralized or not.

g. Any pollutant which will cause interference or pass through, including any toxic substances in amounts exceeding standards promulgated by the United States environmental protection agency pursuant to section 307(a) of public law 92-500, and chemical elements or compounds, phenols or other taste- or odor-producing substances or other substances which are not susceptible to treatment or which may interfere with the biological processes or efficiency of the wastewater treatment system, or that will pass through the system.

h. Antimony.

i. Beryllium.

j. Bismuth.

k. Cobalt.

l. Uranium ion.

m. Rhenium.

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n. Strontium.

o. Tellurium.

p. Radium.

q. Herbicides.

r. Fungicides.

s. Pesticides.

(3) Any water or wastewater which exceeds the following daily maximum limits in a single grab sample or a composite of multiple grab samples, as determined in accordance with 40 CFR Part 136:

a. Total Arsenic: 0.05 mg/L.

b. Total Barium: 5.0 mg/L.

~~e. Total Boron: 1.0 mg/L.~~

c. Total Cadmium: 0.02 mg/L.

d. Chlorides: ~~250~~ 500 mg/L.

e. Chromium (hexavalent): 2.0 mg/L.

f. Total Chromium ~~(total)~~: 5.0 mg/L.

g. Total Copper: 1.0 mg/L.

h. Cyanide: 1.0 mg/L.

i. Total Iron: ~~20.0~~ 100 mg/L.

j. Total Lead: 0.10 mg/L.

k. Total Manganese: 1.0 mg/L.

l. Total Mercury: 0.005 mg/L.

m. Total Molybdenum: 1.0 mg/L.

n. Total Nickel: 1.0 mg/L.

o. Phenol: ~~0.02~~ 1.0 mg/L.

p. Total Selenium: 0.02 mg/L.

q. Total Silver: 0.10 mg/L.

~~s. Total Tin: 1.0 mg/L.~~

r. Total Zinc: 0.5 mg/L.

s. Total dissolved solids (including sodium chloride and sodium sulfate): 750 mg/L.

t. Inert solids (Fuller's earth, lime slurries, lime residues, etc.): 250 mg/L.

u. Excessive discoloration, as determined by spectrophotometric method 204B, standard methods, or the latest approved method for industrial wastewater determinations. This parameter relates to dye wastes and vegetable tanning solutions, but is in no way limited to these discharges.

v. Substances causing a chemical oxygen demand (COD) greater than 1500 mg/L.

w. Substances which cause a COD to BOD ratio of greater than 5 to 1, unless the COD value is equal to, or less than, 30 mg/L.

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In addition, if it is determined that any one of these parameters exceeds the state effluent requirements for the wastewater treatment plant, an adjustment in the given parameter concentration limit will be required. No other heavy metals or toxic materials not previously detailed shall be discharged into the town's wastewater treatment system without a permit from the town specifying conditions of pretreatment, concentrations, volumes and other applicable provisions.

(4) Any garbage, unless it is shredded to a degree that all particles can be carried freely under the flow conditions normally prevailing in the sewer system. Particles greater than one-half inch in any dimension are prohibited. The town reserves the right to review and approve the installation and operation of any garbage grinder equipped with a motor of three-quarter horsepower or greater.

(5) Any radioactive wastes or isotopes without the permission of the town. The town reserves the right to establish, in compliance with applicable state and federal regulations, regulations for the discharge of radioactive waste into its wastewater treatment system.

(6) Any stormwater, surface water, groundwater, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, noncontact cooling water and unpolluted wastewater, unless specifically authorized by the town.

(7) Any water or wastewater discharges which contain substances that may:

a. Deposit grease or oil in the sewer lines in such a manner as to clog the sewers.

b. Overload skimming and grease-handling equipment.

c. Pass to the receiving waters without being effectively treated by the normal wastewater treatment process due to the nonamenability of the substance to bacterial action.

d. Deleteriously affect the wastewater treatment process due to excessive quantities.

(8) Any incompatible waste which:

a. Is not amenable to treatment or reduction by the wastewater treatment processes and facilities employed.

b. Is amenable to treatment only to such a degree that the wastewater treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharges to the receiving water.

c. Is the cause of or contributes to violations, including increasing the duration or magnitude of violations, of the publicly owned treatment work's national pollution discharge elimination system permit.

(9) Any slug discharges of water or wastewater.

(10) Any holding tank wastes, unless a permit is issued by the town.

(11) Any other substance which the environmental protection agency may, in the future, prohibit by law from being discharged into wastewater treatment systems.

(12) The discharge of any pollutant (including oxygen-demanding pollutants BOD, COD, etc.) released at a flow rate or concentration which, either single or by interaction with other pollutants, will cause interference with the POTW.

(13) The discharge of petroleum oil, nonbiodegradable cutting oil or products of mineral oil origin, in amounts that will cause interference or pass through.

(14) Wastewaters containing substances subject to an applicable categorical pretreatment standard promulgated by EPA in excess of the quantity prescribed in such applicable

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pretreatment standards. Compliance with such applicable pretreatment standards shall be within the time frame established in the standard; provided, however, compliance with a categorical pretreatment standard for new sources shall be required upon commencement of discharge to the treatment works.

(15) The town reserves the right, and power, to amend the above standards, at any time, to comply with federal or state law or to protect the public health, safety and welfare.

(Code 1992, § 29-154; Ord. of 9-6-1994; Ord. No. 2002-7 of 8-6-2002; Ord. No. 2009-6, 8-19-2009)

Sec. 36-191. Powers of town relative to prohibited discharges.

(a) If wastewater discharged, or proposed to be discharged, into the public sewer has a deleterious effect on the POTW, its treatment facilities, processes, equipment or receiving waters; creates a hazard to life or health; creates a public nuisance; or is in violation of this article, the town shall take the necessary action to:

(1) Prohibit the discharge of such wastewater;

(2) Require the user to demonstrate that in-plant modifications will reduce or eliminate the discharge of such substances in conformity with this article. This may include, but is not limited to, the use of grease, oil and sand interceptors when, in the opinion of the town, they are necessary for the proper handling of wastewater containing excessive amount of grease, oil or sand. All interception units shall be of a type and capacity approved by the town and shall be so located to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned and repaired by the user at their expense;

(3) Require pretreatment, including, but not limited to, storage facilities and flow equalization necessary to reduce or eliminate the objectionable characteristics or substances so that the discharge will not violate this article;

(4) Require the user making, causing or allowing the discharge to pay any additional expenses incurred by the town for handling and treating overloads imposed on the wastewater treatment plant;

(5) Whenever deemed necessary, the town may require users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage wastestreams from industrial wastestreams, and such other conditions as may be necessary to protect the POTW and determine the user's compliance with the requirements of this article;

(6) The town may require any person discharging into the POTW to install and maintain, on their property and at their expense, a suitable storage and flow-control facility to ensure equalization of flow. An individual wastewater discharge permit [or a general permit] may be issued solely for flow equalization; or

(7) Take such other remedial action as may be deemed to be desirable or necessary to achieve the purpose of this article.

(b) The town shall have the right to determine when a discharge or a proposed discharge is covered by this section.

(c) The town shall reject wastewater or terminate wastewater treatment service when it determines that a discharge, or a proposed discharge, is included under this section and does not meet the requirements of this article.

(d) Upon notification by the town, the permittee shall halt immediately any actual or threatened discharge to the POTW that may present an imminent endangerment to public health

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or the environment or the POTW. Where the health or welfare of persons is threatened, notification will be immediate. Where the environment or the POTW's operations are threatened, the permittee will be notified and afforded the opportunity to terminate the discharge and mitigate any damage.

(Code 1992, § 29-155; Ord. of 9-6-1994; Ord. No. 2009-6, 8-19-2009)

Sec. 36-192. Accidental discharge of prohibited wastes.

(a) Each industrial user shall provide protection from accidental discharge of prohibited materials or other wastes regulated by this article. Facilities to prevent accidental discharge of prohibited materials shall be provided and maintained at the owner's or operator's own cost and expense. Detailed plans showing facilities and operating procedures to provide this protection shall be submitted to the town for review, and shall be approved before construction of the facility. Review and approval of such plans and operating procedures shall not relieve the industrial user from the responsibility to modify its facility, as necessary, to meet the requirements of this article.

(b) If, for any reason, an industrial user does not comply with, or will be unable to comply with, any prohibition or limitation in this article, the industrial user responsible for such discharge, including slug loadings, shall immediately notify the town, so that corrective action may be taken to protect the wastewater treatment system. In addition, a written report addressed to the town detailing the date, time and cause of the accidental discharge, the quantity and characteristics of the discharge and corrective action taken to prevent future discharges shall be filed by the responsible industrial user within five days of the occurrence of the noncomplying discharge.

(Code 1992, § 29-156; Ord. of 9-6-1994; Ord. No. 2009-6, 8-19-2009)

Sec. 36-193. Approval, maintenance, etc., of pretreatment and flow control facilities.

(a) Where pretreatment or equalization of wastewater flow prior to discharge into any part of the wastewater treatment system is required, plans, specifications and other pertinent data or information relating to such pretreatment or flow-control facilities shall first be submitted to the town for review and approval. Such approval shall not exempt the discharge [296]or such facilities from compliance with any applicable code, ordinance, rule, regulation or order of any governmental authority. Any subsequent alterations or additions to such pretreatment or flow-control facilities shall not be made without due notice to, and prior approval of, the town.

(b) If pretreatment or flow-control is required, the town may, at its discretion, require, review and approve the design and installation of equipment and processes. The design and installation of equipment and processes shall conform to all applicable statutes, town codes, ordinances and other laws. Any person responsible for discharges requiring pretreatment, flow-equalizing or other facilities shall provide and maintain the facilities in effective operating condition, at his own expense. The town shall be allowed access to these facilities at all times. The industrial user shall have no more than 120 days to submit plans and specifications to the town after it receives notification from the town that pretreatment will be required. After approval of plans and specifications by the town, the industrial user shall have no more than 180 days to have the proposed pretreatment system in operation.

(c) Any failure to comply with this section in its entirety will result in the town's rejection of the wastewater for treatment at the wastewater treatment plant by terminating service.

(Code 1992, § 29-157; Ord. of 9-6-1994)

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[296] Should this be “of” or is “or” correct?

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Sec. 36-194. Dilution prohibition.

No industrial user shall ever increase the use of process water, or in any way attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with a pretreatment standard or requirement. The town, as defined in 40 CFR section 403.12(a), may impose mass limitations on industrial users which are using dilution to meet applicable pretreatment standards or requirements, or in other cases where the imposition of mass limitations is appropriate.

(Code 1992, § 29-158; Ord. of 9-6-1994)

Sec. 36-195. Observation, sampling and measuring facilities.

When required by the town, a significant industrial user shall install a suitable control manhole, sampling chamber and flow measurement device to facilitate observation, sampling and measurement of wastes. Such facilities shall meet the requirements of applicable town ordinances and codes. Plans and specifications for such facilities shall be submitted to the town for approval 60 days after receiving notification from the town of the requirement. The facilities shall be constructed and in operation within 120 days after the approval of the plans and specifications. Failure to comply with the time schedules detailed in this section will result in the town's rejection of the wastewater for treatment at the wastewater treatment plant by terminating service.

(Code 1992, § 29-159; Ord. of 9-6-1994)

Sec. 36-196. Sampling, grab samples and analyses.

(a) The discharges of each significant user shall be sampled two times annually for purposes of determining user charge costs, industrial cost recovery charges and compliance with this article. In addition, analysis may be required by the town if any problem, or apparent problem, develops with an industrial user's discharge. All wastewater samples must be representative of the user's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean and maintained in good working order at all times. The failure of a user to keep its monitoring facility in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge.

(b) Grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfite, temperature, and volatile organics. For all other pollutants, 24-hour composite samples must be obtained through flow-proportional composite sampling techniques, where feasible. The town, as deemed in 40 CFR section 404.12(a), may waive flow-proportional composite sampling for any industrial user that demonstrates that flow-proportional composite sampling techniques are infeasible. In such cases, samples may be obtained through time-proportional composite sampling techniques or through a minimum of four grab samples where the user demonstrates that this will provide a representative sample of the effluent being discharged. The user shall take a minimum of one representative sample to compile that data necessary to comply with the requirements of this subsection.

(c) All sampling and analyses shall be performed as prescribed in 40 CFR part 136, or in accordance with procedures approved by the EPA if 40 CFR 136 does not contain sampling or analytical techniques for the pollutant in question. The cost of sample collection and analysis shall be borne by the user sampled.

(d) Representatives of the POTW shall be authorized to enter the premises of any industrial user in which a discharge source or treatment system is located, or in which records are required to be kept under this article, to ensure compliance with pretreatment standards. Such authority shall be at least as extensive as the authority provided under the Clean Water Act, section 308 (33 U.S.C. section 1318).

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(e) Within 30 days of approval by the approval authority of the list of significant industrial users, under 40 CFR 403.8(f)(6), the town shall notify each significant industrial user of its status as such and of all the requirements applicable to it as a result of such status.

(f) All industrial users shall promptly notify the town in advance of any substantial change in the volume or character of pollutants in their discharge, including the listed or characteristic hazardous wastes for which the industrial user has submitted notification under 40 CFR 403.12(p).

(g) All users (categorical and significant noncategorical) shall submit to the town, at least once every six months (on dates specified by the town), a description of the nature, concentration and flow of the pollutants required to be reported by the town. These reports shall be based on the sampling and analysis performed in the period covered by the report, and performed in accordance with the techniques described in 40 CFR part 136, and amendments thereto. Where 40 CFR part 136 does not contain sampling or analytical techniques for the pollutant in question, or where the town determines that the part 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analysis shall be performed by using validated analytical methods or any other applicable sampling and procedures, including procedures suggested by the town and approved by the EPA. This sampling and analysis may be performed by the town in lieu of the significant noncategorical industrial user. Where the POTW collects all the information required for the report, the noncategorical significant industrial user will not be required to submit the report.

(h) The industrial user shall notify the town, the EPA Regional Waste Management Division director, and the state hazardous waste authorities, in writing, of any discharge into the POTW of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR part 261. Such notification must include the name of the hazardous waste set forth in 40 CFR part 261, the hazardous waste number and the type of discharge (continuous, batch or other). If the industrial user discharges more than 100 kilograms of such waste per calendar month to the POTW, the notification shall also contain the following information, to the extent such information is known and readily available to the industrial user: an identification of the hazardous constituents contained in the waste, an estimation of the mass and concentration of such constituents in the wastestream discharged during that calendar month, and an estimation of the mass of constituents in the wastestream expected to be discharged during the following 12 months. All notifications must take place within 180 days after the discharge of the listed or characteristic hazardous wastes. Any notification under this subsection need be submitted only once for each hazardous waste discharged; however, notification of changed discharges must be submitted under 40 CFR 403.12(j). The notification requirement in this section does not apply to pollutants already reported under the self-monitoring requirements of 40 CFR 403.12(b), (d) and (e).

(i) If sampling performed by a user indicates a violation, the user must notify the town within 24 hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the town within 30 days after becoming aware of the violation. Resampling by the industrial user is not required if the town performs sampling at the user's facility at least once a month, or if the town performs sampling of the user between the time when the initial sampling was conducted and the time when the user or the town receives the results of this sampling.

(j) For sampling required in support of baseline monitoring and 90-day compliance reports required in 40 CFR 403.12(b) and (d), a minimum of four grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic compounds for facilities for which historical sampling data do not exist; for facilities for which historical sampling data are available, the town may authorize a lower minimum.

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(k) If a user subject to the reporting requirement in this article monitors any regulated pollutant at the appropriate sampling location more frequently than required by the town, using the procedures prescribed in 40 CFR part 136, the results of this monitoring shall be reported to the town.

(l) The town may authorize an industrial user subject to a categorical pretreatment standard to forego sampling of a pollutant regulated by a categorical pretreatment standard if the industrial user has demonstrated through sampling and other technical factors that the pollutant is neither present nor expected to be present in the discharge, or is present only at background levels from intake water and without any increase in the pollutant due to activities of the industrial user (see 40 CFR 403.12(e)(2)). This authorization is subject to the following conditions:

(1) The waiver may be authorized where a pollutant is determined to be present solely due to sanitary wastewater discharged from the facility provided that the sanitary wastewater is not regulated by an applicable categorical standard and otherwise includes no process wastewater.

(2) The monitoring waiver is valid only for the duration of the effective period of the individual wastewater discharge permit, but in no case longer than five years. The user must submit a new request for the waiver before the waiver can be granted for each subsequent individual wastewater discharge permit.

(3) In making a demonstration that a pollutant is not present, the industrial user must provide data from at least one sampling of the facility's process wastewater prior to any treatment present at the facility that is representative of all wastewater from all processes.

(4) The request for a monitoring waiver must be signed in accordance with section 36-187, and include the certification statement in section 36-202 (4)d (40 CFR 403.6(a)(2)(ii)).

(5) Non-detectable sample results may be used only as a demonstration that a pollutant is not present if the EPA approved method from 40 CFR part 136 with the lowest minimum detection level for that pollutant was used in the analysis.

(6) Any grant of the monitoring waiver by the town must be included as a condition in the user's permit. The reasons supporting the waiver and any information submitted by the user in its request for the waiver must be maintained by the town for three years after expiration of the waiver.

(7) Upon approval of the monitoring waiver and revision of the user's permit by the town, the industrial user must certify on each report with the statement in section 36-202(f), that there has been no increase in the pollutant in its wastestream due to activities of the industrial user.

(8) In the event that a waived pollutant is found to be present or is expected to be present because of changes that occur in the user's operations, the user must immediately: Comply with the monitoring requirements of subsection (a) of this section, or other more frequent monitoring requirements imposed by the town, and notify the town.

(9) This provision does not supersede certification processes and requirements established in categorical pretreatment standards, except as otherwise specified in the categorical pretreatment standard.

(Code 1992, § 29-160; Ord. of 9-6-1994; Ord. No. 2009-6, 8-19-2009)

Sec. 36-197. Authority of town agents.

Duly authorized agents of the town, bearing credentials and identification, shall:

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(1) Be permitted to gain access to such properties in a timely manner as may be necessary for the purpose of inspection, observation, measurement, sampling and testing, in accordance with provisions of this article.

(2) Observe all reasonable and generally accepted safety rules applicable to the premises established by the industrial user or other user.

(3) Be permitted to enter all private properties through which the town holds a duly negotiated easement for the purpose of, but not limited to, inspection, observation, records examination and copying, measurement, sampling, repair and maintenance of any portion of the wastewater works lying within such easement. All entry and subsequent work, if any, on such easement shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

(Code 1992, § 29-161; Ord. of 9-6-1994; Ord. No. 2009-6, 8-19-2009)

Sec. 36-198. Termination of service.

(a) The town reserves the right to immediately terminate water and wastewater disposal services and disconnect a customer from the system when any of the following conditions or circumstances exists:

(1) Acids or chemicals damaging to sewer lines or treatment processes are released into the sewer, causing rapid deterioration of these structures or interfering with proper conveyance and treatment of wastewater.

(2) A governmental agency informs the town that effluent from the wastewater treatment plant is no longer of a quality permitted for discharge into a watercourse, and it is found that the user is delivering wastewater to the POTW system that cannot be sufficiently treated, or requires treatment that is not provided by the POTW as normal domestic treatment.

(3) The user discharges industrial waste or wastewater that is in violation of the permit issued by the town and this article.

(4) The user discharges wastewater at an uncontrolled, variable rate in sufficient quantity to cause an imbalance in the wastewater treatment system.

(5) The user fails to pay his bill for water and sanitary sewer services when due.

(6) The user repeats a discharge of prohibited wastes into public sewers.

(b) If the user's service is discontinued pursuant to subsection (a)(2) of this section, the town shall supply the user with the governmental agency's report and other pertinent information. Service to the user shall not thereafter be provided until pretreatment facilities approved by the town are in satisfactory operation and the objections specified have been eliminated.

(Code 1992, § 29-162; Ord. of 9-6-1994)

Sec. 36-199. Discharge permit--Required.

All significant industrial users proposing to connect to or discharge into any part of the wastewater treatment system must first obtain a discharge permit.

(Code 1992, § 29-163; Ord. of 9-6-1994)

Sec. 36-200. Same--Application.

Significant industrial users seeking a wastewater discharge permit shall complete and file with the town an application on the form prescribed by the town, and accompanied by the applicable fee. Proposed new significant industrial users and categorical industrial users shall apply for a permit and submit a baseline monitoring report at least 90 days prior to connecting to,

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or contributing to, the treatment works. In support of this application and baseline monitoring report, the user shall submit the following information:

(1) Name, address and SIC number of applicant.

(2) A list of other environmental permits held by the facility.

(3) Volume of wastewater to be discharged.

(4) Wastewater constituents and characteristics including, but not limited to, those set forth in section 36-190, as determined by a laboratory approved by the town.

(5) Time and duration of discharge.

(6) Average and peak wastewater flow rates, including daily, monthly and seasonal variations, if any.

(7) Site plans, floor plans, mechanical and plumbing plans and details to show all sewers and appurtenances by size, location and elevation.

(8) Description of activities, facilities and plant processes on the premises, including all materials and types of materials which are, or could be, discharged.

(9) Each product produced, by type, amount and rate of production.

(10) Number and type of employees and hours of work.

(11) The nature and concentration of any pollutants in the discharge. A statement identifying the applicable pretreatment standards and requirements, and a statement regarding whether or not the pretreatment standards are being met on a consistent basis and if not, whether additional O&M and/or additional pretreatment is required for the user to meet the applicable pretreatment standards.

(12) If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment[297]. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard.

(13) Any other information deemed by the town to be necessary to evaluate the permit application.

(Code 1992, § 29-164; Ord. of 9-6-1994; Ord. No. 2002-7 of 8-6-2002; Ord. No. 2009-6, 8-19-2009)

Sec. 36-201. Same--Evaluation of data; issuance.

The town will evaluate the data furnished by the user and may require additional information. After evaluation and acceptance of the data furnished, the town may issue a wastewater discharge permit, subject to the terms and conditions provided in this article.

(Code 1992, § 29-165; Ord. of 9-6-1994)

Sec. 36-202. Same--Conditions.

Wastewater discharge permits shall be expressly subject to all provisions of this article and all other regulations, user charges, industrial cost recovery and fees established by the town. The conditions of wastewater discharge permits shall be uniformly enforced in accordance with this article and applicable state and federal regulations. Permit conditions will include the following:

(1) The average and maximum wastewater constituents and characteristics.

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[297] This is an incomplete sentence. Please complete the sentence.

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(2) Limits on rate and time of discharge or requirements for flow regulations and equalization.

(3) Requirements for installation of inspection and sampling facilities and specifications for monitoring programs.

(4) Requirements for maintaining and submitting technical reports and plant records relating to wastewater discharge. These reports and their submissions shall meet all of the requirements of 40 CFR 403.12 and section 7.9, VR 680-14-01, incorporated by reference. In particular, the following specific reporting requirements shall be met, as appropriate:

a. *Notice of potential problems.* All categorical and noncategorical industrial users shall notify the town immediately of all discharges that could cause problems to the POTW, including any slug loadings, as defined in 40 CFR 403.5(b), by the industrial user.

b. *Notice of change in discharge.* All industrial users shall promptly notify the town at least 60 days in advance of any substantial change in the volume or character of pollutants in their discharge or in the case of potential for a slug discharge. The town may require the user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application. The town may issue a wastewater discharge permit or modify an existing wastewater discharge permit in response to changed conditions, or anticipated changed conditions.

c. *Report from noncategorical industrial users.* The town shall require appropriate reporting from those industrial users that are not subject to categorical pretreatment standards.

d. *Signatory and certification requirements.* The reports and permit applications required by section 36-200 and the reports required by this subsection shall include a certification statement as set forth in 40 CFR 403.6(a)(2) and shall be signed by an authorized representative of the industrial user. The authorization must be submitted to the town, in writing, and must name a responsible person or position. Whenever the authorization of this section is no longer accurate, a new authorization must be submitted to the town prior to, or together with, any reports to be signed by the authorized representative. Reports submitted to the approval authority by the town shall be signed by a principal executive officer, ranking elected official or other duly authorized employee if such employee is responsible for overall operation of the POTW and shall include the following certification statement:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

e. *Annual certification for non-significant categorical industrial users.* A facility determined to be a non-significant categorical industrial user by the town pursuant to the definition in section 36-187, must annually submit the following certification statement signed in accordance with the signatory requirements in section 36-187

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(Definition of the term "authorized or duly authorized representative of the user"). This certification must accompany an alternative report required by the town:

"Based on my inquiry of the person or persons directly responsible for managing compliance with the categorical pretreatment standards under 40 CFR 403, I certify that, to the best of my knowledge and belief that during the period from _____, ___ to _____, ____ [months, days, year]:

1. The facility described as _____ [facility name] met the definition of a non-significant categorical industrial user as described in section 36-187;
2. The facility complied with all applicable pretreatment standards and requirements during this reporting period; and
3. The facility never discharged more than 100 gallons of total categorical wastewater on any given day during this reporting period.

This compliance certification is based on the following information:

(Facility to add supporting information)

_____

_____

_____ "

f. *Certification of pollutants not present.* Users that have an approved monitoring waiver based on section 36-196(l) must certify on each report with the following statement that there has been no increase in the pollutant in its wastestream due to activities of the user.

"Based on my inquiry of the person or persons directly responsible for managing compliance with the pretreatment standard for 40 CFR _____ [specify applicable National Pretreatment Standard part(s)], I certify that, to the best of my knowledge and belief, there has been no increase in the level of _____ [list pollutant(s)] in the wastewaters due to the activities at the facility since filing of the last periodic report under Section 36-196(g)."

g. *Record of retention.* Any industrial user or POTW subject to these reporting requirements established shall retain, for a minimum of three years, any records of monitoring activities and results, whether or not such monitoring activities are required by this section, and shall make such records available for inspection and copying by the department of environmental quality, and by the town, in the case of an industrial user. The records shall include the date, exact place, method and time of sampling, and the name of the persons taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. This period of retention shall be extended during the course of any unresolved litigation regarding the industrial user, or town, or when requested by the department of environmental quality.

(5) The town must randomly sample and analyze the effluent from industrial users and conduct surveillance activities in order to identify, independent of information supplied by industrial users, occasional and continuing noncompliance with pretreatment standards. The town must sample the effluent from each significant industrial user at least twice a year and inspect each significant industrial user at least once per year. The results of such activity shall be available to the approval authority upon request. If required by the town, a slug control plan shall contain, at a minimum, the following elements:

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a. Description of discharge practices, including nonroutine batch discharges;

b. Description of stored chemicals;

c. Procedures for immediately notifying the town of slug discharges, including any discharge that would violate a prohibition under 40 CFR 403.5(b), with procedures for follow-up written notification within five days;

d. If necessary, procedures to prevent adverse impact from accidental spills, including inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants (including solvents), and/or measures and equipment for emergency responses.

For the purpose of this subsection, the term "slug discharge" means any discharge of a nonroutine, episodic nature, including, but not limited to, an accidental spill or a noncustomary batch discharge.

(6) Daily average and daily maximum discharge rates, or other appropriate conditions, when pollutants subject to limitations and prohibitions are proposed or are present in the user's wastewater discharge.

(7) Compliance schedules.

(8) Other conditions to ensure compliance with this article.

(9) Control by the town, through permit, order, or similar means, the contribution to the POTW by the industrial user to ensure compliance with the applicable pretreatment standard and requirements. In the case of industrial users identified as significant under 40 CFR 403.3(t), this control shall be achieved through permits issued to each such user. Such control mechanisms must be enforceable and contain, in minimum, the following conditions:

a. Statement of duration (in no case more than five years).

b. Statement of nontransferability without, at a minimum, prior notification to the town and provision of a copy of the existing control mechanism to the new owner or operator.

c. Effluent limits based on applicable general pretreatment standards in part 403 of 40 CFR, categorical pretreatment standards, local limits and state and local laws.

d. Self-monitoring, sampling, reporting, notification and recordkeeping requirements, including an identification of the pollutants to be monitored, sampling location, sampling frequency and sample type, based on the applicable general pretreatment standards in part 403 of 40 CFR, categorical pretreatment standards, local limits and state and local law.

e. Requirements to control slug discharge, if determined by the town to be necessary, and requirements for immediate notification of slug discharges.

f. Statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements, and any applicable compliance schedule. Such schedules may not extend the compliance date beyond the applicable federal guidelines.

g. The process for seeking a waiver from monitoring for a pollutant neither present, nor expected to be present, in the discharge in accordance with section 36-196(l).

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h. Any grant of the monitoring waiver by the town (section 36-196(l)) must be included as a condition in the user's permit.

(10) New or increased contributions can be denied or conditioned by the town.

(Code 1992, § 29-166; Ord. of 9-6-1994; Ord. No. 2002-7, 8-6-2002; Ord. No. 2009-6, 8-19-2009)

Sec. 36-203. Same--Duration; extension; modification.

Wastewater discharge permits shall be issued for a specified time period, not to exceed five years. The town shall notify the user 180 days prior to permit expiration. Within 90 days of the notification, the user shall reapply for reissuance of the permit on a form provided by the town. The terms and conditions of the permit may be subject to modification and change by the town during the life of the permit as limitations or requirements, as identified in section 36-190, are modified and changed. The significant industrial user shall be informed of any proposed changes in its permit at least 30 days prior to the effective date of the change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance. The town may modify a permit for good cause, including, but not limited to, the following reasons:

(1) To incorporate any new or revised federal, state or local pretreatment standards or requirements;

(2) A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge; or

(3) To correct typographical or other errors in the individual wastewater discharge permit.

(Code 1992, § 29-167; Ord. of 9-6-1994; Ord. No. 2009-6, 8-19-2009)

Sec. 36-204. Same--Transfer.

Wastewater discharge permits are issued to a specific significant industrial user for a specific operation. A wastewater discharge permit shall not be reassigned or transferred or sold to a new owner, new user, different premises or a new or changed location.

(Code 1992, § 29-168; Ord. of 9-6-1994)

Sec. 36-205. Same--Revocation.

Any significant industrial user who violates the conditions of his permit or of this article, or of applicable state and federal regulations, is subject to having his permit revoked. Violations subjecting a user to possible revocation of his permit include, but are not limited to, the following:

(1) Failure of a user to accurately report the wastewater constituents and characteristics of his discharge.

(2) Failure of the user to report significant changes in operations and wastewater constituents and characteristics.

(3) Refusal of reasonable access to the user's premises for the purpose of inspection or monitoring.

(4) Violation of conditions of the permit.

(Code 1992, § 29-16; Ord. of 9-6-1994)

[298]Sec. 36-206. Same--Appeals.

(a) *Permit appeals.*

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[298] To whom or to what entity in the town is the appeal filed? Town Manager.

PROOFS

(1) The permittee may petition to appeal the terms of the permit within 30 days of the notice. This petition must be in writing; failure to submit a petition for review shall be deemed to be a waiver of the appeal. In its petition, the permittee must indicate the permit provisions objected to, the reasons for this objection and the alternative condition, if any, it seeks to be placed in the permit.

(2) The effectiveness of this permit shall not be stayed pending a reconsideration by the town. If, after considering the petition and any arguments put forth by the permittee, the town determines that reconsideration is proper, it shall reissue the permit. Those permit provisions being reconsidered by the town shall be stayed pending reissuance.

(3) A town decision not to reconsider a final permit shall be considered final administrative action for purposes of judicial review. The permittee seeking judicial review of the town's final action must do so by filing a complaint with the circuit court for the county within 30 days.

(b) *Penalty or enforcement appeals.* Any user who feels aggrieved by an order issued under sections 36-188 or 36-189 of this article may, within ten days file, an appeal in writing with the town who shall review the matter at the earliest possible time and vote to affirm, reverse or modify the order in question.

(Code 1992, § 29-170; Ord. of 9-6-1994; Ord. No. 2009-6, 8-19-2009)

Sec. 36-207. Hauled waste.

(a) Septic tank waste may be introduced into the POTW only at locations designated by the town, and at such times as are established by the town. Such waste shall not violate section [299]2 of this article, or any other requirements established by the town. The town may require septic tank waste haulers to obtain individual wastewater discharge permits for general permits.

(b) The town may require haulers of industrial waste to obtain individual wastewater discharge permits. The town may require generators of hauled industrial waste to obtain individual wastewater discharge permits. The town also may prohibit the disposal of hauled industrial waste. The discharge of hauled industrial waste is subject to all other requirements of this article.

(c) Industrial waste haulers may discharge loads only at locations designated by the town. No load may be discharged without prior consent of the town. The town may collect samples of each hauled load to ensure compliance with applicable standards. The town may require the industrial waste hauler to provide a waste analysis of any load prior to discharge.

(d) Industrial waste haulers must provide a waste-tracking form for every load. This form shall include, at a minimum, the name and address of the industrial waste hauler, permit number, truck identification, names and addresses of sources of waste, and volume and characteristics of waste. The form shall identify the type of industry, known or suspected waste constituents, and whether any wastes are RCRA hazardous wastes.

(Code 1992, § 29-171; Ord. of 9-6-1994; Ord. No. 2009-6, 8-19-2009)

Sec. 36-208. Bypass.

(a) *Definitions.* For the purpose of this section:

Bypass means the intentional diversion of wastestreams from any portion of a user's treatment facility.

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[299] This is apparently section 2 of the ordinance which we do not have. Please insert the correct section number of the new Code.

PROOFS

Severe property damage.

(1) The term "severe property damage" means substantial physical damage to property, damage to the treatment facilities which cause them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass.

(2) The term "severe property damage" does not mean economic loss caused by delays in production.

(b) *Allowance.* A user may allow any bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it also is for essential maintenance to ensure efficient operation. These bypasses are not subject to the provision of subsections (c) and (d) of this section.

(c) *Notice.*

(1) If a user knows in advance of the need for a bypass, they shall submit prior notice to the town at least ten days before the date of the bypass, if possible.

(2) A user shall submit oral notice to the town of an unanticipated bypass that exceeds applicable pretreatment standards within 24 hours from the time it becomes aware of the bypass. A written submission shall also be provided within five days of the time the user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate and prevent reoccurrence of the bypass.

(d) *Prohibited; exceptions.*

(1) Bypass is prohibited, and the town may take an enforcement action against a user for a bypass, unless:

a. Bypass was unavoidable to prevent loss of life, personal injury or severe property damage;

b. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate backup equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

c. The user submitted notices, as required under subsection (c) of this section.

(2) The town may approve an anticipated bypass, after considering its adverse effects, if the town determines that it will meet the three conditions listed in subsection (d)(1) of this section.

(Code 1992, § 29-172; Ord. of 9-6-1994)

Sec. 36-209. Upset.

(a) For the purposes of this section, the term "upset" means an exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards because of factors beyond the reasonable control of the user. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

PROOFS

(b) An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical pretreatment standards if the requirements of subsection (c) of this section are met.

(c) A user who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs or other relevant evidence, that:

(1) An upset occurred and the user can identify the causes of the upset;

(2) The facility was, at the time, being operated in a prudent and workmanlike manner, and in compliance with applicable operation and maintenance procedures; and

(3) The user has submitted the following information to the town within 24 hours of becoming aware of the upset. If this information is provided orally, a written submission must be provided within five days.

a. A description of the indirect discharge and cause of noncompliance.

b. The period of noncompliance, including exact dates and time, or, if not corrected, the anticipated time the noncompliance is expected to continue.

d. Steps being taken and/or planned to reduce, eliminate and prevent recurrence of the noncompliance.

(d) In any enforcement proceeding, the user seeking to establish the occurrence of an upset shall have the burden of proof, where allowed by law.

(e) Users will have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with categorical pretreatment standards.

(f) Users shall control production of all discharges to the extent necessary to maintain compliance with categorical pretreatment standards upon reduction, loss or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is lost or fails.

(Code 1992, § 29-173; Ord. of 9-6-1994)

Sec. 36-210. Costs.

All costs associated with industrial pretreatment, sampling, monitoring, analyses, construction, enforcement, cleanups or other items directly related to the users of the POTW shall be paid for by the user. Costs that are directly incurred by the town will be billed to the responsible user. These may include:

(1) Fees for wastewater discharge permit applications, including the cost of processing such applications;

(2) Fees for monitoring, inspection and surveillance procedures, including the cost of collection and analyzing a user's discharge, and reviewing monitoring reports and certification statements submitted by users;

(3) Fees for reviewing and responding to accidental discharge procedures and construction;

(4) Fees for filing appeals;

(5) Fees to recover administrative and legal costs (not included in subsection (3) of this section) associated with the enforcement activity taken by the town to address IU noncompliance; and

(6) Other fees as the town may deem necessary to carry out the requirements contained herein. These fees relate solely to the matters covered by this article and are separate from all other fees, fines and penalties chargeable by the town.

PROOFS

(Code 1992, § 29-174; Ord. of 9-6-1994; Ord. No. 2009-6, 8-19-2009)

[300]Sec. 36-211. ~~Miscellaneous Provisions~~ Severability.

~~*Severability.*~~ If any provision of this article is invalidated by any court of competent jurisdiction, the remaining provisions shall not be affected and shall continue in full force and effect.

(Code 1992, § 29-175; Ord. No. 2009-6, 8-19-2009)

Secs. 36-212--36-228. Reserved.

ARTICLE VIII. WATER CONSERVATION

Sec. 36-229. Authority.

The town manager, after notifying town council, has authority to declare drought or emergency water supply conditions and impose voluntary and mandatory water conservation measures, as set forth in this plan.

(Ord. No. 2011-5, § 29-176, 10-11-2011)

Sec. 36-230. Water supply and drought stages.

The following section explains the indicators or triggers that the town manager may consider when implementing a specific stage and the actions that would be initiated for each stage.

(1) *Stage 1—Watch.*

a. The drought and water supply watch stage is intended to increase public awareness of climatic conditions that are likely to precede the occurrence of a significant drought event.

b. Indicators that may trigger a watch are as follows:

1. Monitoring and comparing water intake and treatment with water usage.

2. Precipitation deficits (percent of normal precipitation) < 75.0-85.0 percent, depending on time of year; determined using comparisons based on data compiled by the office of the state climatologist.

3. Representative daily stream flows for source water fall between the 10th and 25th percentile for return flow frequencies. Stream flows are monitored by utilizing the USGS gauging station (03171000) located at Radford, Virginia.

4. NOAA Drought Index D1, moderate drought.

5. Utilize additional drought indicators such as Standardized Precipitation Index, Palmer Drought Index, and NOAA monthly and seasonal precipitation outlooks.

c. When a drought watch declaration is warranted, the following actions may be initiated:

1. Public outreach to inform customers of potential drought conditions and water conservation activities that may be utilized. (bill inserts, town Facebook and/or web pages, newspaper, etc.).

2. Monitor USGS data for in-stream flows daily.

3. Limit non-essential government use.

PROOFS

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[300] Delete as there is a general severability clause for the entire Code in chapter 1? Keep as is.

4. Notify major water users of the drought condition.
5. Increase resources to identify and correct water leaks.
6. Encourage use of water recyclers (rain barrels, gray water, etc.) for non-potable uses.

(2) *Stage 2—Warning (voluntary).*

a. The drought and water supply warning stage is declared when the onset of a significant drought event is imminent. The town will request voluntary water conservation activities with a goal of reducing water use five to ten percent.

b. Indicators that may trigger a warning are as follows:

1. Precipitation deficits (< 65.0-75.0 percent, depending on time of year); determined using comparisons based on data compiled by the office of the state climatologist.
2. Representative daily stream flows fall between the fifth and tenth percentile for return flow frequencies. Stream flows are monitored by utilizing the USGS gauging station (03171000) located at Radford, Virginia.
3. NOAA Drought Index D2, severe drought
4. Continue to monitor drought indicators listed above.
5. Continue to monitor and compare water intake and treatment with water usage.

c. When a drought warning declaration is warranted, the following actions may be initiated:

1. Continue measures from stage 1.
2. Implement voluntary water use restrictions for all non-essential outdoor water use. (Examples: irrigation, washing car, washing sidewalks and driveways, etc.).
3. Limit water use for recreational activities (examples: swimming pools, golf courses, etc.).

(3) *Stage 3—Emergency (mandatory).*

a. The drought and water supply emergency stage is declared during the height of a significant drought event or loss of water supply due to emergency situations. Mandatory water conservation activities will be identified with a goal of reducing water use ten to 15 percent.

b. Indicators that may trigger an emergency are as follows:

1. Emergency situation that significantly affects, or may affect, the town's water supply (which includes the water treatment plant, source water or distribution system).
2. Precipitation deficits (< 55.0-65.0 percent, depending on time of year); determined using comparisons based on data compiled by the office of the state climatologist.
3. Representative daily stream flows below the 5th percentile for return flow frequencies. Stream flows are monitored by utilizing the USGS gauging station (03171000) located at Radford, Virginia.
4. NOAA Drought Index D3, extreme drought, or greater.

PROOFS

5. Continue to monitor drought indicators listed above.

6. Water authority notifies the town that source water level is near or below water intake.

7. Water intake and treatment is less than historical water demand

c. When a drought or water supply emergency declaration is warranted, the following actions may be initiated:

1. Continue measures from stages 1 and 2.

2. Prohibit all non-essential outdoor water use including:

(i) Washing vehicles.

(ii) Irrigation for lawns, gardens and plantings.

(iii) Recreational uses, including refilling swimming pools.

(iv) Washing decks, sidewalks and driveways.

3. Require mandatory water use restrictions on major water users for non-essential functions.

(Ord. No. 2011-5, § 29-177, 10-11-2011)

Sec. 36-231. Additional measures.

If measures outlined in this article are insufficient to reduce demand and preserve sufficient supplies of water for citizens, this section outlines additional measures that may be implemented during critical periods:

(1) Limit new water mains and water taps.

(2) Implement conservation water rate.

(3) Implement a water restrictions hotline.

(4) Encourage use of non-potable water sources for construction activities and bulk water uses.

(Ord. No. 2011-5, § 29-178, 10-11-2011)

Sec. 36-232. Violations and penalties.

The following summarizes those actions and penalties that will be imposed upon violators of the declared emergency stage of the drought and water supply management ordinance:

(1) For the first offense, a violator shall receive a written warning delivered in person or posted by a town employee.

(2) For the second offense, a violator shall be assessed a civil penalty of $100.00, to be imposed on the violator's next water bill, or, in the case of violators not on the public water system, to be assessed by a written notice.

(3) For the third offense, a violator shall be assessed a civil penalty of $250.00 for each offense, to be imposed on the violator's next water bill, or, in the case of violators not on the public water system, to be assessed by a written notice.

(4) Each violation by a person shall be counted as a separate violation by that person, regardless of the location at which the violation occurs.

(Ord. No. 2011-5, § 29-179, 10-11-2011)

PROOFS

Sec. 36-233. Appeals.

Upon declaration of a drought emergency or water supply emergency, the town council shall establish an appeals review board to review applications for exemptions from required conservation measures and appeals of fines and to consider appeals of penalties assessed.

(Ord. No. 2011-5, § 29-180, 10-11-2011)

Sec. 36-234. Public notice and duration of restrictions.

Declaration of drought stages, a water supply emergency or conservation measures by the town manager, or ~~the manager's~~ his designee, shall become effective upon notification being printed in newspaper of general circulation within locality, town social media and/or web page, and/or broadcast upon radio or television station serving the locality. Any prohibitions or restrictions shall remain in effect until the town manager determines that a water emergency in the locality no longer exists.

(Ord. No. 2011-5, § 29-181, 10-11-2011)

Secs. 36-235--36-261. Reserved.

ARTICLE IX. FRANCHISES

~~Chapter 21~~

~~[301]PUBLIC UTILITIES*~~

***Charter reference**—Franchises, § 3.13; regulation of public utilities, § 4.06.

~~**Cross reference**—Administration, ch. 2; community antenna television, § 6-86 et seq.; buildings, ch. 9; utility tax, § 11-46 et seq.; licenses generally, ch. 15; openings in streets and sidewalks, § 25-66 et seq.; review and approval process for subdivision plats, § 26-6; water and sewers, ch. 29.~~

State law reference—Use of public property, Code of Virginia, § 15.2-2018; restrictions on granting franchises, Code of Virginia, § 15.2-2100 et seq.

~~Sec. 21-1. "Company" defined.~~

~~Sec. 21-2. Compliance with chapter, etc.~~

~~Sec. 21-3. Incorporation of certain codes and ordinances by reference; conflicts between codes.~~

~~Sec. 21-4. Interrupting service for the purpose of making repairs or installations.~~

~~Sec. 21-5. Laying of pipes, conduits, etc; permits.~~

~~Sec. 21-6. Quality of gas furnished; odorizing of gas.~~

~~Sec. 21-7. Relocation of lines, etc., upon altering of street by Town.~~

~~Sec. 21-8. Maps of underground mains, conduits, etc.~~

~~Sec. 21-9. Transfers of plants, franchises, etc.~~

~~Sec. 21-10. Revocation of franchise rights for violation of chapter, etc.~~

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[301] Is this chapter still in effect and enforced? The subject of franchises, etc. appears to be adequately regulated in Code of Virginia, § 15.2-2100 et seq. Leave.

PROOFS

~~ARTICLE I. IN GENERAL~~

~~ARTICLE II. FRANCHISES~~

Sec. 36-262. "Company" defined.

As used in this article, the term "company" means the grantee of rights under any franchise granted by the town.

(Code 1972, § 24-1; Code 1992, § 21-1)

~~**Cross reference** – Definitions and rules of construction generally, § 1-2.~~

Sec. 36-263. Compliance with chapter, etc.

Every company furnishing heat, gas, a television system, telephonic and telegraphic communications for domestic, commercial and industrial consumption and use in the town shall comply with all of the provisions of this chapter and with all regulations, conditions, standards, qualifications and measures provided in this chapter or incorporated in this chapter by reference.

(Code 1972, § 24-2; Code 1992, § 21-2)

Sec. 36-264. Incorporation of certain codes and ordinances by reference; conflicts between codes.

(a) The building code, the subdivision ordinance, the zoning ordinance and any and all standards, specifications and qualifications therein referred to are hereby incorporated by reference and made a part to this chapter, and all companies and utilities shall be regulated by all the provisions applicable thereto, as if such regulations, etc., were fully set out in this chapter.

(b) Every company shall maintain and operate its plant and system and shall render efficient service in accordance with the provisions of this chapter, and with such provisions and regulations as may be set forth by the town, and with the regulations and provisions which are deemed to establish the generally accepted good practices of the industry as promulgated and set out by the National Fire Protection Association and the Virginia Uniform Statewide Building Code or as they shall be amended. If there is a conflict between such codes, the most restrictive provision thereof which is applicable shall apply.

(Code 1972, § 24-3; Code 1992, § 21-3)

~~**Cross reference** – Buildings, ch. 9; subdivisions, ch. 26; zoning, ch. 30.~~

Sec. 36-265. Interrupting service for the purpose of making repairs or installations.

Whenever it is necessary to shut off or interrupt service for the purpose of making repairs or installations, the company shall do so at such time as will cause the least amount of inconvenience to its consumer, and unless such repairs are unforeseen and immediately necessary, it shall give reasonable notice of the interruption to the consumer.

(Code 1972, § 24-4; Code 1992, § 21-4)

Sec. 36-266. Laying of pipes, conduits, etc.; permits.

All pipes, lines, conduits and equipment of any company, including all necessary parts of any gas system, natural or artificial, or mixed gas equipment, laid or placed in the town shall be located in the streets, alleys and other places in the town so as not to obstruct or interfere with any water pipes, sewer lines, installations or other structures already installed or hereafter to be installed. The company shall, when practicable, avoid the use of any alley, street, highway or public way where the paving or surface of the street would be disturbed, and all installations, repairs and relocation shall be done in accordance with the ordinances of the town pertaining to the opening of streets, alleys or public ways or with the approval of the town manager. The

PROOFS

company and any subcontractors shall obtain a permit from the town for any underground utilities within any public street right-of-way or easement.

(Code 1972, § 24-5; Code 1992, § 21-5)

~~**Cross reference**— Streets and sidewalks, ch. 25; water and sewers, ch. 29.~~

Sec. 36-267. Quality of gas furnished; odorizing of gas.

Gas furnished to consumers shall be of marketable quality and free from impurities; except, that it shall contain some element or compound with an easily detectable odor in an amount sufficient to be noticeable when the gas is released, but not sufficient to be harmful to human and animal life or to interfere with combustion.

(Code 1972, § 24-6; Code 1992, § 21-6)

Sec. 36-268. Relocation of lines, etc., upon altering of street by town.

If, at any time during the period of any franchise of any company, the town shall lawfully elect to construct, alter, widen or change the grade of any street, alley or other public way, the utility, upon reasonable notice by the town, shall remove, relay and relocate its mains, services, pipes, poles, manholes, apparatus and any fixtures at its own expense.

(Code 1972, § 24-7; Code 1992, § 21-7)

~~**Cross reference**— Streets and sidewalks, ch. 25.~~

Sec. 36-269. Maps of underground mains, conduits, etc.

Any company with mains, conduits, wires or any other apparatus or equipment located underground shall make, or cause to be made, a map or plat of the location of all such mains, conduits, etc., or any other apparatus or equipment, and shall keep on file in the office of the town manager or such other place as he may designate, a copy of all such maps or plats~~; and~~.[302] Such company shall periodically revise and bring up-to-date such map or plat so the correct~~ed~~ location of all its lines, mains, conduits, wires or any other apparatus or equipment within the town may be determined.

(Code 1972, § 24-8; Code 1992, § 21-8)

Sec. 36-270. Transfers of plants, franchises, etc.

No company shall sell, transfer its plant or system to another, nor transfer any rights under its franchise without the council's approval. No such sale or transfer shall be [303]asked until the vendee, assignee or lessee has filed with the clerk of council an instrument duly executed reciting the fact of such sale, assignment or lease and acceptance of all the terms of the franchise in force and agreeing to perform all the conditions thereof.

(Code 1972, § 24-9; Code 1992, § 21-9)

Sec. 36-271. Revocation of franchise rights for violation of chapter, etc.

Any company, its vendee, lessee, assigns or successors, violating any of the provisions of this chapter or any other ordinance pertaining to its operation, or any rules or regulations incorporated herein or of other ordinances of the town or any material parts thereof, or who shall fail or refuse to promptly perform any of the provisions hereof, such failure shall be sufficient cause for the town to revoke all the rights granted under their franchise after written notice to the company of its failure to comply and subsequent continuation of the violation, failure or default.

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[302] This sentence was reworded. Please review.

[303] Change “asked” to “pursued.”

PROOFS

(Code 1972, § 24-10; Code 1992, § 21-10)

PROOFS

Chapter 37

RESERVED

PROOFS

Chapter ~~27~~ 38[304]

VEHICLES FOR HIRE

ARTICLE I. IN GENERAL

Secs. 38-1--38-18. Reserved.

ARTICLE II. TAXICABS*

***Charter reference**—Vehicles for hire, § 3.12.

~~**Cross reference**—Licenses generally, ch. 15; traffic and motor vehicles, ch. 28; zoning, ch. 30.~~

State law reference—Local taxicab license, Code of Virginia, § 46.2-310; taxicab license plates, Code of Virginia, § 46.2-711; ~~taxicabs generally, Code of Virginia, § 56-291.1 et seq.; number of taxicabs, Code of Virginia, § 56-291.3:~~ lights permitted on taxicabs, Code of Virginia, § 46.2-1021; insurance, etc. required, Code of Virginia, § 46.2-2053; roof signs and markings for taxicabs, Code of Virginia, § 46.2-2059.1; authority to regulate taxicabs including number of operators and taxicabs, Code of Virginia, § 46.2-2067.

~~Article I. In General~~

~~Sec. 27-1. "Taxicab" defined.~~

~~Sec. 27-2. Off-street places of business; conduct of drivers.~~

~~Secs. 27-3--27-25. Reserved.~~

~~Article II. Licenses~~

~~Sec. 27-26. Required.~~

~~Sec. 27-27. Application.~~

~~Sec. 27-28. Issuance; mounting and display of license plate.~~

~~Sec. 27-29. Signing.~~

~~Sec. 27-30. Transfer.~~

~~Sec. 27-31. Revocation.~~

~~Secs. 27-32--27-50. Reserved.~~

~~Article III. Drivers' Permits~~

~~Sec. 27-51. Required.~~

~~Sec. 27-52. Requirements of applicants.~~

~~Sec. 27-53. Application--Contents.~~

~~Sec. 27-54. Same--To be passed on approved or rejected by Council Town Manager.~~

~~Sec. 27-55. Fee.~~

~~Sec. 27-56. Temporary permit.~~

~~Sec. 27-57. Issuance.~~

~~Sec. 27-58. Cards.~~

~~Sec. 27-59. Expiration date.~~

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[304] Is this chapter still current and correct? Yes. Is it being enforced and are licenses and permits still being issued? Yes.

PROOFS

~~Sec. 27-60. Revocation and suspension.~~

DIVISION 1. GENERALLY

Sec. 38-19. "Taxicab" defined.

For the purposes of this chapter, the term "taxicab" shall be taken to mean any motor-driven vehicle used for the transportation, for hire or reward, of passengers upon the streets of the town, except buses being operated under a franchise and over fixed routes between fixed termini, specially chartered buses and sightseeing buses.

(Code 1972, § 27-1; Code 1992, § 27-1)

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

State law reference—Definition of taxicab, Code of Virginia, § 46.2-2000.

Sec. 38-20. Off-street places of business; conduct of drivers.

(a) Every owner of a taxicab licensed under this chapter shall have a place of business from which to operate the same other than on the streets and alleys of the town, which place of business shall be kept in a legal and orderly manner. No taxicab driver shall solicit business, but shall serve those persons who indicate a desire for the services of the vehicle and may stop at suitable places on the streets for the purpose of taking up passengers who indicate that they want the services of such taxicab. Taxicab drivers, when not serving passengers, shall abstain from parking or loitering on the streets.

(b) All taxicab drivers shall show due courtesy to passengers and give reasonable service to the public, and at all times shall keep their vehicles under proper control and observe and obey all driving and traffic regulations and speed laws in force in the town. Taxicab drivers shall not run risks and take chances in congested traffic and shall give due consideration to pedestrians and other vehicles using the streets and alleys of the town. Taxicab drivers shall avoid stopping and remaining still or parked alongside other parked vehicles for a longer period than is reasonable to discharge or take on passengers. Taxicab drivers shall avoid unnecessary use of automobile horns and use horns only as a warning signal when necessary, and shall make no other noise tending to disturb the public. No taxicab driver, while on duty, shall use profane or vulgar language.

(Code 1972, § 27-2; Code 1992, § 27-2)

Secs. 38-21--38-43. Reserved.

~~ARTICLE II~~ DIVISION 2. LICENSES*

***Charter reference**—Licensing of vehicles for hire, § 3.12.

State law reference—Authority of Council to require taxicab licenses, Code of Virginia, § 56-291.3:2.

Sec. 38-44. Required.

It shall be unlawful for any owner of a motor vehicle used to transport passengers for hire, commonly called a taxicab, to operate or cause the same to be operated on and over the streets and alleys of the town without having first obtained a taxicab license from the town ~~Council~~ manager, authorizing the operation of the particular vehicle on and over the streets and alleys of the town. This provision shall not apply to taxicab operators passing through town or making deliveries only.

(Code 1972, § 27-3; Code 1992, § 27-26)

Sec. 38-45. Application.

(a) *Information required.* For the purpose of obtaining a taxicab license under this article, the owner of the vehicle shall file an application therefor accompanied by the fee required, which application shall show the make of the vehicle proposed to be operated, the type, year model, motor

PROOFS

number, passenger capacity, whether a new or used vehicle, and if a used vehicle, the condition of the same, mileage it has been used, the condition of the tires and whether or not a certificate of operation and a for-hire license has been issued to the applicant by the state department of motor vehicles, indicating the applicant's registration card and state license number and the motor number of the machine so licensed, and such other information as may be required, including the past record of the applicant. In case the applicant is the owner of and desires to operate more than one vehicle, the application shall state the particulars herein required as to each vehicle for which a license is sought.

(b) *Consideration of applicant's past record.* The past record of an applicant for a taxicab license shall be considered by the town ~~council~~ manager in granting or rejecting the application.

(c) *Rejection; limitation of number of taxicabs operated.* The town ~~council~~ manager reserves the right to reject any or all applications for taxicab licenses and to limit the number of taxicabs to be operated on the streets and alleys of the town.

(d) *Return of fee upon rejection.* In case an application for a taxicab license is rejected, the fee filed therewith shall be returned to the applicant.

(Code 1972, §§ 27-4--27-7; Code 1992, § 27-27)

Sec. 38-46. Issuance; mounting and display of license plate.

(a) As to each vehicle licensed as a taxicab under this article, a special taxicab license shall be issued. There shall also be issued a special license plate which shall read as follows:

LICENSED TAXICAB

SER. NO. YEAR

CHRISTIANSBURG

(b) Such license plate shall be mounted ~~on the top of the rear~~ above or below the front state license plate on the vehicle for which it is issued and shall be plainly visible at all times.

(Code 1972, § 27-8; Code 1992, § 27-28)

State law reference—State license plates for taxicabs, Code of Virginia, § 46.2-711.

Sec. 38-47. Signing.

A taxicab license, when granted, shall be signed by the town manager or treasurer.

(Code 1972, § 27-9; Code 1992, § 27-29)

Sec. 38-48. Transfer.

Any town taxicab license issued to any vehicle in pursuance of this article shall not be transferable to another vehicle, except by permission of the town ~~council~~ manager, and then only to a vehicle owned by the same person as the vehicle to which the license has been granted.

(Code 1972, § 27-10; Code 1992, § 27-30)

Sec. 38-49. Revocation.

The taxicab license granted pursuant to this article may be revoked at the discretion of the ~~Mayor or the~~ town manager upon the violation by the holder thereof of any provision of this chapter.

(Code 1972, § 27-11; Code 1992, § 27-31)

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Secs. 38-50--38-71. Reserved.

~~ARTICLE III~~ DIVISION 3. DRIVERS' PERMITS*

***State law reference**—Local licensing of taxicab drivers, Code of Virginia, § 46.2-310.

Sec. 38-72. Required.

It shall be unlawful for any person, whether the owner or an employee of the owner, to drive a taxicab on and over the streets and alleys of the town without first obtaining from the town a town taxicab driver's permit. This provision shall not apply to taxicab operators passing through town or making deliveries only.

(Code 1972, § 27-12; Code 1992, § 27-51)

Sec. 38-73. Requirements of applicants.

Each applicant for a town taxicab driver's permit shall have a valid driver's license issued by the state. Each such applicant shall be able to answer all questions pertaining to the state and town traffic laws, rules and regulations, including the requirements of this article and other ordinances of the town, and shall present letters of recommendation from at least three reputable citizens as to his character, habits, dependability and ability to handle and drive a motor vehicle.

(Code 1972, § 27-13; Code 1992, § 27-52)

Sec. 38-74. Application contents.

An application for a town taxicab driver's permit shall show that the applicant has a valid driver's license issued by the state and shall give the name of the applicant and his age, address, experience in driving motor vehicles and his occupation prior to making application.

(Code 1972, § 27-14; Code 1992, § 27-53)

Sec. 38-75. Application to be ~~passed on~~ approved or rejected by ~~council~~ town manager.

An application for a town taxicab driver's permit ~~shall be passed upon by the Town Council and~~ shall be either approved or rejected by the town manager.

(Code 1972, § 27-15; Code 1992, § 27-54)

Sec. 38-76. Fee.

When the application for a town taxicab driver's permit is filed with the town manager, it shall be accompanied by a fee of $10.00 per annum; provided, that when application for a permit to drive a taxicab or car for hire is made within 30 days from the expiration date of a similar permit previously held by the applicant, the permit fee shall be $2.00 per annum, which permit fee shall be returned to the applicant if his application is rejected.

(Code 1972, § 27-16; Code 1992, § 27-55; Ord. of 5-3-1983)

Sec. 38-77. Temporary permit.

The town manager may, upon receiving an application for a town taxicab driver's permit, issue a temporary town taxicab driver's permit until the town ~~Council~~ manager shall pass upon such application. Such temporary town taxicab permit shall expire in 30 days from the date it is issued and may, during the 30 days, be recalled by the town manager, either upon his own initiative or upon the recommendation of any police officer of the town.

(Code 1972, § 27-17; Code 1992, § 27-56)

PROOFS

Sec. 38-78. Issuance.

When the issuance of a town taxicab driver's permit has been approved by the town ~~Council~~ manager, such permit shall be signed by the ~~Mayor or~~ town manager and issued in accordance with the provisions of this article.

(Code 1972, § 27-18; Code 1992, § 27-57)

Sec. 38-79. Cards.

Upon approval of an application under this article for a permit, a town taxicab driver's permit card shall be issued ~~and numbered~~ and registered with the town, which card shall be carried by the driver to whom issued. Such card shall be presented by the holder of the town taxicab driver's permit when requested by any police officer, either for examination or to be taken up as provided in this article.

(Code 1972, § 27-19; Code 1992, § 27-58; Ord. No. 2000-7, 11-7-2000)

Sec. 38-80. Expiration date.

Each town taxicab driver's permit shall expire on ~~April 30~~ March 1 each year.

(Code 1972, § 27-20; Code 1992, § 27-59)

Sec. 38-81. Revocation and suspension.

Town taxicab drivers' permits may be revoked or temporarily suspended and taken up by the ~~Mayor or~~ town manager upon proof that the holder of such license has violated any of the motor vehicle laws of the state or the provisions of this chapter or other ordinances of the town.

(Code 1972, § 27-21; Code 1992, § 27-60)

PROOFS

Chapter 39

RESERVED

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SUBPART B.
LAND DEVELOPMENT REGULATIONS

Chapter ~~26~~ 40
SUBDIVISIONS*

***Charter reference**—Town Plan, powers of Council as to subdivisions, § 4.01.

~~**Cross reference**—Planning Commission, § 2-216 et seq.; advertising, ch. 3; size, number, height, and location of signs, § 3-96 et seq.; general community antenna television regulations, § 6-89; erosion and sediment control, ch. 10; review of erosion and sedimentation control plan, § 10-6; licenses generally, ch. 15; Subdivision Ordinance incorporated into public utilities chapter, § 21-3; streets and sidewalks, ch. 25; water and sewers, ch. 29; water and sewer main extensions to developments, § 29-63; zoning, ch. 30; conditional zoning, § 30-11; developments standards for apartments in R-3 district, § 30-56; planned housing developments in R-3 district, § 30-57; floodplain districts provisions, § 30-129; mobile home parks, § 30-156 et seq.; townhouses, § 30-171 et seq.; site plan review procedures, § 30-186; street and utility requirements for multiunit residential development, § 30-198.~~

State law reference—-Land subdivision and development, Code of Virginia, § 15.2-2240 et seq.

~~Article I. In General~~

~~Sec. 26-1. Purpose.~~

~~Sec. 26-2. Definitions.~~

~~Sec. 26-3. Administrator.~~

~~Sec. 26-4. General regulations.~~

~~Article II. Plats~~

~~Sec. 26-5. Procedure for making and recording.~~

~~Sec. 26-6. Review and approval process.~~

~~Article III. Required Improvements~~

~~Sec. 26-7. Generally.~~

ARTICLE I. IN GENERAL

Sec. 40-1. Purpose.

The purpose of this chapter is to establish certain subdivision standards and procedures for the town and such of its environs as come under the jurisdiction of the town council as provided for by the Code of Virginia, as amended, and section 4.01 of the town Charter. These are part of a long range plan to guide and facilitate the orderly beneficial growth of the community and to promote the public health, safety, convenience, comfort, prosperity and general welfare. More specifically to provide for the harmonious and economic development of the town, in conformity with the zoning ordinance of the town; for coordination of streets, alleys and parkways and other public areas within the subdivision with other existing and planned streets, alleys and public areas within the town; for adequate open spaces for traffic, recreation, light and air, ~~[and]~~ the width, grading, elevation, drainage and paving of such areas; the planting of trees and shrubs; the construction of sidewalks, curbs and gutters; the provision for laying and maintaining gas, sewer, water, electric and telephone lines, works, pipes and easements and for a distribution of the population and traffic which will tend to create conditions favorable to health, safety, convenience, prosperity and the general welfare of the citizenry of the town.

(Code 1972, § 26-1; Code 1992, § 26-1)

PROOFS

~~**Cross reference**— Streets and sidewalks, ch. 25; traffic and motor vehicles, ch. 28; water and sewers, ch. 29; zoning, ch. 30.~~

Sec. 40-2. Definitions.

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

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:

[305] *Agent* or *subdivision agent* means the representative of the town council who has been appointed to serve as the agent of the council in approving the subdivision plats.

Alley means a permanent public service way not designed for general travel, but, to the contrary, a way designed as a secondary means of access for special accommodation to the rear of abutting residences and building establishments.

Building setback line means the distance which a building is from any lot line.

Commission means the planning commission of the town.

Cul-de-sac means a street with only one outlet and having an appropriate turnaround for a safe and convenient reverse traffic movement.

Developer means an owner or lessee of property being subdivided, whether or not represented by an agent.

Easement means a grant by a property owner of the use of land for a specific purpose, or purposes.

[306] ~~*Governing body.* The Town Council.~~

Health official means the health director or sanitarian of the county.

Jurisdiction means the area or territory subject to the subdivision control of the town council.

Lot means a numbered and recorded portion of a subdivision.

Lot, corner, means a lot abutting upon two or more streets at their intersection; the shortest side fronting upon a street shall be considered the front of the lot and the longest side fronting upon a street shall be considered the side of the lot.

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

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

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

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

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

Plat includes the terms "map," "plan," "plot," "replat" or "replot"; a map or plan of a tract or parcel of land which is to be or which has been subdivided. When used as a verb, the term "plat" is synonymous with the term "subdivide."

Street means the principal means of public access to abutting properties.

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[305] Continue to use the term agent or change to specific title? See section 26-3. Changed.

[306] Change governing body to town council throughout this chapter and delete this definition? Use Town Council throughout.

PROOFS

Street or alley, public use of, means the unrestricted use of a specified area or right-of-way for ingress and egress to two or more abutting properties.

Street width means the total width of the strip of land dedicated or reserved for public use and travel.

Subdivide.

(1) The term "subdivide" means the division of any tract, parcel or lot of land into two or more parts, in fact or by plat or replat, for the purpose, whether immediate or future, of sale or of building development.

(2) Except, however:

a. The division of any tract, parcel or lot of land into lots or other divisions of land, each of which shall contain an area of five acres or more, shall not be considered a subdivision, unless streets, easements or access are required, in which case it shall be considered a subdivision.

b. The division of any tract, lot or parcel of land ordered by a court of proper jurisdiction shall not be considered a subdivision.

c. The division by gift or will of any tract, lot or parcel of land shall not be considered a subdivision, nor shall a division of land made solely for agricultural purposes be so considered a subdivision.

d. The conveyance of a parcel or lot of land, whether or not in a duly approved and recorded plat of subdivision, for the purpose of enlarging an adjacent lot or parcel of land, shall not be considered a subdivision. It is provided, however, that no such conveyance shall be permitted if such would result as increasing a specific cause of an existing nonconformity or nonconformities of any parcel.

e. Conveyances between, or among, adjacent land owners by deeds of exchange for the sole purpose of improving utilization or configuration of one or more lots or parcels of land shall not be considered a subdivision.

f. The conveyance of a lot or parcel of land, and any part thereof, not having public access for the purposes of ingress and egress, to the owner or owners of adjoining lands having such access shall not be considered a subdivision.

g. The conveyance of all of a nonconforming lot to the owner, or owners, of an adjoining lot or simultaneously to the owner or owners of adjoining lots be the adjoining lot, or lots, nonconforming and still nonconforming after the resulting enlargement shall not be considered a subdivision.

h. The division for acquisition of a parcel or lot of land, and any part thereof, by the town for the purposes of insuring adequate provisions or safeguards for drainage and flood control and other public purposes, and for light and air, shall not be considered a subdivision.

(3) The term "subdivide," and any derivative thereof, shall have reference to the term "subdivider" as defined of this section.

Subdivider means an individual, corporation or registered partnership owning any tract, lot or parcel of land to be subdivided, or a group of two or more persons owning any tract, lot or parcel of land to be subdivided, who have given their power of attorney to one of their group or to another individual to act on their behalf in planning, negotiating for, representing or executing the legal requirements of the subdivision.

PROOFS

Traffic impact statement means a statement that assesses the impact of a proposed development on the transportation system and recommends improvements to lessen or negate those impacts. The traffic impact statement shall:

(1) Identify any traffic issues associated with access from the site to the existing transportation network;

(2) Outline solutions to potential problems;

(3) Address the sufficiency of the future transportation networks; and

(4) Present improvements to be incorporated into the proposed development.

The data and analysis contained in the traffic impact statement shall comply with the state department of transportation traffic impact analysis regulations 24 VAC 30-155-60. If a traffic impact statement is required, data collection shall be by the developer, or owner, and the developer, or owner, shall prepare the traffic impact statement.

(Code 1972, § 26-2; Code 1992, § 26-2; Ord. of 11-3-1998; Ord. of 2-2-1999; Ord. of 5-4-1999; Ord. of 11-2-1999(2); Ord. No. 2002-5, 6-18-2002; Ord. No. 2012-10, § 26-2, 11-20-2012)

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

Sec. 40-3. Administrator.

(a) *Appointment.* The town council may appoint an agent~~, who shall be the Town Manager,~~ to administer this chapter and if so appointed the agent is hereby delegated to administer this chapter. In so doing, the agent shall be considered the agent of the town council. Final approval or disapproval shall be made by the town council through the agent. The agent may approve a single lot line revision or vacation provided public easements or rights-of-way are not altered as provided for in section 40-28(i) and (j). The agent may also consult with the planning commission on matters contained herein.

(b) *Duties.* The agent shall perform his duties as regards subdivisions and subdividing in accordance with this chapter and the Land Subdivision and Development Act.

(c) *Consultation.* In the performance of his duties the agent may call for opinions or decisions, either verbal or written, from other departments in considering details of any submitted plat.

(d) *Additional authority.* In addition to the regulations herein contained for the platting of subdivisions, the agent may, from time to time, establish any reasonable additional administrative procedures deemed necessary for the proper administration of this chapter.

(Code 1972, § 26-3; Code 1992, § 26-3; Ord. of 11-3-1998)

State law reference—Land subdivision and development, Code of Virginia, § 15.2-2240 et seq.

Sec. 40-4. General regulations.

(a) *Land must be suitable.* The agent shall not approve the subdivision of land if, from adequate investigations conducted by all public agencies concerned, it has been determined that in the best interest of the public, the site is not suitable for platting and development purposes of the kind proposed.

(b) *Flooding generally.* Except as provided for in chapter 16, land subject to flooding and land deemed to be topographically unsuitable shall not be platted for residential occupancy, nor for such other uses as may increase danger of health, life or property, or aggravate erosion or flood hazard. Such land within the subdivision shall be set aside on the plat for such uses as shall not be endangered by periodic or occasional inundation or shall not produce conditions contrary to public welfare.

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(c) *Building site.* To ensure that ~~residents~~ the owner will have sufficient land upon which to build a ~~house~~ structure which is [307]~~floodfree~~ not prone to flooding, the agent may require the subdivider to provide elevations and flood profiles ~~sufficient to demonstrate the land to be completely free of the danger of floodwaters~~.

(d) *Improvements.* All required improvements shall be installed by the subdivider at his cost. In cases where specifications have been established, either by the state department of highways transportation for streets, curbs, etc., or by local ordinances and codes, such specifications shall be followed. The subdivider's bond shall not be released until construction has been inspected and approved by the appropriate engineer.

(e) *Flood control and drainage.* The subdivider shall provide, in accordance with chapter 16, Environment, all necessary information needed to determine what improvements are necessary to properly develop the subject property, including contour intervals, drainage plans and flood control devices. The subdivider shall also provide plans for all improvements together with a properly qualified certified [308]professional engineer's or land surveyor's statement that such improvements, when properly installed, will be adequate for proper development. The plans shall be approved or disapproved by the appropriate plan approving authority as outlined in chapter 16, or by the town engineer, as required. The subdivider shall also provide any other information required by the town engineer.

(f) *Easements.* The agent may require that easements for drainage through adjoining property be provided by the subdivider. Easements of not less than 15 feet in width shall be provided for water, sewer, power lines and other utilities, when required by the agent.

(g) *Septic tanks.* The agent shall not approve any subdivision with septic tanks unless:

(1) Sanitary sewer service is not available; and

(2) The agent shall receive, in writing, from the health department a statement to the effect that the area contained in the subdivision is generally satisfactory for the installation of septic tanks, and that they will not, so far as can be determined, create hazards to public health, and that such approval by the agent is only with the understanding that where septic tanks are to be installed, these must be approved on an individual lot basis by the health department.

(h) *Public water.* Where public water is available, the service shall be extended to all lots within a subdivision by the developer.

(i) *Private water and/or sewer.* Nothing in this regulation shall prevent the installation of privately owned water distribution systems or sewage collection and treatment facilities if public systems are not available; provided, however, that any such installations must meet all of the requirements of the state department of environmental quality, state department of health, and any other state or local regulation having authority over such installations.

(j) *Fire protection.* The installation of adequate fire hydrants in a subdivision at locations approved by the agent shall be required. The agent shall consult with the proper authority before approving such location.

(k) *Bond.* Before any lots within a subdivision can be sold, or building construction commenced, the subdivider shall, in lieu of construction, furnish bond in an amount calculated by the agent to secure the required improvements in a workmanlike manner, and in accordance with

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[307] Floodfree is not defined. Is it a term of art? Changed.

[308] Change to certified professional engineer or land surveyor as in Code of Virginia, § 15.2-2262? Yes.

PROOFS

specifications and construction schedules established or approved by the town engineer, which bond shall be payable to and held by the town council.

(Code 1972, § 26-4; Code 1992, § 26-4; Ord. of 11-3-1998)

~~**Cross reference**— Fire protection, ch. 12; water and sewers, ch. 29.~~

Secs. 40-5--40-26. Reserved.

ARTICLE II. PLATS

Sec. 40-27. Procedure for making and recording.

(a) *Platting required.* Any owner or developer of any tract of land situated within the jurisdiction of the town who subdivides the same or who creates, relocates or otherwise alters lot lines regardless of being exempted from the definition of the term "subdivide" contained in section 40-2 shall cause a plat of such subdivision or lot line creation, relocation or alteration, with reference to known or permanent monuments, to be made and recorded in the office of the clerk of the appropriate court. No such plat ~~of subdivision~~ shall be recorded unless, and until, it shall have been submitted, approved and certified by the agent in accordance with the regulations set forth in this chapter. No lot shall be sold in any such subdivision or affected property before the plat shall have been recorded.

(b) *Certification.* Every such plat shall be prepared by a [309]surveyor or engineer duly licensed by the state, who shall endorse upon each plat a certificate signed by him setting forth the source of the title of the land subdivided and the place of record of the last instrument in the chain of title. When the plat is of land acquired from more than one source of title, the outlines of the several tracts shall be indicated upon each plat, within an inset block, or by means of a dotted boundary line upon the plat.

(c) *Owner's statement.* Every such plat, or the deed of dedication to which the plat is attached, shall contain, in addition to the [310]land surveyor's or certified professional engineer's certificate, a statement ~~to the effect that~~ as follows:

[311] "The ~~above and foregoing subdivision of~~ platting or dedication of the following described land (here insert correct description of the land subdivided) as appears in this plat is with the free consent and in accordance with the desire of the undersigned owners, proprietors and trustees, if any." ~~which~~ The statement shall be signed and duly acknowledged before an officer authorized to take acknowledgment of deeds by the owners, proprietors and trustees, if any. ~~and shall be duly acknowledgments of deeds, and~~ When thus executed and ~~approved~~ acknowledged, the plat, subject to the provisions herein, ~~as herein specified,~~ shall be filed and recorded in the office of the clerk of the ~~appropriate court, and indexed under the names of the landowners signing such statement and under the name of the subdivision~~ circuit court for the lands contained in the plat, and indexed in the general index to deeds under the names of the owners of lands signing the statement, and under the name of the subdivision. Owners shall notify the appropriate commissioner of the revenue of improvements to real property situated in platted subdivisions..

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[309] Change to certified professional engineer or land surveyor as in Code of Virginia, § 15.2-2262? Yes.

[310] Change to certified professional engineer or land surveyor as in Code of Virginia, § 15.2-2262? Yes.

[311] Conformed to Code of Virginia, § 15,2-2264?

(d) *No one exempt.* No person shall subdivide any tract of land or create, relocate or otherwise alter lot lines ~~that is~~ located within the jurisdiction of the town except in conformity with the provisions of this chapter.

(e) *Private contracts.* This chapter bears no relation to any private easement, covenant, agreement or restriction within the subdivision, nor is the responsibility of enforcing such private easement, covenant, agreement or restriction implied herein to any public official. When this chapter calls for more restrictive standards than are required by private contract, the provisions of this chapter shall control.

(f) *Necessary changes.* No change, erasure or revision shall be made on any final plat, nor on accompanying data sheets after approval of the agent has been endorsed in writing on the plat or sheets, unless authorization for such changes has been granted in writing by the agent.

(g) *Relation to zoning.* When the intended use of all, or part of, the platted area, as indicated by the preliminary plat and as shown on that plat, would put the land in a more restrictive category than that which now exists, such shall be considered a petition for the rezoning of the platted area to the higher classification~~. In areas subject to the regulations of this chapter, but not subject to the Town's Zoning Ordinance, the agent shall confer with the proper authority of the County to ascertain the zoning requirements of the subdivided area.~~

(h) *Fees.* There shall be a charge for the examination and approval or disapproval of every plat reviewed by the agent. At the time of filing the preliminary plat, the subdivider, or his agent, shall deposit with the agent cash or checks payable to the treasurer in the amount ~~of $20.00 $50.00 per plat and $5.00 $10.00 for each lot~~ as set forth herein or as established in the latest edition of the town development fee schedule, which may be amended from time to time by the town council. Additionally, there shall be a charge for the examination and approval or disapproval of every subdivision construction drawing by the agent. At the time of filing the preliminary subdivision construction drawing, the subdivider, or his agent, shall deposit with the agent cash or checks payable to the treasurer in the amount ~~of $200.00 $250.00 plus an additional $40.00 $50.00 per acre rounded up to the nearest acre~~ as set forth herein or as established in the latest edition of the town development fee schedule, which may be amended from time to time by town council.

(i) *Part of tract.* Whenever part of a tract is proposed for platting and it is intended to subdivide parts in the future, a sketch plan for the entire tract shall be submitted with the preliminary plat. This is merely for informational purposes and is not binding on the subdivider or the town council.

(j) *Size and shape of lots.* The lot arrangement, design and shape shall be such that lots will provide satisfactory and desirable sites for buildings, be properly related to topography and conform to requirements of this chapter. Lots shall not contain peculiarly shaped elongations solely to provide necessary square footage of area which would be unusable for normal purposes. The minimum lot size, frontages and setbacks in any area shall be in accordance with the zoning ordinance. Where public water and/or public sewer systems are not available, such minimum lot sizes may be increased by the agent in accordance with the recommendations of the health officer which shall be submitted to the agent, in writing, either by notations on the plats or by letter. The health officer may be guided by appropriate tests in determining the area required for the sanitary and safe disposal of septic tank effluent.

(k) *Lot location.* Each lot shall abut on a street, or streets, dedicated by the subdivision plat, or on an existing publicly dedicated street, or on a street which has become public by right of use, having a minimum of 50 feet in width. If the existing street, or streets, upon which the subdivision or resubdivision is to abut is not as much as 50 feet in width, but otherwise meets, or is to be constructed to meet, town street standards, the subdivider or resubdivider shall, to the extent or distance that the subdivision or resubdivision is to front upon such street or streets, dedicate

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sufficient land along the entire road frontage of the subdivision or resubdivision so that there will be available sufficient land to widen to a minimum of 50 feet should a like dedication be made in the event of a future subdivision or resubdivision occurring directly across the street.

(l) *Corner lots.* Corner lots shall have extra width sufficient for maintenance of any required building lines on both streets, as determined by the agent in accordance with the zoning ordinance.

(m) *Sidelines.* Sidelines of lots shall be approximately at right angles, or radial to the street line.

(n) *Remnants.* All remnants of lots below minimum size left over after subdividing of a tract must be added to adjoining lots or otherwise disposed of rather than allowed to remain as unusable parcels.

(Code 1972, § 26-5; Code 1992, § 26-5; Ord. of 11-3-1998; Ord. of 5-4-1999; Ord. No. 2004-3, 6-15-2004; Ord. No. 2012-4, § 26-5, 6-5-2012)

~~**Cross reference**—Water and sewers, ch. 29; zoning, ch. 30.~~

Sec. 40-28. Review and approval process.

(a) *Plat approval required before sale of lots.* Whenever any subdivision of land is proposed, and before any permit for the erection of a structure shall be granted, the subdivider or his agent shall apply, in writing, to the agent for the approval of the subdivision plat and submit three copies of the preliminary plat including the lot, street and utilities layout. No lot shall be sold until a final plat for the subdivision shall have been approved and recorded in accordance with this section.

(b) *Preliminary sketch.* The subdivider may, if he so chooses, submit to the agent a preliminary sketch of the proposed subdivision prior to his preparing engineered preliminary and final plats. The purpose of such preliminary sketch is to permit the agent to advise the subdivider whether his plans in general are in accordance with the requirements of this chapter. The agent, upon submission of any preliminary sketch, shall study it and advise the subdivider wherein it appears that changes would be necessary. The agent may mark the preliminary sketch indicating necessary changes. The preliminary sketch shall include the following: the location of all proposed and existing streets, lots, parks, playgrounds and other proposed uses of the land to be subdivided and shall include the approximate dimensions.

(c) *Preliminary plat—Contents.* The preliminary plat shall include the following information:

(1) Name of subdivision, owner, subdivider, surveyor or engineer, date of drawing, number of sheets, north point and scale. If true north is used, method of determination must be shown.

(2) Location of proposed subdivision by an inset map showing adjoining roads, their names and numbers, towns, subdivisions and other landmarks.

(3) The boundary survey, or existing survey, of record shall be acceptable; total acreage, acreage of subdivided area, number and approximate area and frontage of all building sites, existing buildings within the boundaries of the tract, names of owners and their property lines within the boundaries of the tract and adjoining such boundaries shall be shown.

(4) All existing, platted and proposed streets, their names, numbers and widths; existing utility or other easements, public areas; culverts, drains and watercourses, their names and other pertinent data shall be shown.

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(5) The complete drainage layout, including all pipe sizes, types, drainage easements and means of transporting the drainage to a well defined open stream which is considered natural drainage shall be shown.

(6) A cross section showing the proposed street construction, depth and type of base, type of surface, etc.

(7) A profile or contour map showing the proposed grades for the streets and drainage facilities, including elevations of existing and proposed ground surface at all street intersections and at points of major grade change along the centerline of streets together with proposed grade lines connecting therewith.

(8) Proposed connections with existing sanitary sewers and existing water supply or alternate means of sewage disposal and water supply where public service is not available.

(9) All parcels of land to be dedicated for public use and the conditions of such dedication.

(10) A traffic impact statement whenever a proposed subdivision substantially affects transportation on town streets through traffic generation of either:

a. 100 vehicles trips per peak hour by residential development;

b. 250 vehicles trips per peak hour by non-residential development; or

c. 2,500 vehicle trips per day by non-residential development.

The data and analysis contained in the traffic impact statement shall comply with VDOT Traffic Impact Analysis Regulations 24 VAC 30-155-60 and all applicable town ordinances.

(d) *Same—Review.* The agent, or his appointed representative, shall discuss the preliminary plat with the subdivider in order to determine whether or not his preliminary plat generally conforms to the requirements of this chapter and of the zoning ordinance. The subdivider shall then be advised within 45 days, which may be by formal letter, by legible markings on his copy of the preliminary plat, by telephone or by personal meeting concerning any additional data that may be required and the character and extent of public improvements that will have to be made.

(e) *Same—Approval no guarantee of final approval.* Approval by the agent of the preliminary plat does not constitute a guarantee of approval of the final plat.

(f) *Same—Six-month limit.* The subdivider shall have not more than six months after receiving official notification concerning the preliminary plat to file with the agent a final subdivision plat, in accordance with this chapter. Failure to do so shall make preliminary approval null and void. The agent may, on written request by the subdivider, grant an extension of this time limit.

(g) *Final plat—Contents.* The subdivision plats submitted for final approval by the developer and subsequent recording shall be clearly and legibly drawn to scale~~ on a minimum 18' x 24' sheet~~. In addition to the requirements of the preliminary plat, the final plat shall include the following:

(1) A blank oblong space three inches by five inches shall be reserved for the use of the approving authority.

(2) Certificates signed by the surveyor or engineer setting forth the source of title of the owners of the land subdivided and the place of record of the last instrument in the chain of title.

(3) A statement to the effect that the subdivision, as it appears on this plat, is with the free consent and in accordance with the desires of the owners, proprietors and trustees, if any,

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which shall be signed by the owners, proprietors and trustees, if any, and shall be duly acknowledged before some officer authorized to take acknowledgments of deeds.

(4) When the subdivision consists of land acquired from more than one source of title, the outlines of the various tracts shall be indicated by dashlines and identification of the respective tracts shall be placed on the plat.

(5) The accurate location and dimensions by bearings and distances with all curve data on all lots and street lines, boundaries of all proposed or existing easements, parks, school sites, all existing public streets, their names and widths, utility and drainage easements, watercourses and their names, names of owners and their property lines, both within the boundary of the subdivision and adjoining such boundaries.

(6) Distances and bearings must balance and close with an accuracy of not less than one in 10,000.

(7) The data of all curves along the street frontage shall be shown in detail at the curve or in a curve data table containing the following: delta, radius, arc, tangent, chord and chord bearings.

(h) *Same—Conditions for approval.* The plat shall not be approved until the subdivider has complied with the general requirements and minimum standards of design in accordance with this chapter and has made satisfactory arrangements for surety bond, cash or cash bond to cover the cost of necessary improvements, in lieu of construction, to the satisfaction of the agent. Approval of final plat by the town council shall be written on the face of the plat by the agent. The subdivider shall record the plat within 60 days after notification of final approval by the agent; otherwise, the approval shall become invalid.

(i) *Vacation of plat before sale of lot therein; ordinance of vacation.* Where no lot has been sold, the recorded plat, or part thereof, may be vacated according to either of the following methods:

(1) With the consent of the town council, or its authorized agent, of the locality where the land lies, by owners, proprietors and trustees, if any, who signed the statement required by Code of Virginia, § 15.2-2264 at any time before the sale of any lot therein, by a written instrument, declaring the plat to be vacated, duly executed, acknowledged or proved and recorded in the same clerk's office wherein the plat to be vacated is recorded and the execution and recordation of such writing shall operate to destroy the force and effect of the recording of the plat so vacated and to divest all public rights in, and to reinvest the owners, proprietors and trustees, if any, with the title to the streets, alleys, easements for public passage and other public areas laid out or described in the plat; or

(2) By ordinance of the town council of the locality in which the property shown on the plat, or part thereof, to be vacated lies, provided that no facilities for which bonding is required pursuant to Code of Virginia, §§ 15.2-2241 through 15.2-2245 have been constructed on property and no facilities have been constructed on any related section of the property located in the subdivision within five years of the date on which the plat was first recorded.

The ordinance shall not be adopted until after notice has been given as required by Code of Virginia, § 15.2-2204. The notice shall clearly describe the plat, or portion thereof, to be vacated and state the time and place of the meeting of the town council at which the adoption of the ordinance will be voted upon. Any person may appear at the meeting for the purpose of objecting to the ordinance. An appeal from the adoption of the ordinance may be filed within 30 days of the adoption of the ordinance with the circuit court having jurisdiction of the land shown on the plat or part thereof to be vacated. Upon appeal the court may nullify the ordinance if it finds that the

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owner of the property shown on the plat will be irreparably damaged. If no appeal from the adoption of the ordinance is filed within the time above provided or if the ordinance is upheld on appeal, a certified copy of the ordinance of vacation may be recorded in the clerk's office of any court in which the plat is recorded. The execution and recordation of the ordinance of vacation shall operate to destroy the force and effect of the recording of the plat, or any portion thereof, so vacated, and to divest all public rights in and to the property and reinvest the owners, propriertors and trustees, if any, with the title to the streets, alleys and easements for public passage and other public areas laid out or described on the plat.

(j) *Vacation, relocation of boundary lines.* The boundary lines of any lot or parcel of land may be vacated, relocated or otherwise altered as a part of an otherwise valid and properly recorded plat of subdivision or resubdivision approved, as provided in such subdivision ordinance, or properly recorded prior to the applicability of a subdivision ordinance, and executed by the owner, or owners, of such land as provided in Code of Virginia, § 15.2-2275, as amended, provided such action does not involve the relocation or alteration of streets, alleys, easements for public passage, or other public areas; and provided further, that no easements or utility rights-of-way shall be relocated or altered without the express consent of all persons holding any interest therein.

(Code 1972, § 26-6; Code 1992, § 26-6; Ord. of 3-5-1985, § 26-6(j); Ord. of 8-5-1997; Ord. of 11-3-1998; Ord. No. 2012-10, § 26-6, 11-20-2012)

~~**Cross reference**— Public utilities, ch. 21; water and sewers, ch. 29; zoning, ch. 30.~~

Secs. 40-29--40-59. Reserved.

ARTICLE III. REQUIRED IMPROVEMENTS

Sec. 40-60. Generally.

(a) *Plans and specifications.* ~~Three blue or black line prints of the plans~~ Plans and specifications for all required physical improvements to be installed shall be prepared by an engineer or surveyor and shall be submitted to the agent for approval or disapproval within 45 days. If approved, the original copy~~, minimum 18' x 24'~~, bearing certification of such approval shall be returned to the subdivider and/or his representative. The subdivider shall provide the town with sufficient copies, as deemed necessary by the agent. If disapproved, all papers shall be returned to the subdivider with the reason for disapproval in writing. In the event no action is taken in 45 days, such plans shall be deemed approved. The town may require as-built plans and specifications prepared by an engineer or surveyor for all required physical improvements after installation, if deemed appropriate by the agent, town manager or town engineer.

(b) *Streets.* The recordation of a plat of a proposed subdivision shall operate to transfer to the proper jurisdiction agent such portion of the premises platted as is on such plat set apart for streets, alleys, easements and other public uses, and to create a public right of use and passage over the same. All such streets so set apart on any such plat shall be not less than 50 feet in width and shall be paved to a minimum width of 30 feet, unless otherwise approved by town council. Streets functionally classified as local streets in residential districts and mixed-use districts shall meet the current edition of the subdivision street requirements manual for secondary roads of the state department of transportation (24 VAC 30-90-10 et seq.), unless otherwise approved by town council. New streets with no on-street parking or on-street parking on one side of the street and all new one-way streets shall be approved by town council. New streets shall not exceed 12 percent grade unless otherwise approved by town council. All streets shall be hard-surfaced and storm drainage systems and curb and gutter systems shall be installed in accordance with town specifications, when required by the town council.

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(1) *Alignment and layout.* The arrangement of streets in new subdivisions shall make provision for the continuation of existing streets in adjoining areas. The street arrangements must be such as to cause no unnecessary hardship to owners of adjoining property when they plat their own land and seek to provide for convenient access to it. Where, in the opinion of the town council, it is desirable to provide for street access to adjoining property, proposed streets shall be extended by dedication to the boundary line of such property. Half streets along the boundary of land proposed for subdivision are not to be permitted. Wherever possible, streets should intersect at right angles. In all hillside areas, streets running with contours shall be required to intersect at angles of not less than 60 degrees, unless approved by the agent.

(2) *Approach angle.* Streets shall approach other streets at an angle approved by the town engineer.

(3) *Minimum widths.* All streets within a subdivision must have a minimum right-of-way width of 50 feet and a minimum pavement width of 30 feet unless otherwise approved by town council. Streets functionally classified as local streets in residential districts and mixed-use districts shall meet the current edition of the subdivision street requirements manual for secondary roads of the state department of transportation (24 VAC 30-90-10 et seq.), unless otherwise approved by town council. New streets with no on-street parking or on-street parking on one side of the street and all new one-way streets shall be approved by town council. New streets shall not exceed 12 percent grade, unless otherwise approved by town council. Where curb and gutter is provided, the minimum pavement width, curb to curb, shall be 40 feet in business and mixed-use districts, unless otherwise approved by town council.

(4) *Culs-de-sac.* Generally, terminal streets (culs-de-sac), designed to have one end permanently closed, must be terminated by a turnaround of not less than 100 feet in diameter. The radius or diagonal on all intersections or culs-de-sac shall be as approved by the town engineer.

(5) *Minimum construction requirements.* Every owner or proprietor of any tract of land situated within the subdivision jurisdiction of the town who subdivides the same into lots and streets shall, at his own expense, ensure that the following minimum requirements are complied with:

a. All streets within such tract, as indicated on the subdivision plat, shall be of uniform grade (grading down elevations and filling in depressions), as approved by the town engineer, the full width, with slopes of all banks and fills outside the street right-of-way to be sloped no steeper than a 1.5 [312]h:1v slope, with adequate ditches and drainage on both sides of all streets and intersections of streets, with drainage culverts, where needed. All ditches and drainage shall be located according to the specifications of the town engineer. All fills shall be built in layers not exceeding eight inches in thickness of loose material, spread evenly, and each layer well compacted in accordance with ~~Section 303, Earthwork, of the~~ state department of transportation road and bridge specifications.

b. The subgrade shall be of good, clean material, free of trash, roots, stumps, sod, large stones or other objectionable matter.

c. After the subgrade has been brought to the required elevation, it shall be shaped, smoothed, rolled and compacted. It shall be crowned in the center with a slope of

[312] Is this correct? Yes.

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three-eighths of an inch to the foot from the center to each side. Over the prepared subgrade there shall be placed a base of approved material, as specified by the town engineer. Base material shall be a minimum of six inches total thickness after rolling and compacting. The stone shall have suitable gradation and sufficient fines and crusher dust to bond properly. Should an excess of coarse stone or pockets appear in the surface, additional crusher dust shall be used and bonded. The stone shall be rolled and well compacted and bonded.

d. During the rolling and compacting of the stone base, sufficient water shall be sprinkled on the surface to ensure proper bonding. Surface course shall be applied over the prepared stone base at a time specified and approved by the town engineer. The stone base shall be clean and dry before surface asphalt is applied. Asphalt prime coat material and method of construction shall conform to section 311 of the state department of transportation road and bridge specifications. Asphalt concrete mixture type shall be SM-2B, applied at a rate of 230 pounds per square yard (2").

e. All rough grading, except subgrading, shall be accomplished prior to the installation and putting down of water mains and sewer mains. After the water mains, sewer mains and manholes have been installed, the ditches backfilled and compacted, and sufficient settling of the ditches has taken place, the subgrading, placing of base stone and the bituminous surfacing shall follow, in that order. All drainage culverts shall be placed before the base stone or surfacing is accomplished. All surplus materials of every description shall be removed after the work has been completed and all streets left in a clean and neat condition.

(6) *Names.* Proposed streets which are obviously a continuation of other already existing and named streets shall bear the names of the existing streets. In no case shall the names of proposed streets duplicate existing street names irrespective of the use of the suffix street, avenue, boulevard, drive, way, place, lane or court. Street names shall be indicated on the preliminary and final plats, and shall be approved by the agent. Names of existing streets shall not be changed, except by approval of the town council.

(7) *Signs.* Street identification signs of a design approved by the agent shall be installed at all intersections by the town at the owner's expense.

(8) *Private streets and reserve strips.* There shall be no private streets platted in any subdivision. Every subdivision shall be served from a publicly dedicated street. There shall be no reserve strip controlling access to streets except where the control of such strips is definitely placed with the town under conditions approved by the town council.

(9) *Installation of street lights; costs borne by subdivision developer.* Street lights, whether serviced underground or above ground, of a size, type and at locations designated by the agent shall be paid for by the developer. Said street light plans shall be submitted as a part of the street plans and profiles required under subsection (a) of this section.

(c) *Water and sewer.* Every owner, proprietor or developer of any tract of land situated within the corporate limits of the town, or the subdivision jurisdiction of the town, who subdivides the same into lots and streets, as provided for in this chapter, shall, at his own expense, construct and install water mains and sewer mains within such tract to accommodate all lots laid out in the subdivision, which water mains and sewer mains are to be connected with and become a part of the town's water system and sewer system, respectively.

(1) *Size, location and material for water and sewer lines.* The size, type and location of all pipes, valves, fire hydrants, manholes and other appurtenances required in connection with such water mains and sewer mains shall be determined by the town.

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(2) *Construction requirements.* All water and sewer construction shall be installed in a workmanlike manner, to conform to practices followed for the construction and installation of similar water mains and sewer mains in other parts of the town; provided, that all such construction, both materials and work, shall be approved and inspected by a representative of the town. The following requirements shall be the minimum requirements for such water mains and sewer mains:

a. *Water mains.* Minimum sizes for distances up to 2,000 feet shall be six inches. Minimum sizes for distances over 2,000 feet shall be eight inches. All water mains, fittings, valves, fire hydrants and other appurtenances shall conform to A.W.W.A. specifications, class 350, ductile iron mechanical joint or slip joint pipe and town's local standards and review program for water line extensions.

b. *Sewer mains.* The minimum size of sewer mains shall be eight inches. SDR 35, SDR 21, or ductile iron pipe may be used. However, the town will specify in each particular case the type of pipe to be used depending upon the type of soil, drainage and sewage. Manholes and covers shall conform to town's local standards and review program for water line extensions.

(d) *Dedication or reservation of land for public purposes.* The town council may require subdividers of residential subdivisions to set aside land for parks, playgrounds, schools, libraries, municipal buildings and similar public and semipublic uses, subject to the following regulations:

(1) *Dedications.* Subdividers shall not be required to dedicate land for parks or playgrounds exceeding ten percent of the area of the subdivision, exclusive of street and drainage reservations, without reimbursement by the town council. Where land is required in excess of this amount, the reimbursement by the town council shall be based on a proportionate share of the:

(a) Cost of raw land;

(b) Cost of improvements, including interest on investments;

(c) Development costs;

(d) Plus not more than ten percent profit on the total of such costs.

(2) *Reservations.* Subdividers shall not be required to reserve land for public purposes other than streets, drainage, parks and playgrounds, except on a reimbursement basis. They shall be reimbursed by the jurisdiction or agency requiring the land. They shall not be required to hold the land longer than 18 months following the recording of the plat for such purposes. If the land is not purchased within such 18 months, it may be sold as lots for the same purposes for which the subdivision was platted. To facilitate such possible eventual sale of reserved land as separate lots, the subdivider shall show in his final plat by dotted lines and dotted numbers, the area and dimensions of lots to be created within the boundaries of any such reserved land, and may sell such lots, after the expiration date of the reservation, by lot number without filing an amended plat. The council or agent shall make certain that lands so reserved are divisible in the same manner as the remainder of the subdivision so that the subdivider will not be required to reserve an unusable portion of his subdivision. Nothing herein shall be construed to mean that land may be set aside for commercial purposes in a residential district, without the land so required for commercial use being zoned appropriately in accordance with the zoning ordinance.

(Code 1972, § 26-7; Code 1992, § 26-7; Ord. of 5-3-1988, § 26-7(b)(9); Ord. of 11-3-1998; Ord. No. ~~2010-10~~ 2010-9, 12-21-2010)

~~**Cross reference**— Streets and sidewalks, ch. 25; water and sewers, ch. 29.~~

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~~***Cross reference**— Planning Commission, § 2-216 et seq.; advertising, ch. 3; prohibiting certain signs, advertisements, and advertising structures, § 3-47; size, number, height, and location of signs, § 3-96 et seq.; alcoholic beverages, ch. 4; animals, ch. 5; stables, cow barns, chicken houses, etc., § 5-8; butchering and skinning animals, § 5-10; slaughterhouses, § 5-11; slaughter of poultry, § 5-12; antennas, ch. 6; location of antennas with reference to building and street lines in residence districts, § 6-32; barbershops and cosmetology salons, ch. 8; buildings, ch. 9; flea markets, § 13-4; licenses generally, ch. 15; compliance with zoning regulations prior to issuance of license, § 15-11; precious metals dealers, ch. 19; Zoning Ordinance incorporated into public utilities chapter, § 21-3; subdivisions, ch. 26; purpose of subdivision regulations, § 26-1; procedure for making and recording plats of subdivisions, § 26-5; review and approval process for subdivision plats, § 26-6; taxicabs, ch. 27; water and sewer main extensions to developments, § 29-63; mobile home parks, § 30-156 et seq.~~

***State law reference**—Notice of planning or zoning matters, Code of Virginia, § 15.2-2205; zoning, Code of Virginia, § 15.2-2280 et seq.

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~~Sec. 30-193. Approval and extension.~~

~~Sec. 30-194. Right of developer to continue project.~~

~~Sec. 30-195. Inspection and supervision of improvements.~~

~~**Article XXII. Miscellaneous Provisions**~~

~~Sec. 30-196. Averaging lot area and cluster subdivision.~~

~~Sec. 30-197. Reference to Virginia Condominium Act.~~

~~Sec. 30-198. Multiunit residential development, street and utility requirements.~~

~~Sec. 30-199. Portable storage containers.~~

~~**Article XXIII. Telecommunications Structures**~~

~~Sec. 30-200. Telecommunications Structures.~~

~~**Article XXIV. Severability, Conflict, Effective Date**~~

~~Sec. 30-201. Severability.~~

~~Sec. 30-202. Repeal of conflicting ordinances.~~

~~Sec. 30-203. Effective date.~~

~~Sec. 30-204. [Filing of certified copies.]~~

ARTICLE I. IN GENERAL

Sec. 42-1. Definitions.

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

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:

A

Abattoir means a commercial slaughterhouse except poultry slaughterhouses.

Accessory apartment. See *Apartment*, accessory.

PROOFS

Accessory use or structure means a subordinate use or structure clearly incidental to, or customarily found in connection with, and (except as otherwise provided in this chapter) located upon the same lot occupied by the main use or building.

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

Adjoining property owner, for purposes of notification, means the first property owner encountered when radiating out from a subject property, including property owners across public rights-of-way. An adjoining property owner shall not be the owner of the subject property.

Administrator means the official charged with the enforcement of this chapter. He may be any appointed or elected official who is, by formal resolution, designated to the position by the ~~governing body~~ town council. He may serve with or without compensation as determined by the ~~governing body~~ town council.

Adult bookstore or *adult video store* means an establishment having, as a substantial or significant portion of, its stock-in-trade as books, magazines, other periodicals, videotapes, computer disks, CD-ROMs, DVD-ROMs, virtual reality devices or similar media that are distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.

Adult business means any adult bookstore, adult video store, adult model studio, adult motel, adult movie theater, adult nightclub, adult store, business providing adult entertainment, or any other establishment that regularly exploits an interest in matter relating to specified sexual activities or specified anatomical areas or regularly features live entertainment intended for the sexual stimulation or titillation of patrons.

Adult entertainment means dancing, modeling or other live entertainment, if the entertainment is characterized by an emphasis on specified sexual activities or specified anatomical areas or is intended for the sexual stimulation or titillation of patrons; or the showing of films, motion pictures, videotapes, slides, photographs, CD-ROMs, DVD-ROMs or other media that are characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.

Adult merchandise means magazines, books, other periodicals, videotapes, films, motion pictures, photographs, slides, CD-ROMs, DVD-ROMs, virtual reality devices, or other similar media that are characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas; instruments, devices or paraphernalia, either designed as representations of human genital organs or female breasts, or designed or marketed primarily for use to stimulate human genital organs; or, lingerie or leather goods marketed or presented in a context to suggest their use for sadomasochistic practices.

Adult motel means a motel, hotel or similar commercial establishment that:

(1) Provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides or other photographic reproductions that are characterized by the depiction or description of specified sexual activities or specified anatomical areas and advertises the availability of this sexually-oriented type of material by means of a sign visible from the public right-of-way, or by means of any off-premises advertising, including, but not limited to, newspapers, magazines, pamphlets or leaflets, radio or television;

(2) Offers a sleeping room for rent for a time period of less than ten hours; or

(3) Allows a tenant or occupant to subrent the sleeping room for a time period of less than ten hours.

PROOFS

Adult movie theatre means an enclosed building, regularly used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas for observation by patrons, excluding movies that have been rated "G," "PG," "PG-13" or "R" by the Motion Picture Association of America.

Adult nightclub means a restaurant, bar, club or similar establishment that regularly features adult entertainment.

Adult store means an establishment having adult merchandise as a substantial or significant portion of its stock-in-trade.

Agriculture means the tilling of the soil, the raising of crops, horticulture, forestry, orchards, vineyards or nurseries, but not including the keeping of animals and fowl or agriculturally related business or industry, except as permitted in the district regulations.

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

Amateur radio tower means a lattice-framed, girded, guyed or monolithic freestanding or building-mounted structure, including any base, tower, pole, antenna and appurtenances, intended for noncommercial airway communications purposes by a person holding a valid radio license issued by the Federal Communications Commission (FCC) not exceeding a height of 75 feet above ground level.

Antique store means a business offering primarily antiques for sale within a fully enclosed building. The term "antique," for the purposes of this chapter, shall be a work of art, piece of furniture, decorative object or similar items with an age of at least 30 years old.

Apartment means a dwelling unit.

Apartment, accessory, means a dwelling unit with or without a kitchen or bath provided for family members related by blood or marriage within a single-family residence or within a residential garage structure.

Apartment, garage, means an accessory apartment built over, or as part of, a private residential garage.

Apartment house means a building used, or intended to be used, as the residence of three or more families living independently of each other. Also *see Dwelling, multiple-family*.

Auction house.

(1) The term "auction house" means an enclosed place or establishment conducted or operated for compensation or profit as a private or public market where items are offered for sale through competitive bidding.

(2) The term "auction house" shall not include on premises estate, foreclosure, real estate or personal property sales conducted upon the estate, foreclosed or for sale property or property belonging to the personal property owner.

(3) The term "auction house" shall not include flea markets, yard sales or livestock markets defined or regulated elsewhere or sheriff's or bank repossession sales.

Auction house, business, means an auction house for items of a personal or business nature, generally found within retail stores located within the underlying zoning district.

Auction house, industrial, means an auction house for motor vehicles, machinery, heavy equipment, items of an industrial nature, or items not normally found within retail stores.

PROOFS

Automobile graveyard means any lot or place which is exposed to the weather and upon which more than five motor vehicles of any kind, incapable of being operated, are placed or kept for purposes of disassembly and for sale or resale of parts, not including the retention of wrecked, stolen, impounded or unclaimed vehicles being kept or stored by a public garage while awaiting legal disposition. See also *Junkyard*.

B

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

Bathroom means an interior room of a dwelling unit containing at least a bathtub or shower, washbasin and water closet.

Bed and breakfast inn means a single-family, owner-occupied dwelling which, as an accessory use, offers no more than five bedrooms for short-term transient occupancy for compensation and where food service for resident guests is limited to breakfast only.

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

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

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

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

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

C

Campground, overnight, means an area where recreational vehicles, tents or other temporary structures are put up for temporary lodging during outings, vacations, etc. Storage of recreational vehicles, boats, automobiles, trucks or other equipment and vehicles is not permitted, unless specifically authorized by conditional use permit.

[313] *Communications antenna* means a communications receiving and/or broadcasting device (often attached to a building or an independent communications structure for support purposes) extending no more than ten feet above a roof support or 12 feet in total height, including but not limited to, panels, whips, dishes or masts.

Communications monopole means a single, self-supporting pole for the erection of communication antennas and not exceeding one-third of the height of the main structure above a roof support or 125 feet in total height, including any communications antennas.

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[313] The full title of the commission should be used in the chapter so as not to confuse it with any other commission. okay.

PROOFS

Communications structure means any structure intended or utilized for supporting communications receiving and/or broadcasting devices. The term "communications structure" ~~shall~~ includes monopoles and towers.

Communications tower means a ground-supported, or roof-supported, lattice-framed, girded or guyed communications structure or any monolithic structure for the erection of communication antennas and not exceeding 250 feet in total height, including any communications antennas.

Condominium means real property and any incidentals thereto, or interests therein, which have been, or are to be, lawfully established as such under the Virginia Condominium Act.

State law reference—Condominium Act, Code of Virginia, § 55-79.39 et seq.

Convalescent, nursing or rest home means any institution however named, whether conducted for charity or for profit, which is advertised, announced or maintained for the express or implied purpose of caring for two or more persons not related to the operator thereof and admitted thereto for the purpose of nursing or convalescent care. Nursing and convalescent care includes care given because of prolonged illness or defect or during the recovery from injury or disease, and includes any and all of the procedures commonly employed in waiting on the sick, such as administration of medicine, preparation of special diets, giving of bedside care, application of dressing and bandages, and the carrying out of treatments prescribed by a duly licensed practitioner of medicine.

Cul-de-sac means a street with only one outlet and having an appropriate vehicle turnaround at the end at least 100 feet in diameter. Lot frontage may be reduced at the end of a cul-de-sac or on a curved street if approved by the administrator and provided that minimum setback and lot area requirements are maintained.

D

Dairy means a commercial establishment for the manufacture, processing or sale of dairy products.

Day care means the care of children or adults away from their own home, or conservator's home, for any part of a 24-hour day for compensation or otherwise.

Day care, adult home, means the caring of not more than three adults, not related by blood or marriage, within one's personal residential dwelling for any part of a 24-hour day, for compensation or otherwise. Nursing or convalescent care shall not be offered.

Day care center means facilities or programs for the care of children or adults away from their own home, or conservator's home, for any part of a 24-hour day, for compensation or otherwise.

[314]*Day care center, adult,* ~~Facilities or programs for the care of more than two adults away from their own home or conservator's home for any part of a 24-hour day, for compensation or otherwise. Nursing or convalescent care or continuous lodging shall not be offered at such 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 or more aged, infirm or disabled adults who reside elsewhere, except:

(1) A facility, or portion of a facility, licensed by the state board of health or the department of behavioral health and developmental services, and

(2) The home or residence of an individual who cares for only persons related to him by blood or marriage.

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[314] This definition is different from the definition in Code of Virginia, § 63.2-100. Changed.

PROOFS

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.

Day care center, child, means facilities or programs for the care of more than five children away from their own home for any part of a 24-hour day, for compensation or otherwise. Continuous lodging shall not be offered at such center.

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

Domestic pet means an animal housed at a residence for family purposes as a household pet, including domesticated cats, dogs, fish, birds and other similar animals, as determined by the zoning administrator. Such use shall be deemed to be allowed by right on residential properties in accord with the provisions of chapter 8, Animals, and this chapter, but however shall not be deemed to include agricultural operations or the raising of non-domesticated animals. Pygmy goats as domestic pets are allowed with a conditional use permit.

Dwelling means any permanent structure which is designed for use for residential purposes, except hotels, boardinghouses, apartments, condominiums, manufactured homes and mobile homes, which are defined elsewhere within this section.

Dwelling, multiple-family, means a permanent structure arranged or designed to be occupied by more than two families and/or having more than two dwelling units. Also see *Apartment*.

Dwelling, nonconforming. See *Structure, nonconforming*.

Dwelling, single-family, means a dwelling arranged or designed to be occupied by no more than one family and containing only one dwelling unit.

Dwelling, two-family, means a dwelling 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 or structure designed for living or sleeping purposes and having at least one kitchen and one bathroom.

F

[315]*Family* means one or more persons related by blood, marriage, adoption or legal guardianship.

Family day home means a child day program offered in the residence of the provider or the home of any of the children in care for one through 12 children under the age of 13, exclusive of the provider's own children and any children who reside in the home, when at least one child receives care for compensation. The provider of a licensed or registered family day home shall disclose to the parents or guardians of children in their care the percentage of time per week that persons other than the provider will care for the children. Family day homes serving six through 12 children, exclusive of the provider's own children and any children who reside in the home, shall be licensed. However, no family day home shall care for more than four children under the age of two, including the provider's own children and any children who reside in the home, unless the family

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[315] This definition and all references and restrictions in the zoning ordinance to limitations on occupancy by those not related by blood should be reviewed with the requirement in Code of Virginia, § 15.2-2286 A.14. that regulations regarding the number of persons permitted to occupy a single-family residential dwelling unit be in compliance with applicable local, state and federal fair housing laws. See Code of Virginia, § 36-96.1 et seq. I think we comply – I edited the definition of "unrelated individuals" to meet Code of Virginia, § 36-96.7.

PROOFS

day home is licensed or voluntarily registered. However, a family day home where the children in care are all grandchildren of the provider shall not be required to be licensed.

Farmers' market means a site where outdoor stalls, booths, tables and/or the like are used by one or more vendors for the display and/or sale of locally produced fruits, vegetables, plants, flowers, plant products, and/or animal products such as eggs, milk, butter, cheese and honey. A farmers' market shall not include the display and/or sale of animals.

Fence. See section 30-14 [in the] Streets, Sidewalks and Other Public Places [chapter] of this ~~town~~ Code for regulations.

Flea market means any person or aggregation, congregation or assembly of vendors, whether professional or nonprofessional, that offers for sale, trade or barter any goods, regardless whether they are new, used, antique or handmade; and where offered for sale in open air areas, temporary structures, or not otherwise within a fully enclosed building. This term "flea market" shall not include farmers' markets, as defined in this chapter, and shall not include garage and/or yard sales, as defined in chapter 26, article II, Flea Markets and Garage and/or Yard Sales.

Fraternity/sorority house means a fraternity/sorority house shall be defined as consisting of a dwelling house having one or more rooms for living and sleeping purposes, and having at least one kitchen area and one bathroom facility, and which dwelling is occupied by two or more people unrelated by blood or marriage, and which occupants or users of said dwelling house are members of a student organization formed mainly to promote friendship and welfare of an organization with members belonging thereto.

Frontage, lot, means the distance for which the front boundary line of the lot and the street or road line are coincident.

Frontage, street or road, means all of the property on one side of a street or road between two intersecting streets (crossing or terminating), measured along the line of the street, or if the street is dead-ended, then all of the property abutting on one side between an intersecting street and the dead end of the street.

G

Garage apartment. See *Apartment, garage.*

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 buildings to which it is accessory. On a lot occupied by a multiple-unit dwelling, the private garage may be designed and used for the storage of one and one-half times as many automobiles as there are dwelling units.

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

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

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

Governing body means the ~~governing body~~ town council of the town.

Greenspace means the area of non-impervious surfaces. Landscaping/landscaped areas may be counted toward greenspace.

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

PROOFS

H

Historical area, as indicated on the zoning map to which the provisions of this chapter apply for protection of an historical heritage.

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

Home occupation means any occupation, profession or enterprise~~, or activity~~ conducted by one or more members of a family residing on the premises which is incidental and secondary to the use of the premises for dwelling purposes, provided that not more than one person other than a family member of the resident family is employed on the premises. Home occupations would include any activity for renumeration and would include, but would not be limited to, activities such as the keeping of files, sending and receipt of mail, accounting and filing of taxes associated with the activity associated with renumeration. [316]See section 42-8 for conditional use permit requirements. When within ~~the above~~ this requirement, a home occupation includes, but is not limited to, the following:

(1) Art or photography studio;

(2) Dressmaking;

(3) Professional office of a physician, therapist, dentist, minister, lawyer, engineer, architect, accountant, salesman or other similar occupation;

(4) Typing, word processing or computer operation;

(5) Teaching with musical or educational instruction limited to two pupils at a time;

(6) Keeping of a single guestroom.

However, a home occupation shall not be interpreted to include the conduct of beauty parlors, barbershops, nursing homes, convalescent homes, rest homes, antique or craft resale, restaurants, tearooms, tourist homes, fortunetellers or similar establishments.

Home occupation, major, means major home occupations shall consist of all home occupations other than minor home occupations, as defined herein. Major home occupations shall require a conditional use permit pursuant to section 42-8.

Home occupation, minor, means a minor home occupation means a residential enterprise where no sales take place whereby property is transferred on-premises from one person to another, or others, for a consideration of value except for products fabricated or manufactured on the residential site, where no hazardous materials are stored or utilized, where on-street parking in conjunction with such operation is confined to the street frontage of the host lot, where no outside indication exists that a business enterprise is conducted on the premises, ~~and~~ where there is no group instruction, assembly or activity, and where no more than one utility truck, not exceeding one ton, and one utility trailer associated with the business is stored. In cases where more than one home occupation is located at a residence, no more than one utility truck, not exceeding one ton, and one utility trailer shall be allowed combined between all home occupations at the residence in order to be eligible as a minor home occupation.

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[316] This and the remainder of the definition consists of substantive requirements that should not be in a definition, but in a separate section with the other requirements for home occupations. I am fine with that. Maybe rename Section 30-8 to Conditional Use Permits and Home Occupations and place it in there?

PROOFS

Hospital means an institution rendering medical, surgical, obstetrical or convalescent care, but not including nursing homes, rest homes and homes for the aged, and in all cases excluding institutions primarily for mental or feebleminded patients, alcoholics or drug addicts.

Hospital, special care, means an institution rendering care primarily for mental or feebleminded patients, alcoholics or drug addicts.

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

I

Industrialized building unit or *units* means a building assembly or system of building subassemblies having a valid state registration seal affixed certifying that the unit is built to department of housing and community development standards at the time of manufacture, including the necessary electrical, plumbing, heating, ventilating and other service systems, manufactured off-site and transported to the point of use for installation or erection, with or without other specified components, as a finished building, or as a part of a finished building comprising two or more industrialized building units, and not designed for ready removal to, or installation or erection on, another site. The term “off-site,” as used in this definition, refers to an industrialized building unit produced at any place other than the location in the completed building where it is permanently positioned. Also see *Trailer, construction*.

Institution, in zoning, means an organization having a public, educational or religious purpose, such as a government building, school, church, hospital, etc.

J

Junkyard means the use of any area of land in any location for the storage, keeping or abandonment of junk, including scrap metals or other scrap materials. The term "junkyard" shall include the term "automobile graveyard," as defined in this section.

K

Kennel means a place prepared to house, board, breed, handle or otherwise keep or care for dogs and/or cats for sale or in return for compensation or any place where five or more adult dogs and/or cats are kept.

L

Landscaping/landscaped area means areas of a non-grass, non-impervious nature including bark, mulch, decorative stone, planting areas of flowers, shrubs and trees including tree canopy. Areas of impervious surfaces, gravel and denuded areas shall not be considered as landscaped.

Live entertainment means entertainment provided in person, including, but not limited to, musical performances, music played by disc jockeys, public speaking, dramatic performances, dancing, modeling or comedic performances.

Livestock market means a commercial establishment wherein livestock is collected for sale and auctioned or otherwise sold.

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

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

PROOFS

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

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

Lot frontage. See *Frontage, lot.*

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

Lot line, front, means the property line dividing a lot from a street. On corner lots and other lots with frontage on one or more streets, only one street line shall be considered as a front line with the street to which the primary entrance of the principal building faces or to which the building is addressed being considered the front lot line.

Lot, nonconforming, means an otherwise legally platted lot that does not conform to the minimum area or width requirements of this chapter for the district in which it is located, either at the effective date of this chapter or as a result of subsequent amendments to the chapter. See sections 42-478 and 42-479 for more detail.

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

Lot width means the horizontal distance between the side lot lines measured at the front building setback line.

M

Major home occupation. See *Home occupation, major.*

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

Manufactured home, doublewide, means a structure subject to federal regulation which is transportable in two or more sections which is designed to be joined together at the point of use to form a single-family dwelling, and which is designed for removal to and installation or erection on privately owned sites, providing the title is relinquished and the unit is assessed as real estate, the towing gear and axle are removed and the perimeter foundation walls are constructed of masonry or other material approved for site built single-family housing. The location of doublewide manufactured homes, as defined, may be located in mobile home parks or on individual single-family dwelling unit lots.

Manufactured home, modular, means a structure having a valid [317]state registration seal affixed certifying that the unit is built to department of housing and community development standards at the time of manufacture, which is transportable in two or more sections that are designed to be joined together at the point of use to form a single-family dwelling, and which is designed for removal to and installation or erection upon privately owned sites, providing the title is relinquished and the unit is assessed as real estate and the perimeter foundation walls are constructed of masonry or other material approved for site built single-family housing. The location of modular manufactured homes, as defined, may be located on individual single-family dwelling unit lots.

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[317] Are registration seals issued for modular homes? The Town does not issue seals, but they should have a HUD inspection seal.

PROOFS

Manufactured home not subject to federal regulation means a manufactured home constructed before June 15, 1976, and does not meet the criteria of a manufactured home, a doublewide manufactured home, a modular manufactured home, a mobile home, or an industrialized building unit. Manufactured homes not subject to federal regulation (constructed before June 15, 1976) are not a permitted use within the town.

Manufactured home subdivision means an area designed to accommodate one or more manufactured homes on individual lots which may be offered for sale under the terms of this chapter and the subdivision ordinance. Manufactured housing is permitted within the district providing the title is relinquished and the unit is assessed as real estate, the towing gear and axle are removed and the perimeter foundation walls are constructed of masonry or other permanent material approved for site built single-family housing.

Manufactured home subject to federal regulation means a manufactured home constructed after June 15, 1976, having a U.S. department of housing and urban development seal affixed to the manufactured home at the point of manufacture certifying that the manufactured home is built to HUD standards at the time of manufacture.

Minor home occupation. See *Home occupation, minor.*

[318]*Mobile home* means a manufactured home, singlewide, subject to federal regulation. The location of mobile homes, as defined herein, shall be limited to mobile home parks.

Mobile home park. Any area designed to accommodate two or more manufactured or mobile homes intended for residential use where residence is in manufactured or mobile homes.

N

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

Nonconforming lot. See *Lot, nonconforming.*

Nonconforming structure. See *Structure, nonconforming.*

O

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

Open space means any space reserved for common use (as among a homeowners association or as common space in apartment complexes) as to provide for outdoor living, patios, pools, lawns, play areas, walks, wooded areas and the like, but not including driveways and parking areas.

P

Paintball course means any commercial use indoor or outdoor course, trail or system of bunkers or barriers for paintball practice, competition or amusement by use of pneumatic guns.

Parking bump-out means a greenspace area located within a parking area that is surrounded on at least three sides by parking area or access road.

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[318] Should mobile home be changed to manufactured home subject to federal regulation or not subject to regulation throughout this chapter? All these terms appear to be used. Leave as is

PROOFS

Parking garage means a building or structure, or portion thereof, designed or used for temporary parking of motor vehicles and consisting of more than one parking level or containing commercial establishments or governmental uses and parking at different levels.

Parking island means a greenspace area located within a parking area that is surrounded on all four sides by parking area or access road.

Personal service establishment means an establishment or place of business engaged in the provision of frequently or recurrently needed services of a personal nature. Typical uses include beauty and barber shops; pet grooming; seamstresses, tailors, or shoe repairs; florists; and laundrymats and dry cleaning stations serving individuals and households.

Planning commission means the planning commission of the town.

Portable storage container means a portable, weather-resistant receptacle designed and used for the temporary storage or shipment of items, including, but not limited to, household goods, furniture, wares, building materials, equipment or merchandise. The term "portable storage container" shall not include dumpsters or refuse containers.

Public nudity means a public state of undress so as to expose the human male or female genitals, pubic area or buttocks or to cover any of them with less than a fully opaque covering, or the showing of the female breast or any portion thereof below the top of the nipple, or the covering of the breast or any portion thereof below the top of the nipple with less than a fully opaque covering.

Public water and sewer systems means a water or sewer system owned and operated by a municipality, county or private individual or a corporation approved by the ~~governing body~~ town council and properly licensed by the state corporation commission and subject to special regulations as set forth in this chapter.

R

Recycling means the removal of materials, such as, but not necessarily limited to, aluminum, glass, newspaper, cardboard and plastics from the household or business waste stream and placing it in a secondary market for reuse or reprocessing.

Recycling, drop-off center, means a location either fixed or mobile where recyclable materials are deposited for later collection and transport to a post-collection separation facility.

Recycling, post-collection separation facilities, means a roofed structure, usually enclosed, where recyclable materials are separated from the waste stream and sorted according to material type for recycling. The term "recycling, post-collection separation facilities" may also include compaction and other equipment necessary to carry out the recycling effort. The term "recycling, post-collection separation facilities" may also include a recycling drop-off center and/or recycling transfer station.

Recycling transfer station means a distribution warehouse for the express purpose of collecting contained recycled goods for shipping to a buyer of recycled materials.

Rehabilitation center means a transitional housing facility for non-violent offenders returning to community life in which rehabilitated persons can learn skills and independent living in a home-like environment serving up to 20 persons.

Related by blood means family relationship of individuals including only spouses, children, parents, mothers-in-law, fathers-in-law, brothers, sisters, grandparents, great grandparents, grandchildren, great grandchildren, aunts, uncles, nieces, nephews, great aunts, great uncles, great nieces, great nephews and first cousins. Should a question arise regarding validity of family relationship it shall be the burden of the individuals claiming relation by blood to prove the existence of such relationship to the satisfaction of the zoning administrator.

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Required open space means any space required in any front, side or rear yard or as delineated on an approved site plan or otherwise specified in this chapter.

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

S

Salvage yard. See *Junkyard*.

Sawmill means a plant located on private property for the processing of timber.

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

Shooting range, indoor, means the commercial use of a structure for archery and/or the discharge of firearms or pneumatic guns for the purpose of target practice, skeet and trap shooting, mock war games, or temporary competitions, such as a turkey shoot. Excluded from this use type shall be general hunting, and non-commercial unstructured and nonrecurring discharging of firearms or pneumatic guns on private property with the property owner's permission.

Shooting range, outdoor, means a commercial use of land for archery and/or the discharge of pneumatic guns for the purpose of target practice, skeet and trap shooting, mock war games, or temporary competitions, such as a turkey shoot. Excluded from this use type shall be general hunting and the discharge of firearms, and non-commercial unstructured and nonrecurring discharging of pneumatic guns on private property with the property owner's permission in accordance with section 22-2.

Sign structure. See *Structure, sign*.

Special exception means a special use exception, yard exception or height exception specifically listed in this chapter which may be permitted in a specified district or in all districts in accord with terms of this chapter by the board of zoning appeals under certain conditions, such conditions to be determined in each case by the terms of this chapter and by the board of zoning appeals.

Special use permit. See *Conditional use perm*it.

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

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

Stealth technology means a manmade tree, clock tower, bell steeple, light pole and similar alternative-design mounting structure that camouflages or conceals the presence of communications antennas, monopoles or towers.

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

Story, half, means a space under the 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 not more than two-thirds of the floor area is finished off for use.

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

Street or road frontage. See *Frontage, street or road*.

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

Structure means that which is built or constructed.

Structure, accessory. See *Accessory use* or *Structure* ~~this section~~.

Structure, nonconforming, means an otherwise legal building or structure that does not conform with the lot area, yard, height, lot coverage or other area regulations of this chapter, or which is designed or intended for a use that does not conform to the use regulations of this chapter for the district in which it is located, either at the effective date of this chapter or as a result of subsequent amendments to the chapter. (Note: For nonconforming dwellings in business and industrial districts see also section 42-480.)

Structure, permanent, means a structure, the use of which requires permanent location on the ground or attachment to something having a permanent location on the ground, including dwellings, buildings, signs, etc.; except for fences (see the definition of "fence" in this section). For purposes of setback requirements, bus stop shelters may not be classified as a structure under this definition.

Structure, sign, means the supports, uprights, bracing and framework of any structure exhibiting a sign, be it single-faced, double-faced, V-type or otherwise. For purposes of regulation, sign structures shall be governed by ~~the~~ [319] ~~Outdoor~~ Chapter 4, Advertising ~~Ordinance~~.

Structure, temporary, means a structure, the use of which does not require permanent location on the ground or attachment to something having a permanent location on the ground, including wayside and roadside stands, tents, cargo containers, licensed or unlicensed vehicles or trailers regulated by agencies of federal, state or local governments used for sales, storage, collection centers, etc.

T

Terminal means a station, i.e., buildings, at an important point or junction of a transportation or supply line.

Terminal, passenger, means a terminal where passengers disembark or embark upon vehicles used primarily for public conveyance of people and limited small freight items, e.g., a bus station.

Terminal, truck, means a terminal where trucks may or may not unload and/or transfer freight or transfer trailers and contain one or more of the following activities: petroleum storage, refueling, vehicle or trailer repair, truck storage, sleeping quarters available to the general truck industry or public, retail or wholesale trade; e.g., a truck stop.

Terminal, truck freight. See *Warehouse, distribution*.

Therapist means a person licensed or certified in the occupation, profession, enterprise or activity of physical or mental therapy by a recognized association of professionals in the same area of expertise.

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[319] Is this referencing divisions 1 through 3 of article III of chapter 3 which regulates outdoor advertising in sight of public streets or division 4 of that article which regulates signs in zoning districts. Is there another section that regulates outdoor advertising in general? It should be Chapter 3 "Advertising" of the Christiansburg Town Code.

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

Town council means the Christiansburg town council.

Townhouse means one of a series of from three to ten attached single-family dwellings designed to be offered for sale or sold as a unit, separated from one another by continuous vertical walls without openings from foundation through the roof. The lots or assigned land area, utilities and other improvements for each 'townhouse' are designed to permit individual and separate ownership of such lots and dwelling units. Also see article XX, Townhouses.

Traffic impact statement means a statement that assesses the impact of a proposed development on the transportation system and recommends improvements to lessen or negate those impacts. The traffic impact statement shall:

(1) Identify any traffic issues associated with access from the site to the existing transportation network;

(2) Outline solutions to potential problems;

(3) Address the sufficiency of the future transportation networks; and

(4) Present improvements to be incorporated into the proposed development.

The data and analysis contained in the traffic impact statement shall comply with the Virginia Department of Transportation Traffic Impact Analysis Regulations 24 VAC 30-155-60. If a traffic impact statement is required, data collection shall be by the developer or owner and the developer or owner shall prepare the traffic impact statement.

Trailer, construction, means a temporary mobile office currently inspected, licensed and insured for over the road usage that is primarily used at construction, amusement and similar sites while construction or transitory activity is in progress as opposed to an industrialized building unit of a more permanent character. Such construction trailer shall not be used for residential or long duration uses, unless specifically approved for such uses by the manufacturer and in accordance with the rules and regulations of the town and appropriate state and federal regulatory agencies. See also *Industrialized building unit*.

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

Truck means every vehicle designed to transport property on its own structure independent of any other vehicle. Also see *Truck, tractor*.

Truck, tractor, means every motor vehicle designed and used primarily for drawing other vehicles and not so constructed as to carry a load other than a part of the load and weight of the vehicle attached thereto. Commonly referred to as tractor-trailer trucks. Also see *Truck*.

U

Undefined uses or terms refers to uses or terms not specifically enumerated within this chapter. See section 42-2.

Unrelated individuals means a person not related by blood, marriage, adoption or legal guardianship and not exempted under Code of Virginia, § 36-96.7.

V

Variance means a reasonable deviation from the provisions of this chapter 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

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the strict application of this chapter would result in unnecessary or unreasonable hardship to the property owner [320] and such need for a variance would not be shared generally by other properties, and provided such variance is not contrary to the intended spirit and purpose of the ordinance, and would result in substantial justice being done. The term "variance" shall not include a change in use which change shall be accomplished by a rezoning or by a conditional zoning.

W

Warehouse means a building where wares or goods are stored, as before being distributed to retailers; a storehouse. Not a truck terminal.

Warehouse, distribution, means a warehouse where items are brought to, and temporarily stored for later distribution to other destinations. Distribution may include the use of cargo containers on trailers or dual trailers which are separated and transferred to other trucks for distribution of contents. Not a truck terminal.

Wayside stand, roadside stand, wayside market means any structure or land used for the sale of agricultural or horticultural produce or merchandise.

Y

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

Yard, front, means an open unoccupied 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, rear, means an open, unoccupied space on the same lot as a building between the rear line of the building, excluding steps, and the rear line of the lot and extending the full width of the lot.

Yard, side, means an open, unoccupied space on the same lot as a building between the sideline of the building, excluding steps, and the sideline of the lot and extending from the front yard line to the rear yard line.

(Code 1972, § 30-1; Code 1992, § 30-1; Ord. of 6-20-1989; Ord. of 4-3-1990; Ord. of 10-16-1990; Ord. of 7-2-1991; Ord. of 9-1-1992; Ord. of 6-15-1993; Ord. of 9-5-1995; Ord. of 12-17-1996, art. I; Ord. of 6-2-1998; Ord. of 4-20-1999; Ord. of 12-7-1999; Ord. No. 2000-2, 4-18-2000; Ord. No. 2001-2, 5-15-2001; Ord. No. 2002-2, 3-5-2002; Ord. No. 2003-6, 8-5-2003; Ord. No. 2004-4, 9-7-2004; Ord. No. 2007-1, 4-3-2007; Ord. No. 2008-6, 12-2-2008; Ord. No. ~~2010-9~~ 2010-8, 12-21-2010; Ord. No. 2012-6, § 30-1, 6-19-2012; Ord. No. 2012-10, § 30-1, 11-20-2012)

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

Sec. 42-2. Districts.

(a) For the purpose of this chapter, the incorporated areas of the town are hereby divided into the following districts:

Agricultural	A
Residential, rural	R-1A
Residential, single-family	R-1
Residential, two-family	R-2

[320] Add to conform to the definition in Code of Virginia, § 15.2-2201? Yes.

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Residential, multiple-family	R-3
Residential, ~~mobile~~ manufactured home subdivision	R-MS
Mixed use: residential - limited business	MU-1
Mixed use: residential - limited business - limited industrial	MU-2
Business, limited	B-1
Business, central	B-2
Business, general	B-3
Industrial, limited	I-1
Industrial, general	I-2
Floodplain	FP

(b) Said districts are shown on the official zoning map which accompanies, and is hereby made a part of, this chapter. For the purposes of this chapter, permitted uses are listed for the various districts. Unless the contrary is clear from the context of the lists or other regulations of this chapter, uses not specifically listed are prohibited; provided, however, that if an application is made for a use not specifically permitted and the administrator is unable to classify the use under the provisions of this chapter, the administrator shall refer the application to the planning commission which shall, at its next regular meeting, review the characteristics of the use and its compatibility or noncompatibility with other uses permitted in the district and shall make a recommendation to the administrator regarding classification of the use and his action thereon, or the commission shall, within a reasonable period of time, recommend to the ~~governing body~~ town council that the chapter be amended to clarify its application to such use.

(Code 1972, § 30-2; Code 1992, § 30-2; Ord. No. 2004-4, 9-7-2004)

Sec. 42-3. Interpretation of boundaries.

Unless district boundary lines are fixed by dimensions or otherwise clearly shown or described and where uncertainty exists with respect to the boundaries of any of the 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 centerline, shall be construed to be such boundaries, as the case may be.

(2) Where a district boundary is indicated to follow a river, creek, 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 centerline, such boundary shall be construed as moving with the actual centerline.

(3) If no distance, angle, curvature description or other means is given to determine a boundary line accurately and the foregoing provisions do not apply, the 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.

(Code 1972, § 30-3; Code 1992, § 30-3)

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Sec. 42-4. Administrator of chapter.

This chapter shall be enforced by the administrator who shall be appointed by the ~~governing body~~ town council. The administrator shall serve at the pleasure of ~~that body~~ the town council. Compensation for such shall be fixed by resolution of the ~~governing body~~ town council.

(Code 1972, § 30-4; Code 1992, § 30-4)

~~**Cross reference**—Administration, ch. 2.~~

Sec. 42-5. Applicability of chapter.

Nothing contained in this chapter 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 this chapter; provided, that such construction must commence within 30 days after this chapter 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. The zoning administrator is authorized to waive any of the requirements of this chapter in the event of an emergency or natural disaster.

(Code 1972, § 30-5; Code 1992, § 30-5; Ord. No. 2007-1, 4-3-2007)

Sec. 42-6. Zoning permits.

(a) Buildings or structures shall be started, reconstructed, enlarged or altered only after a zoning permit has been obtained from the administrator, and shall be void after a period of 180 days from the date of approval, if not utilized during the 180-day period.

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

(Code 1972, § 30-6; Code 1992, § 30-6)

Sec. 42-7. Certificates of occupancy.

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

(Code 1972, § 30-7; Code 1992, § 30-7)

~~**Cross reference**—Buildings, ch. 9.~~

Sec. 42-8. Conditional use permits.

(a) Where so stated by this chapter, the location of permitted uses shall require, in addition to the zoning permit and certificate of occupancy, a conditional use permit approved by the town council when authorized as herein after provided. A conditional use permit should be approved only if it is permitted as a conditional use in the district regulations and only if it is found that the

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location is appropriate and not in conflict with the comprehensive plan, that the public health, safety and general welfare will not be adversely affected, that adequate utilities and off-street parking facilities will be provided, and that necessary safeguards will be provided for the protection of surrounding property, persons and neighborhood values, and further provided that the additional standards of this chapter are complied with. In approving a conditional use permit the town council may impose such reasonable conditions as it believes necessary to accomplish the intent of this chapter. Unless otherwise specified in this chapter or specified as a condition of approval, the height limits, yard spaces, lot area and sign requirements shall be the same as for other uses in the district in which the proposed conditional use is located.

(b) In determining the conditions to be imposed, the town council shall take into consideration the intent of this chapter and may impose reasonable conditions that: abate or restrict noise, smoke, dust or other elements that may affect surrounding property; establish setback requirements necessary for orderly expansion; prevent or alleviate traffic congestion; provide for adequate parking and ingress and egress to public streets or roads; provide adjoining property with a buffer or shield from view of the proposed use, if such use is considered to be detrimental to adjoining property; tend to prevent such use from changing the character and established pattern of development of the community.

(c) Any use listed as requiring approval of a conditional use permit and which use legally exists at the effective date of the regulations of this chapter shall be considered a nonconforming use, unless it has been approved as a conditional use by the town council. Conditional use permits may be revoked by the town council, town manager or zoning administrator, if the conditions of such permit are not fulfilled. Nothing contained in this chapter shall be construed to compel the town council to issue a conditional use permit. Conditional use permits approved shall be subject to administrative review on an annual basis. and to the following time limitations:

(1) Any conditional use permit granted shall be null and void 24 months after approval by the town council if the use or development authorized by the permit is not commenced to a degree that, in the opinion of the zoning administrator, clearly establishes the intent to utilize the granted conditional use permit in a time period deemed reasonable for the type and scope of improvements involved. The property owner, or applicant, may request that town council allow a 12-month extension beyond the 24 month period for an approved conditional use permit provided that the request is received, in writing, within at least 23 months of the conditional use permit approval.

(2) Activities or uses approved by a conditional use permit which are discontinued for a period of more than 24 consecutive months shall not be reestablished on the same property unless a new conditional use permit is issued in accord with this chapter.

(d) The town council, town manager and zoning administrator are authorized to require supplemental conditional use permits if questions of compliance should arise regarding any provision of this chapter.

(e) Conditional use permit application submissions shall include a traffic impact statement whenever a proposed conditional use permit substantially affects transportation on town streets through traffic generation of either:

(1) 100 vehicles trips per peak hour by residential development;

(2) 250 vehicles trips per peak hour by non-residential development; or

(3) 2,500 vehicle trips per day by non-residential development.

(f) The data and analysis contained in the traffic impact statement shall comply with VDOT Traffic Impact Analysis Regulations 24 VAC 30-155-60 and all applicable town ordinances.

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(g) An application to conduct all home occupations shall be filed with the town manager/zoning administrator on forms provided by the town manager/zoning administrator. Business licenses are required in accordance with chapter 18, article XIII. Such licenses shall be revocable by the town manager/zoning administrator for violations of this section ~~30-1 of the Town Code~~ and ~~where~~ other applicable sections ~~30-8 there~~ of this Code. Home occupations shall be classified as either a minor home occupation or a major home occupation.

(Code 1972, § 30-8; Code 1992, §§ 30-1, 30-8; Ord. of 6-2-1998; Ord. of 4-20-1999; Ord. No. 2012-6; § 30-8, 6-19-2012; Ord. No. 2012-10, § 30-8, 11-20-2012)

Sec. 42-9. Lighting and minimum off-street parking.

(a) *Specific requirements by use.* Except as otherwise provided in this chapter, when any building or structure is hereafter erected or structurally altered, or any building or structure hereafter erected is converted, accessory off-street parking spaces shall be provided as follows:

Use or Use Category	*Off-street Parking Spaces Required*
Single-family, private driveway	16' wide by 18' long parking area
~~Single-family or~~ Two-family dwelling	2 per dwelling unit
Townhouse	2 per dwelling unit
Multifamily dwelling, three or more dwelling units:	
One or more bedroom apartments, roomers	2 per dwelling unit, 1 for each roomer
Church, temple, synagogue or similar place of assembly	1 per 5 seats or bench seating spaces (seats in main auditorium only)
College or high school	1 per 5 seats or bench seating spaces (seats in main auditorium, gymnasium or field house only, whichever is larger) or one for each five students, whichever is greater
Elementary, junior high or nursery school	1 per 10 seats in main assembly room or 2 per classroom, whichever is greater
Private club without sleeping rooms	1 per 5 members or 1 for each 400 square feet of floor area, whichever is greater
Public library, museum, art gallery or community center	10 per use, plus 1 additional space for each 300 square feet of floor area in excess of 1,000 square feet
Private clubs, fraternities, sororities and lodges, with sleeping rooms	2 per 3 sleeping rooms or suites or 1 per 5 active members, whichever is greater
Sanitarium, convalescent home, home for aged or similar institution	1 per 3 patient beds
Motel, motor hotel, motor lodge hotel or tourist court	1 per sleeping room or suite, plus 5 spaces for general use
Rooming, boarding or lodging house, bed and breakfast establishment	1 per sleeping room
Hospital	2 per patient bed
Hospital, veterinary	1 per 400 square feet of floor area; 4 spaces

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Use or Use Category	*Off-street Parking Spaces Required*
	minimum
Office or office building (other than medical), post office, studio	1 per 400 square feet of floor area; 3 spaces minimum
Medical offices or clinic	1 per 200 square feet of floor area; 10 spaces minimum for a clinic
Funeral home	1 per 50 square feet of floor area excluding storage and work area; 30 spaces minimum
Restaurant or other establishment for consumption of food or beverages inside a building on the premises	1 per 100 square feet of floor area, 3 spaces minimum
Restaurant, drive-in	1 per 100 square feet of floor area, 10 spaces minimum
Retail store or personal service establishment and banks	1 per ~~200~~ 250 square feet of floor area for the first 5,000 square feet 1 per 300 square feet of floor area for the second 5,000 square feet 1 per 350 square feet of floor area for the third 5,000 square feet and all subsequent square footage
Shopping center	~~5 per 1,000~~ 1 per 250 square feet ~~gross leasable area~~ for the first 5,000 square feet 1 per 300 square feet of floor area for the second 5,000 square feet 1 per 350 square feet of floor area for the third 5,000 square feet and all subsequent square footage
Automobile service station	3 for each service bay or pump island, whichever is greater. Parking for refueling may be credited toward required parking spaces if the administrator determines parked vehicles do not interfere with traffic
Antique store or antique mall	1 per 500 square feet of floor area; 3 spaces minimum
Furniture or appliance store, machinery, equipment, mobile home, and automobile and boat sales and service	1 per ~~300~~ 500 square feet of floor area; ~~2~~ 3 spaces minimum. Automobile sales and service, 10 minimum
Auditorium, theater, gymnasium stadium, arena or convention hall	1 per 4 seats or seating spaces
Bowling alley	5 per lane
Food storage locker	1 per 200 square feet customer service area
Farmers' market	2 for each rented stall, table, or sales space
Outdoor sales area, open air market or flea	4 for each rented stall, table or sales space

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Use or Use Category	*Off-street Parking Spaces Required*
market (other than farmers' market)	
Self-service storage, miniwarehouse	1 for each 25 storage areas plus 3 spaces for the office, if provided (driving aisle between units must be paved or concrete)
Amusement place, dancehall, skating rink, swimming pool or exhibition hall, without fixed seats	1 per 100 square feet of floor area. Does not apply to accessory uses
General service or repair establishment, printing, publishing, plumbing, heating, broadcasting station	1 per 2 employees on premises; auditorium for broadcasting station requires seating as above
Manufacturing or industrial establishment, research or testing laboratory, creamery, bottling plant, wholesale, warehouse or similar establishment	1 per 2 employees on maximum working shift plus space for storage of trucks or other vehicles used in connection with the business or industry

(b) *Interpretation of specific requirements.*

(1) The parking requirements above are in addition to waiting spaces or stacking spaces necessary for the operation of drive-in or drive-through facilities. Waiting spaces on the premises must be adequate to avoid obstruction of traffic on the public way.

(2) The parking requirements above are in addition to space for storage of automobiles, trucks, mobile homes, campers, recreation vehicles or other similar vehicles used or offered for sale in connection with a particular use.

(3) The parking requirements in this section do not limit the parking requirements contained in the district regulations.

(4) The parking requirements in this section do not limit special requirements which may be imposed by approval of a conditional use or special exception.

(5) Where fractional spaces result, the parking spaces required shall be construed to be the next highest whole number.

(6) Except as otherwise provided, the number of employees shall be compiled on the basis of the maximum number of persons employed on the premises at one time on an average day or average night, whichever is greater. Seasonal variations in employment may be recognized in determining an average day.

(7) The parking space requirements for a use not specifically listed in the chart shall be the same as for a listed use of similar characteristics of parking demand generation.

(8) In the case of mixed uses, uses with different parking requirements occupying the same building or premises, or in the case of joint use of a building or premises by more than one use having the same parking requirements, the parking spaces required shall equal the sum of the requirements of the various uses computed separately.

(9) Whenever a building or use is changed or enlarged in floor area, number of employees, number of dwelling units, seating capacity or otherwise, to create a need under the requirements of this section for an increase in parking spaces of ten percent or more, such additional spaces shall be provided on the basis of the change or enlargement. No additional spaces shall be required for the first change or enlargement which would result in an increase of spaces of less than ten percent of those required before the change

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or enlargement, but this exception shall not apply to a series of changes or enlargements which together result in a need for an increase in parking space of ten percent or more.

(10) Garages, carports and other covered and/or enclosed parking areas shall not count toward off-street parking requirements of this section, with the exception that parking spaces in parking garages are allowed to be counted toward off-street parking requirements.

(11) Stacked parking spaces that are not directly accessible to means of ingress and egress are not allowed to count toward off-street parking requirements.

State law reference—Uniform regulations for manufactured housing, Code of Virginia, § 15.2-2290.

(c) *Joint use and off-site facilities.* Except as otherwise provided in this chapter, all parking spaces required herein shall be located on the same lot with the building or use served. Where an increase in the number of spaces is required by a change or enlargement of use or where such spaces are provided collectively or used jointly by two or more buildings or establishments, the required spaces may be located and maintained not to exceed 600 feet from an institutional building or other nonresidential building served. For the purpose of this requirement, land used for employee parking but located immediately across a street or alley from the building or use served shall be considered as located on the same lot.

(d) *Design standards.*

(1) *Minimum space area and paving.* For the purpose of these regulations, an off-street parking space[321] is an area not in a street or alley and having an area of not less than 162 square feet (nine feet in width and 18 feet in length, minimum) or 144 square feet (eight feet in width and 18 feet in length, minimum) for parallel parking, exclusive of driveways, permanently reserved for the temporary storage of one vehicle and connected with a street or alley by a driveway which affords ingress and egress for an automobile without requiring another automobile to be moved. Paved parking with spaces delineated by four-inch striping is required for all parking lots. Acceptable paving methods/surfaces include asphalt, concrete, brick paving and other methods, as approved by the zoning administrator or town engineer (but does not include surface treatment or prime and double seal). An all-weather surface paving is permitted for a single-family or two-family dwelling. Parking lot striping shall be maintained to the satisfaction of the zoning administrator.

(2) *Entrances and exits.* Location and design of entrances and exits shall be in accord with the requirements of applicable regulations and standards, including those of the state department of transportation. In general, there shall not be more than one entrance and one exit, or one combined entrance and exit, along any one street and exits and entrances shall not be located within 25 feet of a street intersection or be greater than 40 feet in width. Landscaping, curbing or approved barriers shall be provided along lot boundaries to control entrance and exit of vehicles or pedestrians.

(3) *Drainage and maintenance.* Off-street parking facilities shall be drained to eliminate standing water and prevent damage to abutting property and/or public streets and alleys and shall be paved in accordance with an approved plan or in accordance with applicable town specifications. Off-street parking areas shall be maintained in a clean, orderly and dust-free condition, at the expense of the owner or lessee.

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[321] Added "is" to complete this sentence. Please review this sentence to determine the correct intent.

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(4) *Lighting.* Lighting shall be provided if off-street parking spaces are to be used at night in conjunction with a business or activity on the premises. Lighting facilities shall be arranged and installed, and the light source shielded, to minimize glare on adjacent property or streets and no lighting fixture shall exceed a height of 15 feet in a residential district or 30 feet in a business district. For mixed use districts, lighting fixtures shall not exceed 15 feet for a residential use or 30 feet for a business use or mixed use. Lighting fixtures shall be allowed to exceed specified maximum heights with conditional use permit approval. Property owned or controlled by the town shall be exempt from these lighting requirements.

(5) *Design in general.* All parking lots shall be arranged for functional efficiency and convenience and in general shall be designed to present a pleasing appearance so as to reduce adverse impact on surrounding public or private property.

(6) *Parking lot aisles.* Aisle widths shall be based upon the following:

90 degree parking	~~23-foot~~ 24-foot aisle minimum, if parking on both sides
60 degree parking	~~18-foot~~ 20-foot aisle minimum, if parking on both sides
45 degree parking	~~14-foot~~ 18-foot aisle minimum, if parking on both sides
Two-way traffic	18-foot aisle minimum, if parking on one side
One-way traffic	14-foot aisle minimum

(7) *Greenspace and landscaping.* Forty square feet of greenspace per one parking space provided shall be required within parking areas with 20 or greater parking spaces. One tree of a minimum height of six-feet tall shall be required per ten parking spaces interior to the parking perimeters for all parking areas with 20 or greater parking spaces. The greenspace and landscaping required shall be uniformly distributed in islands and bump-outs interior to the parking area to the satisfaction of the zoning administrator. Islands and bump-outs shall be of sufficient size to accommodate landscaping growth to maturity. The greenspace and landscaping requirements of this section shall be deemed to count toward the greenspace and landscaping requirements of the zoning district, provided the parking is provided on-site. Parking garages shall be exempted from the parking greenspace and landscaping requirement.

(8) *Storage lots.* Storage lots for contractor equipment, tractor trailers, buses and similar large vehicles may be gravel, provided the storage area is fully enclosed by a minimum six-foot-tall gated fence.

(9 *American with Disability Act.* Parking areas shall comply with the Americans with Disabilities Act and Code of Virginia in regards to spaces reserved for the use of persons with disabilities.

(e) *Grandfathered status in the B-2 Central Business District.* Sites in the B-2 Central Business District having existing structures, which are adequate for commercial, professional or

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residential uses, as provided in the B-2 Central Business District at the time of enactment of this amendment, shall be considered as grandfathered in regards to off-street parking requirements. Significant structural alterations or demolition as well as new construction, after enactment of this amendment, shall be grounds for grandfathered status to be lost.

(f) *Parking credit for availability of mass transit.*

(1) Properties which have mass transit available shall be eligible for a ten percent credit toward reduction in the amount of required off-street parking (rounded downward to the nearest whole space). Mass transit shall be deemed as available by the presence of a bus stop of a town-sponsored bus service on-site or along the street frontage immediately adjoining the property under consideration or by the presence of a bus stop of a town-sponsored bus service within 600 feet of the property under consideration.

(2) The development under consideration shall reserve area for the placement of the credited off-street parking spaces on-site and show these credited spaces on the proposed site plan. Should town-sponsored mass transit no longer become available, the development shall provide the credited off-street parking within six months of the cessation of service.

(g) *Parking credit for motorcycle spaces.* At the option of the property owner, parking credit may be given in the amount of one parking space credit for each two designated motorcycle parking spaces provided at a maximum rate of one parking space credit per 50 provided parking spaces. Motorcycle parking spaces shall be a minimum of 4 ½ feet in width by eight feet in length.

(h) *Compact parking spaces.* At the option of the property owner, development with 100 or more provided parking spaces may provide a maximum of ten percent of total provided parking spaces as designated compact parking spaces. Compact parking spaces may be a minimum of eight feet in width by 16 feet in length.

(Code 1972, § 30-9; Code 1992, § 30-9; Ord. of 5-2-1989; Ord. No. 2002-2, 3-5-2002; Ord. No. 2002-8, 11-5-2002; Ord. No. 2004-4, 9-7-2004; Ord. No. 2007-1, 4-3-2007; Ord. No. 2008-6, 12-2-2008; Ord. No. ~~2010-10~~ 2010-9, 12-21-2010; Ord. No. 2012-6, § 30-9, 6-19-2012; Ord. No. 2012-10, § 30-9, 11-20-2012)

~~**Cross reference**—Traffic and motor vehicles, ch. 28.~~

Sec. 42-10. Minimum off-street loading requirements.

(a) *Specific requirements by use.* Except as otherwise provided in this chapter, when any institutional, business or industrial building or structure is hereafter erected, or structurally altered to the extent of increasing the floor area by 25 percent or more, or any building is hereafter converted, for such uses, and when such buildings contain floor area in excess of 2,500 square feet, at least one accessory off-street loading space shall be provided, as required in subsequent sections of this article. The administrator may require additional spaces in an appropriate case in order to avoid congestion in public streets or approved accessways.

(b) *Interpretation of specific requirements.*

(1) The loading space requirements apply to all districts, but do not limit the special requirements which may be imposed in the district regulations.

(2) The loading space requirements in this section do not limit special requirements which may be imposed in connection with uses permitted by approval of a conditional use permit or special exception.

(c) *Mixed uses in one building.* Where a building is used for more than one use or for different uses, and where the floor area used for each use for which loading space is required is below the minimum for required loading spaces but the aggregate floor area used is greater than such minimum, then off-street loading space shall be provided as if the entire building were used

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for that use in the building for which the spaces are required. In such cases, the administrator may make reasonable requirements for the location of required loading spaces.

(d) *Design standards.*

(1) *Minimum size.* For the purpose of these regulations, the term ~~a~~ "loading space" is a space within the main building or on the same lot, providing for the standing, loading or unloading of trucks, having a minimum area of 540 square feet, minimum width of 12 feet, a minimum depth of 35 feet, and a vertical clearance of at least 15 feet.

(2) *Loading space for funeral homes.* Loading spaces for a funeral home may be reduced in size to ten by 25 feet and vertical clearance reduced to eight feet.

(3) *Entrances and exits.* Location and design of entrances and exits shall be in accord with applicable requirements of the district regulations and traffic regulations and standards. Where the entrance or exit of a building is designed for truck loading and unloading, such entrance or exit shall be designed to provide at least one off-street loading space. Where an off-street loading space is to be approached directly from a major thoroughfare, necessary maneuvering space shall be provided on the lot.

(Code 1972, § 30-9A; Code 1992, § 30-9A)

Sec. 42-11. Amendments to chapter.

(a) *Initiation of change.*

(1) The town council may, from time to time, amend, supplement or change, by ordinance, the boundaries of the districts or the regulations herein established. Any such amendment may be initiated by resolution of the town council, or by motion of the planning commission, or by petition of the owner, contract purchaser, with the owner's written consent, or the owner's agent therefor, of the property which is the subject of the proposed zoning map amendment addressed to the town council. Petitions for change or amendment shall be on forms and filed in a manner prescribed by the planning commission. Petititions by private property owners shall be for contiguous properties only; separate application shall be made by private property owners for non-contiguous properties.

(2) Rezoning application submissions shall include a traffic impact statement whenever a proposed zoning map amendment substantially affects transportation on town streets through traffic generation of either:

a. 100 vehicles trips per peak hour by residential development;

b. 250 vehicles trips per peak hour by non-residential development; or

c. 2,500 vehicle trips per day by non-residential development.

(3) The data and analysis contained in the traffic impact statement shall comply with VDOT Traffic Impact Analysis Regulations 24 VAC 30-155-60 and all applicable town ordinances.

(b) *Report from planning commission.* Before taking any action on any proposed amendment, supplement or change, the town council shall submit the same to the planning commission for its recommendations and report. Failure of the commission to report 90 days after the first meeting of the planning commission after the proposal has been referred to the planning commission shall be deemed approval.

(c) *Notice and hearing.*

(1) The planning commission shall hold a public hearing thereon, before submitting its report to the town council. Notice of public hearings before the commission shall be given

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by publishing the time, place and nature of the hearing once a week for two successive weeks in a newspaper published or having general circulation in the town, provided that such notice for both the planning commission and the town council may be published concurrently. The public hearing shall be held not less than six, nor more than 21, days after final publication. In addition, the commission shall cause the date, time, place and nature of the hearing to be posted conspicuously on the property in accordance with the rules of the commission and a certificate of posting shall become a part of the record of the hearing. The published and posted notices shall contain reference to the place, or places, within the town where the plans, ordinances or amendments may be examined.

(2) Before approving any proposed change or amendment, the town council shall hold a public hearing thereon, notice of said hearing to be accomplished by publication in a newspaper as prescribed in subsection (c)(1) of this section. The planning commission and the town council may hold a joint public hearing after public notice, as set forth herein above. If such joint hearing is held, then public notice as set forth above, need be given only by the town council. If an advertised hearing is continued or deferred, notice shall be repeated for the new hearing.

(3) When a proposed amendment involves a change in the zoning classification of 25 or less parcels of land, then, in addition to the advertising as above required, written notice shall be given at least five days before the hearing to the owner, or owners, their agent or the occupant, of each parcel involved, and to the owners, their agent or the occupant of all abutting property and property immediately across the street or road from the property affected; including those properties which lie in an adjoining jurisdiction. Notice sent by registered or certified mail to the last known address of such owner, as shown on the current real estate tax assessment books, shall be deemed adequate compliance with this requirement. If the hearing is continued, notice shall be remailed. Costs of any notice hereunder shall be charged to the applicant.

(4) When a proposed amendment of the zoning ordinance involves a change in the zoning map classification of more than 25, but less than 500, parcels of land, then, in addition to the advertising as above required, written notice shall be given by the planning commission at least five days before the hearing to the owner, owners, or their agent, of each parcel of land involved. One notice sent by first class mail to the last known address of such owner, as shown on the current real estate tax assessment books, shall be deemed adequate compliance with this requirement, provided that a representative of the commission shall make affidavit that such mailings have been made and file such affidavit with the papers in the case. Nothing in this subsection shall be construed as to invalidate any subsequently adopted amendment or ordinance because of the inadvertent failure by the representative of the commission to give written notice to the owner, owners, or their agent, of any parcel involved.

(5) Whenever the notices required hereby are sent by an agency, department or division of the town such notices may be sent by first class mail; provided, however, a representative of such agency, department or division shall make affidavit that such mailings have been made and file such affidavit with the papers in the case.

(d) *Withdrawal of application.* Applications for a change in zoning may be withdrawn from consideration before the first notice of a public hearing thereon has been published and fees refunded if no publication cost is incurred. Applications for a change in zoning which are withdrawn after first publication shall be considered as denied for the purpose of the one-year limitation on reconsideration as provided in subsection (e) of this section.

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(e) *Reconsideration, one-year limitation.* Whenever a petition requesting an amendment, supplement or change has been denied by the town council, such petition, for the same change, shall not be reconsidered sooner than one year after the previous denial.

(f) *Action by the town council.*

(1) The town council shall take action on a request for amendment within one year of the date of filing; otherwise the amendment shall be deemed approved. In determining what, if any, amendments to this chapter are to be adopted, the town council shall give due consideration to the proper relationship of such amendments to the entire zoning plan and the integrity and validity of the zoning districts herein described, and to avoidance of isolated unplanned spot-zoning changes in the zoning map. Any amendments adopted by the town council may be modified from the form in which they were advertised within the limits necessary to relate properly such amendment, or amendments, to the zoning plan and this chapter; provided, however, that no land may be zoned to a more intensive use classification than was contained in the public notice without an additional public hearing after notice, as required in subsection (c) of this section.

(2) In determining what, if any, amendments to the text of this chapter or the zoning map are to be adopted, the town council shall recognize that a certain element of stability is desirable in land use controls and that all citizens have the right to be treated reasonably; at the same time the council recognizes in adopting this chapter that conditions and standards will change, and that no citizen, whether a general resident of the town, a neighbor or an affected property owner, has the right to indefinite continuation of any zoning regulation or classification, and that a citizen, a property owner, the planning commission or the town council, in accordance with the law and the provisions of this chapter, may initiate a change which they believe will properly adjust the zoning regulations and map to the comprehensive plan or changed conditions and standards.

(Code 1972, § 30-10; Code 1992, § 30-10; Ord. No. 2000-4, 6-6-2000; Ord. No. 2004-4, 9-7-2004; Ord. No. 2012-10, § 30-10, 11-20-2012)

State law reference—Adoption of zoning ordinance, map and amendments, Code of Virginia, § 15.2-2285.

Sec. 42-12. Conditional zoning.

(a) *Purpose.* Where competing and incompatible uses conflict, traditional zoning methods and procedures are sometimes inadequate. In such cases, more flexible and adaptable zoning methods are needed to permit differing land uses and at the same time to recognize effects of change. It is the purpose of this section to provide a zoning method as authorized under Code of Virginia, § [322] 15.2-2303, as amended, whereby a zoning reclassification may be allowed subject to certain conditions proffered by the zoning applicant for the protection of the community even though said conditions may not be generally applicable to land similarly zoned. While the conditions may vary from property to property by reason of the nature of the use and different circumstances at a particular location, it is not the intention of this section to authorize conditions limited to a particular individual or group, owner or operator, and the provisions of this section shall not be used for the purpose of discrimination in housing.

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[322] Is this the correct cite since it is applicable to certain localities as defined in Code of Virginia, § 15.2-2303 A? This section appears to be similar or identical to Code of Virginia, §§ 15.2-2296—15.2-2300. We would fall under the localities and I think we need to keep the provisions in our Town Code as Code of Virginia only says that we may adopt it – which we have done as evidenced by it being in our Code.

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(b) *Proffer, in writing.*

(1) As a part of a petition for rezoning or amendment of the zoning district map, the owner or owners of the property involved may, prior to a public hearing before the town council, voluntarily proffer, in writing, such reasonable conditions, in addition to the regulations provided for the zoning district or districts as herein set forth, as he deems appropriate for the particular case; provided that:

a. The rezoning itself must give rise for the need for the conditions;

b. Such conditions shall have a reasonable relation to the rezoning;

c. Such conditions shall not include a cash contribution to the town;

d. Such conditions shall not include mandatory dedication of real or personal property for open space, parks, schools, fire departments or other public facilities not otherwise provided for in the subdivision ordinance, chapter 40;

e.[323] The conditions shall not include a requirement that the applicant create a property owners' association under Code of Virginia, § 55-508 et seq., which includes an express further condition that members of a property owners' association pay an assessment for the maintenance of public facilities owned in fee by a public entity, including open space, parks, schools, fire departments and other public facilities not otherwise provided for in Code of Virginia, § 15.2-2241; however, such facilities shall not include sidewalks, special street signs or markers, or special street lighting in public rights-of-way not maintained by the state department of transportation;

f. Such conditions shall not include payment for or construction of off-site improvements, except those provided for in the subdivision ordinance, chapter 40;

g. No condition shall be proffered that is not related to the physical development or physical operation of the property; and

h. All such conditions shall be in conformity with the comprehensive plan.

(2) For the purpose of this chapter, proffered conditions shall be interpreted to include written statements, development plans, profiles, elevations, and/or other demonstrative materials. Materials of whatever nature and intended as conditions shall be annotated with the following statement signed by the owner, or owners, of the subject property: "I (we) hereby proffer that the development of the subject property of this application shall be in strict accordance with the conditions set forth in this submission."

(3) Once proffered and accepted as part of an amendment to the zoning ordinance, such conditions shall continue in full force and effect until a subsequent amendment changes the zoning on the property covered by such conditions; provided, however, that such conditions shall continue if the subsequent amendment is part of a comprehensive implementation of a new or substantially revised zoning ordinance.

(c) *Review and revision of proffered conditions.*

(1) Additional conditions or modified conditions may be proffered by the applicant during, or subsequent to, the public hearing before the planning commission; provided, however, that after proffered conditions are signed and made available for public review and the public hearing before the town council has been advertised (whether or not jointly held

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[323] Add the underlined provisions which were adopted in 1997 amending Code of Virginia, § 15.2-2297 A? Okay to add.

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with the planning commission) no change or modification to any condition shall be approved without a second advertised public hearing thereon.

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

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

(d) *Annotation of zoning map.* The zoning map shall show, by an appropriate symbol on the map, the existence of conditions attaching to the zoning on the map. The administrator shall keep in his office, and make available for public inspection, a conditional zoning index. The index shall provide ready access to the ordinance creating conditions, in addition to the regulations provided for in a particular zoning district. Such conditions shall become a part of the zoning regulations applicable to the property in question, regardless of changes in ownership or operation, unless subsequently changed by an amendment to the zoning map, and such conditions shall be in addition to the specific regulations set forth in this chapter for the zoning district in question. [324]<u>The Index shall also provide ready access to all proffered cash payments and expenditures disclosure reports prepared by the town council, pursuant to Code of Virginia, § 15.2-2303.2. The zoning administrator shall update the Index annually and no later than November 30 of each year.</u>

(e) *Enforcement of conditions.*

(1) The administrator shall be vested with all necessary authority, on behalf of the town council, to administer and enforce conditions attached to such rezoning or amendment to the zoning map, including:

a. The ordering, in writing, of the remedy of any noncompliance with such conditions;

b. The bringing of legal action to ensure compliance with such conditions, including injunction, abatement or other appropriate action or proceeding; and

c. Requiring a guarantee, satisfactory to the town council, in an amount sufficient for and conditioned upon the construction of any physical improvements required by the conditions, or a contract for the construction of such improvements and the contractor's guarantee, in like amount and so conditioned, which guarantee shall be reduced or released by the town council, or agent thereof, upon the submission of satisfactory evidence that construction of such improvements has been completed in whole or in part.

(2) Provided, further, that failure to meet all conditions shall constitute cause to deny the issuance of any of the required use, occupancy, or building permits, as may be appropriate.

(f) *Conformity of development plans.* Upon approval, any site plan, subdivision plat or development plan thereafter submitted for the development of the property in question shall be in

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[324] Include this 2004 amendment to Code of Virginia, § 15.2-2300? I am fine with it.

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substantial conformity with all proffered statements, plans, profiles, elevations or other demonstrative materials, and no development shall be approved by any town official in the absence of said substantial conformity. For the purpose of this section, substantial conformity shall mean that conformity which leaves a reasonable margin for adjustment to final engineering data but conforms with the general nature of the development, the specific uses and the general layout depicted by the plans, profiles, elevations and other demonstrative materials presented by the applicant.

(g) *Change of approved conditions.* Once conditions have been approved, and there is cause for an amendment which would not be in substantial conformity with the proffered conditions, then an application shall be filed for an amendment. If the amendment concerns an approved site plan, such application shall include the submission requirements for a site plan set forth in article XXI of this chapter, except that the administrator may waive any submission requirement if such requirement is not necessary for an adequate review of the site plan amendment application. Such amendment shall be the subject of public hearing in accordance with the requirements for a new application.

(h) *Review of the administrator's decision.* Any zoning applicant who is aggrieved by the decision of the administrator pursuant to the provisions of subsection (e) of this section may petition the town council for the review of the decision of the administrator. [325]All petitions for review shall be filed with the zoning administrator and with the clerk of the town council within 30 days from the date of the decision for which review is sought and shall specify the grounds upon which the petitioner is aggrieved.

(Code 1972, § 30-11; Code 1992, § 30-11)

~~**Cross reference**—Buildings, ch. 9; subdivisions, ch. 26.~~

State law reference—Conditional zoning defined, Code of Virginia, § 15.2-2201; conditional zoning, Code of Virginia, §§ 15.2-2296—15.2-2300; conditional zoning in certain localities, Code of Virginia, § 15.2-2303.

Sec. 42-13. Permits to be issued in compliance with chapter.

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

(Code 1972, § 30-12; Code 1992, § 30-12)

Sec. 42-14. Penalties for violations of chapter.

(a) Any person, whether as principal, agent, employed or otherwise, violating, or causing or permitting the violation of, any of the provisions of this chapter shall be guilty of a misdemeanor and, upon conviction thereof, may be fined not less than $10.00 nor more than $1,000.00. Such person shall be deemed to be guilty of a separate offense for each and every day during which any portion of any violation of this chapter is committed, continued or permitted by such person, and shall be punishable as provided in section 1-11.

(b) See ~~Section 15-11~~ Chapter 18, article XIII for authority to revoke a business license if in violation of this chapter.

(Code 1972, § 30-13; Code 1992, § 30-13; Ord. of 6-20-1989; Ord. No. 2012-6, § 30-13, 6-19-2012)

State law reference—Penalty for violation of zoning ordinance, Code of Virginia, § 15.2-2286. A.5.

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[325] Include and conform to Code of Virginia, § 15.2-2301? Yes.

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Secs. 42-15--42-31. Reserved.

ARTICLE II. AGRICULTURAL DISTRICT A

Sec. 42-32. Statement of intent.

The primary purpose of this district is the protection of agricultural operations in portions of the town appropriate for such uses and in general to prohibit those uses which would be incompatible with agriculture. At the same time the district would provide for rural low-density residence and certain public and semi-public uses in a spacious environment. While land use in the district is generally rural, it is nevertheless located near urban development and where urban services can be extended at the appropriate time. Therefore permanent preservation of agriculture is not intended and certain more intensive agricultural uses would be permitted only by conditional use permit.

(Code 1972, § 30-14; Code 1992, § 30-14)

Sec. 42-33. Permitted uses.

In the A Agricultural District agricultural district, structures to be erected, or land to be used, shall be for one or more of the following uses:

(1) Single-family dwellings, including a family and one unrelated individual per unit.

(2) Agriculture and forestry~~, but not including the raising or keeping of swine or goats~~.

(3) Pens for animals or poultry or those intensive agricultural operations commonly known as confinement operations where large numbers of animals or fowl are confined to a relatively small space, such as veal or poultry pens or houses, feedlots and dairying operations, with a conditional use permit. An enclosure for less than 100 fowl and enclosed pasture or range with an area in excess of 100 square feet for each small animal or 4,000 square feet for each larger animal, such as horses, ponies, cattle or sheep, shall not require a conditional use permit.

(4) Public buildings to consist of fire, police and rescue squad stations, schools and recreational facilities. Private buildings to consist of schools and recreational facilities, with a conditional use permit.

(5) Parks and playgrounds.

(6) Churches and other places of worship.

(7) Sawmills, temporary, with a conditional use permit.

(8) [326]Planing mills, temporary, with a conditional use permit.

(9) Airports and heliports, with a conditional use permit.

(10) Preserves and conservation areas.

(11) Clubs and lodges, with a conditional use permit.

(12) Cemeteries, with conditional use permit.

(13) Home occupations, as herein defined.

(14) Facilities and structures necessary for rendering utility service, including poles, wires, transformers, transmission lines, telephone booths and the like for normal electrical power distribution or communication service; communications antennas; amateur radio

[326] Is this word planning? No, it is planing (using a plane on a board to make it smooth).

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towers; meters and pipelines or conduits for electrical, gas, sewer or water service; pumping and regulatory stations; substations. Public utility generating, booster or relay stations; major transmission lines and towers; communications monopoles; railroad yards and terminals; and treatment facilities are permitted with a conditional use permit.

(15) Off-street parking and loading.

(16) Signs in accordance with the sign ordinance [327] in chapter 4, Advertising.

(17) Accessory buildings and uses, including temporary wayside stands for seasonal sales of products raised or made on the premises; provided, that garages or other accessory structures, such as carports, porches and stoops attached to the main building, shall be considered part of the main building; provided further, that no accessory building shall be closer than three feet to any property line or located within any easement or right-of-way.

(18) Industrialized building units for agricultural, institutional, security or construction purposes, with a conditional use permit. A conditional use permit shall not be required for construction trailers on active construction sites.

(19) Fraternity and sorority houses, with a conditional use permit.

(20) Campground, overnight, with a conditional use permit. Except for campground record keeping, commercial or other business activities shall be limited to the campground and its occupants and conducted only when authorized by conditional use permit which shall specify the parameters of the commercial activities.

(21) Adult day care center as an accessory use, but not accessory structure, to an existing and permitted institutional use with a conditional use permit.

(22) Family day homes serving one through five children.

(23) Child day care centers as an accessory use, but not accessory structure, to an existing and permitted institutional use with a conditional use permit.

(24) Kennels, with a conditional use permit.

(25) Rehabilitation centers, with a conditional use permit.

(26) Portable storage containers, in accordance with section 42-662.

(27) Assisted living facilities and group homes of eight or fewer individuals as exempted by Code of Virginia, § 15.2-2291.

(Code 1972, § 30-15; Code 1992, § 30-15; Ord. of 6-20-1989; Ord. of 10-24-1989; Ord. of 10-16-1990; Ord. of 12-17-1991(1); Ord. of 12-17-1996, Art. II; Ord. of 6-2-1998; Ord. of 12-7-1999; Ord. No. 2000-2, 4-18-2000; Ord. No. 2001-1, 4-17-2001; Ord. No. 2001-2, 5-15-2001; Ord. No. 2004-4, 9-7-2004; Ord. No. 2007-1, 4-3-2007; Ord. No. 2008-6, 12-2-2008; Ord. No. 2012-6, § 30-15, 6-19-2012; Ord. No. 2012-10, § 30-15, 11-20-2012)

~~**Cross reference**— Outdoor advertising in sight of public streets, § 3-36 et seq.; animals, ch. 5.~~

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[327] Shouldn't this reference only division 4 of article III of chapter 3? I do not see that it hurts to reference the whole chapter. What about the other districts. Shouldn't a reference to the sign regulations in division 4 of article III of chapter 3 be included under permitted uses or a separate section entitled sign regulations? It is mentioned under permitted uses in each District and refers you to Chapter 3. We want Advertising as a separate chapter as it prevents variance requests.

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Sec. 42-34. Area.

The minimum lot area for each permitted use except public utilities shall be one-half acre.

(Code 1972, § 30-16; Code 1992, § 30-16; Ord. of 6-20-1989)

Sec. 42-35. Setback.

Structures shall be located 35 feet or more from any street right-of-way which is 50 feet or greater in width, or, in the event that buildings are already constructed on the same side of the street in the same block, no new structure shall be closer to the street right-of-way line than a distance equal to the average of the distance to the street right-of-way of all existing structures in the same block on the same side of the street. This shall be known as the setback line. See article XVII for special setback regulations pertaining to the widening of highways and streets. Parking lots shall have a minimum setback of 15 feet from any street right-of-way. The keeping of swine or goats shall require a minimum setback of 100 feet from all zoning district boundary lines other than the A Agricultural, I-1 Limited Industrial or I-2 General Industrial Districts.

(Code 1972, § 30-17; Code 1992, § 30-17; Ord. No. 2002-2, 3-5-2002)

Sec. 42-36. Frontage.

(a) The minimum lot width at the setback line and the street line shall be 150 feet.

(b) All structures in this district shall be located on the lot with the front of the structure facing the front lot line ~~of the lot, the front of the lot being the shortest side of the lot which abuts on a street. On a lot which extends through from street to street structures shall be faced on the street on which the majority of existing structures face, or in case there are no existing buildings, the building official shall determine on which street the structure shall face~~.

(Code 1972, § 30-18; Code 1992, § 30-18; Ord. No. 2012-6, § 30-18, 6-19-2012)

Sec. 42-37. Yards.

(a) The minimum side yard for each main structure shall be ~~ten percent of the width of the lot frontage, or~~ a minimum of 25 feet or side lot line easement width, whichever is ~~greatest~~ greater.

(b) Each main structure shall have a rear yard of 50 feet or more.

(c) Accessory structures shall have a side and rear yard of 3 feet or more.

(Code 1972, § 30-19; Code 1992, § 30-19; Ord. of 6-20-1989; Ord. No. 2007-1, 4-3-2007; Ord. No. 2012-6, § 30-19, 6-19-2012)

Sec. 42-38. Height.

Buildings may be erected up to 35 feet in height from street grade or lot grade at setback line, whichever is greater; except, that:

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

(2) Church spires, belfries, cupolas, monuments, water towers, chimneys, flues and flagpoles shall be exempt from this section.

(3) Parapet walls may be up to four feet above the height of the building on which the walls rest.

(4) No accessory building which is within 20 feet of any property line shall be more than one story high.

(Code 1972, § 30-20; Code 1992, § 30-20)

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Sec. 42-39. Corner lots.

The following special provisions shall apply to corner lots:

(1) Of the two sides of a corner lot, the front shall be deemed to be the ~~shortest~~ shorter of the two sides fronting on streets.

(2) The side yard on the side facing the side street shall be 35 feet or more for both main and accessory buildings.

(Code 1972, § 30-21; Code 1992, § 30-21)

Secs. 42-40--42-66. Reserved.

ARTICLE III. RURAL RESIDENTIAL DISTRICT R-1A

Sec. 42-67. Statement of intent.

This district is intended for low-density single-family residential areas, plus certain open areas, where similar residential development appears likely to occur. The regulations for this district are designed to stabilize and protect the essential characteristics of the district, to promote and encourage suitable environment for family life and to protect single-family areas from encroachment by potentially incompatible commercial land uses. To these ends, development shall be limited to low concentration, and permitted uses shall be limited to single unit dwellings providing homes for the residents, plus certain public and semi-public facilities that serve the residents.

(Code 1972, § 30-22; Code 1992, § 30-22; Ord. No. 2000-3, 5-2-2000)

Sec. 42-68. Permitted uses.

In the R-1A Rural Residential District, structures to be erected, or land to be used, shall be for one or more of the following uses:

(1) Single-family dwellings, including a family and one unrelated individual per unit.

(2) Agriculture and forestry, but not including pens, as herein defined, or the raising or keeping of swine or goats. Enclosures for horses of at least 8,000 square feet for each horse.

(3) Public buildings to consist of fire, police and rescue squad stations, schools and recreational facilities. Private buildings to consist of schools and recreational facilities, with a conditional use permit.

(4) Churches and other places of worship.

(5) Parks and playgrounds.

(6) Home occupations, as herein defined.

(7) Off-street parking and loading.

(8) Signs in accordance with the sign ordinance in chapter 4, Advertising.

(9) Public utilities, such as poles, lines, distribution transformers, pipes, meters and other facilities necessary for provision and maintenance, including water and sewerage facilities; pumping and regulatory stations; substations; communications antennas; amateur radio towers. Communications monopoles, with a conditional use permit.

(10) Accessory buildings, such as separate garages or carports, workshops, toolsheds and greenhouses; provided, that garages or other accessory buildings such as carports, porches and stoops attached to the main building shall be considered part of the main

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building; provided further, that no accessory building shall be closer than three feet to any property line or located within any easement or right-of-way.

(11) Construction trailers on active construction sites.

(12) Family day homes serving one through five children. Family day homes serving six through 12 children, with a conditional use permit.

(13) Child day care centers, with a conditional use permit.

(14) Portable storage containers, in accordance with section 42-662.

(15) Assisted living facilities and group homes of eight or fewer individuals, as exempted by Code of Virginia, § 15.2-2291.

(Code 1972, § 30-23; Code 1992, § 30-23; Ord. of 6-20-1989; Ord. of 12-17-91(1); Ord. of 6-2-1998; Ord. of 4-20-99; Ord. of 12-7-1999; Ord. No. 2000-2, 4-18-2000; Ord. No. 2004-4, 9-7-2004; Ord. No. 2007-1, 4-3-2007; Ord. No. 2008-6, 12-2-2008; Ord. No. 2012-6, § 30-23, 6-19-2012; Ord. No. 2012-10, § 30-23, 11-20-2012)

Sec. 42-69. Area.

The minimum lot area for each permitted use shall be as follows:

(1) For lots containing, or intended to contain, a single permitted use served by public water and sewage disposal, 15,000 square feet.

(2) For lots containing, or intended to contain, a single permitted use served by public water systems but having individual sewage disposal, the minimum lot area shall be 17,000 square feet.

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

(Code 1972, § 30-24; Code 1992, § 30-24)

Sec. 42-70. Setback.

Structures shall be located 35 feet or more from any street right-of-way which is 50 feet or greater in width, or, in the event that buildings are already constructed on the same side of the street in the same block, no new structure shall be closer to the street right-of-way line than a distance equal to the average of the distance to the street right-of-way of all existing structures in the same block on the same side of the street. This shall be known as the setback line. See article XVII for special setback regulations pertaining to the widening of highways and streets. Parking lots shall have a minimum setback of 15 feet from any street right-of-way.

(Code 1972, § 30-25; Code 1992, § 30-25; Ord. No. 2002-2, 3-5-2002)

Sec. 42-71. Frontage.

(a) The minimum lot width at the setback line and the street line shall be 100 feet.

(b) All structures in this district shall be located on the lot with the front of the structure facing the front lot line~~ of the lot, the front of the lot being the shortest side of the lot which abuts on a street. On a lot which extends through from street to street structures shall be faced on the street on which the majority of existing structures face, or in case there are no existing buildings, the building official shall determine on which street the structure shall face~~.

(Code 1972, § 30-26; Code 1992, § 30-26; Ord. No. 2012-6, § 30-26, 6-19-2012)

Sec. 42-72. Yards.

(a) The minimum side yard for each main structure shall be~~ ten percent of the width of the lot frontage, or~~ a minimum of 15 feet or side lot line easement width whichever is~~ greatest~~ greater.

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(b) Each main structure shall have a rear yard of 40 feet or more.

(c) Accessory structures shall have a side and rear yard of three feet or more.

(d) Sidewalks and curb and gutter shall be required on both sides of the public streets for all new streets. In lieu of sidewalks and curb and gutter, an owner or developer shall provide a paved multi-use trail a minimum of ten feet in width connecting to the street right-of-way adjoining other properties and to each lot within the development by a hard surface connection.

(Code 1972, § 30-27; Code 1992, § 30-27; Ord. of 6-20-1989; Ord. No. 2007-1, 4-3-2007; Ord. No. ~~2010-10~~ 2010-9, 12-21-2010; Ord. No. 2012-6, § 30-27, 6-19-2012)

Sec. 42-73. Height.

Buildings may be erected up to 35 feet in height from street grade or lot grade at setback line, whichever is greater; except, that:

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

(2) Church spires, belfries, cupolas, monuments, water towers, chimneys, flues and flagpoles shall be exempt from this section.

(3) Parapet walls may be up to four feet above the height of the building on which the walls rest.

(4) No accessory building which is within 20 feet of any property line shall be more than one story high.

(5) Accessory buildings shall not exceed the main structure in height, except that when the accessory building is located at a lower ground elevation, then the elevation of the roofline of the accessory building shall not be higher than the elevation of the roofline of the main structure, but not to exceed two stories in height.

(Code 1972, § 30-28; Code 1992, § 30-28; Ord. of 12-17-1991(2))

Sec. 42-74. Corner lots.

The following special provisions shall apply to corner lots:

(1) Of the two sides of a corner lot, the front shall be deemed to be the ~~shortest~~ shorter of the two sides fronting on streets.

(2) The side yard on the side facing the side street shall be 35 feet or more for both main and accessory buildings.

(3) For subdivisions platted after the enactment of this chapter, each corner lot shall have a minimum width at the setback line and the street line measured to the Pi of a radius where a radius exists of 125 feet.

(Code 1972, § 30-29; Code 1992, § 30-29)

Secs. 42-75--42-91. Reserved.

ARTICLE IV. SINGLE-FAMILY RESIDENTIAL DISTRICT R-1

Sec. 42-92. Statement of intent.

This district is intended for moderately low-density single-family residential areas, plus certain open areas where similar residential development appears likely to occur. The regulations for this district are designed to stabilize and protect the essential characteristics of the district, to promote and encourage a suitable environment for family life, and to protect single-family areas

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from encroachment by potentially incompatible commercial land uses. To these ends, development shall be limited to relatively low concentration, and permitted uses shall be limited to single unit dwellings providing homes for the residents plus certain public and semi-public facilities that serve the residents.

(Code 1972, § 30-30; Code 1992, § 30-30; Ord. No. 2000-3, 5-2-2000)

Sec. 42-93. Permitted uses.

In the R-1 Single-Family Residential District, structures to be erected or land to be used shall be for one or more of the following uses:

(1) Single-family dwellings, including a family and one unrelated individual per unit.

(2) Public buildings to consist of fire, police and rescue squad stations, schools and recreational facilities. Private buildings to consist of schools and recreational facilities, with a conditional use permit.

(3) Churches and other places of worship.

(4) Parks and playgrounds.

(5) Home occupations, as herein defined.

(6) Off-street parking and loading.

(7) Signs in accordance with the sign ordinance in chapter 4, Advertising.

(8) Public utilities, such as poles, lines, distribution transformers, pipes, meters and other facilities necessary for provision and maintenance, including water and sewerage facilities; pumping and regulatory stations; substations; communications antennas; amateur radio towers. Communications monopoles with a conditional use permit.

(9) Accessory buildings, such as separate garages or carports, workshops, toolsheds and greenhouses; provided, that garages or other accessory buildings such as carports, porches and stoops attached to the main building shall be considered part of the main building; provided further, that no accessory building shall be closer than three feet to any property line or located within any easement or right-of-way.

(10) Construction trailers on active construction sites.

(11) Family day homes serving one through five children. Family day homes serving six through 12 children, with a conditional use permit.

(12) Child day care centers, with a conditional use permit.

(13) Planned housing developments consisting of detached single-family residences, including a family and up to one unrelated individual per unit, subject to special regulation of section 42-227, with a conditional use permit.

(14) Portable storage containers, in accordance with section 42-662.

(15) Assisted living facilities and group homes of eight or fewer individuals, as exempted by Code of Virginia, § 15.2-2291.

(Code 1972, § 30-31; Code 1992, § 30-31; Ord. of 6-20-1989; Ord. of 12-17-91(1); Ord. of 6-2-1998; Ord. of 4-20-1999; Ord. of 12-7-1999; Ord. No. 2000-2, 4-18-2000; Ord. No. 2004-4, 9-7-2004; Ord. No. 2007-1, 4-3-2007; Ord. No. 2008-6, 12-2-2008; Ord. No. 2012-6, § 30-31, 6-19-2012; Ord. No. 2012-10, § 30-31, 11-20-2012)

~~**Cross reference**— Outdoor advertising in sight of public streets, § 3-36 et seq.~~

Sec. 42-94. Area.

The minimum lot area for each permitted use shall be 10,000 square feet.

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(Code 1972, § 30-32; Code 1992, § 30-31)

Sec. 42-95. Setback.

Structures shall be located 35 feet or more from any street right-of-way which is 50 feet or greater in width, or, in the event that buildings are already constructed on the same side of the street in the same block, no new structure shall be closer to the street right-of-way line than a distance equal to the average of the distance to the street right-of-way of all existing structures in the same block on the same side of the street. This shall be known as the setback line. See article XVII for special setback regulations pertaining to the widening of highways and streets. Parking lots shall have a minimum setback of 15 feet from any street right-of-way.

(Code 1972, § 30-33; Code 1992, § 30-33; Ord. No. 2002-2, 3-5-2002)

Sec. 42-96. Frontage.

(a) The minimum lot width at the setback line and the street line shall be 80 feet.

(b) All structures in this district shall be located on the lot with the front of the structure facing the front lot line~~ of the lot, the front of the lot being the shortest side of the lot which abuts on a street. On a lot which extends through from street to street structures shall be faced on the street on which the majority of existing structures face, or in case there are no existing buildings, the building official shall determine on which street the structure shall face~~.

(Code 1972, § 30-34; Code 1992, § 30-34; Ord. No. 2012-6, § 30-34, 6-19-2012)

Sec. 42-97. Yards.

(a) The minimum side yard for each main structure shall be~~ ten percent of the width of the lot frontage, or~~ a minimum of ten feet~~,~~ or side lot line easement width, whichever is~~ greatest~~ greater.

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

(c) Accessory structures shall have a side and rear yard of three feet or more.

(d) Sidewalks and curb and gutter shall be required on both sides of the public streets for all new streets. In lieu of sidewalks and curb and gutter, an owner or developer shall provide a paved multi-use trail a minimum of ten feet in width connecting to the street right-of-way adjoining other properties and to each lot within the development by a hard surface connection

(Code 1972, § 30-35; Code 1992, § 30-35; Ord. of 6-20-1989; Ord. No. 2007-1, 4-3-2007; Ord. No. ~~2010-10~~ 2010-9, 12-21-2010; Ord. No. 2012-6, § 30-35, 6-19-2012)

Sec. 42-98. Height.

Buildings may be erected up to 35 feet in height from street grade or lot grade at setback line, whichever is greater; except, that:

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

(2) Church spires, belfries, cupolas, monuments, water towers, chimneys, flues and flagpoles shall be exempt from this section.

(3) Parapet walls may be up to four feet above the height of the building on which the walls rest.

(4) No accessory building which is within 20 feet of any property line shall be more than one story high.

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(5) Accessory buildings shall not exceed the main structure in height except that when the accessory building is located at a lower ground elevation, then the elevation of the roofline of the accessory building shall not be higher than the elevation of the roofline of the main structure, but not to exceed two stories in height.

(Code 1972, § 30-36; Code 1992, § 30-36; Ord. of 12-17-1991(2))

Sec. 42-99. Corner lots.

The following special provisions shall apply to corner lots:

(1) Of the two sides of a corner lot, the front shall be deemed to be the ~~shortest~~ shorter of the two sides fronting on streets.

(2) The side yard on the side facing the side street shall be 35 feet or more for both main and accessory buildings.

(3) For subdivisions platted after the enactment of this chapter, each corner lot shall have a minimum width at the setback line and the street line measured to the Pi of a radius where a radius exists of 125 feet.

(Code 1972, § 30-37; Code 1992, § 30-37)

Secs. 42-100--42-126. Reserved.

ARTICLE V. TWO-FAMILY RESIDENTIAL DISTRICT R-2

Sec. 42-127. Statement of intent.

This district is intended for moderate density single-family and two-family residential uses, plus certain open areas where similar development appears likely to occur. The regulations for this district are designed to stabilize and project the essential characteristics of the district and to promote and encourage, insofar as compatible with the intensity of land use, a suitable environment for family life. This district is predominantly residential in character, but certain public and semi-public uses shall be included to serve the residents of the district.

(Code 1972, § 30-38; Code 1992, § 30-38; Ord. No. 2004-4, 9-7-2004)

Sec. 42-128. Permitted uses.

In the R-2 Two-Family Residential District, structures to be erected, or land to be used, shall be for one or more of the following uses:

(1) Single-family dwellings, including a family and up to two unrelated individuals per unit; two-family dwellings, including a family and up to two unrelated individuals per unit.

(2) Public buildings to consist of fire, police and rescue squad stations, schools, recreational facilities and libraries. Private buildings to consist of schools, recreational facilities and libraries, with a conditional use permit.

(3) Parks and playgrounds.

(4) Home occupations, as herein defined.

(5) Family day homes serving one through five children. Family day homes serving six through 12 children, with a conditional use permit.

(6) ~~Homes serving not more than four mentally retarded or physically disabled or handicapped persons, with a Conditional Use Permit.~~ Assisted living facilities and group homes of eight of fewer individuals, as exempted by Code of Virginia, § 15.2-2291.

(7) Off-street parking and loading.

(8) Signs in accordance with the sign ordinance in chapter 4, Advertising.

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(9) Public utilities such as poles, lines, distribution transformers, pipes, meters and other facilities necessary for the provision and maintenance of public utilities, including water and sewerage facilities; pumping and regulatory stations; substations; communications antennas; amateur radio towers. Communications monopoles with a conditional use permit.

(10) Accessory buildings; provided, that garages or other accessory structures, such as carports, porches and stoops attached to the main building, shall be considered part of the main building; provided further, that no accessory building shall be closer than three feet to any property line or located within any easement or right-of-way.

(11) Adult home day care, with a conditional use permit.

(12) Churches and other places of worship.

(13) Construction trailers on active construction sites.

(14) Child day care centers, with a conditional use permit.

(15) Planned housing developments consisting of detached single-family residences and/or duplexes, including a family and up to two unrelated individuals per unit, subject to special regulations of section 42-227 with a conditional use permit.

(16) Portable storage containers, in accordance with section 42-662.

(17) Bed and breakfast inns with a conditional use permit.

(Code 1972, § 30-39; Code 1992, § 30-39; Ord. of 6-20-1989; Ord. of 10-24-1989; Ord. of 4-3-1990; Ord. of 12-17-1991(1); Ord. of 6-2-1998; Ord. of 4-20-1999; Ord. of 12-7-1999; Ord. No. 2000-2, 4-18-2000; Ord. No. 2004-4, 9-7-2004; Ord. No. 2007-1, 4-3-2007; Ord. No. 2008-5, 12-2-2008; Ord. No. 2008-6, 12-220-08; Ord. No. 2012-6, § 30-39, 6-19-2012; Ord. No. 2012-10, § 30-39, 11-20-2012)

~~**Cross reference**—Outdoor advertising in sight of public streets, § 3-36 et seq.~~

Sec. 42-129. Area.

(a) The minimum lot area for a single-family dwelling shall be 10,000 square feet.

(b) The minimum lot area for a two-family dwelling and other permitted uses shall be 12,500 square feet.

(Code 1972, § 30-40; Code 1992, § 30-40)

Sec. 42-130. Setback.

Structures shall be located 30 feet or more from any street right-of-way, or, in the event that buildings are already constructed on the same side of the street in the same block, no new structure shall be closer to the street right-of-way line than a distance equal to the average of the distance to the street right-of-way of all existing structures in the same block on the same side of the street. This shall be known as the setback line. See article XVII for special setback regulations pertaining to the widening of highways and streets. Parking lots shall have a minimum setback of 15 feet from any street right-of-way.

(Code 1972, § 30-41; Code 1992, § 30-41; Ord. No. 2002-2, 3-5-2002)

Sec. 42-131. Frontage.

(a) The minimum lot width at the setback line and the street line shall be 80 feet for a single-family dwelling and 100 feet for a two-family dwelling and other permitted uses.

(b) All structures in this district shall be located on the lot with the front of the structure facing the front lot line ~~of the lot, the front of the lot being the shortest side of the lot which abuts on a street. On a lot which extends through from street to street, structures shall be faced on the~~

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~~street on which the majority of existing structures face, or in case there are no existing buildings, the building official shall determine on which street the structure shall face~~.

(Code 1972, § 30-42; Code 1992, § 30-42; Ord. No. 2012-6, § 30-42, 6-19-2012)

Sec. 42-132. Yards.

(a) The minimum side yard for each main structure shall be ~~ten percent of the width of the lot frontage, or~~ a minimum of ten feet~~,~~ or side lot line easement width, whichever is ~~greatest~~ greater.

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

(c) Accessory structures shall have a side and rear yard of three feet or more.

(d) The front yard shall contain a minimum of 20 percent greenspace or landscaped area. For duplexes for individual sale, the greenspace or landscaped area in the front yard shall be maintained at a ratio of 20 percent for each dwelling unit on each lot. For this purpose, corner lots shall be deemed to contain a minimum of 20 percent greenspace or landscaped area in each yard fronting a public street.

(e) Sidewalks and curb and gutter shall be required on both sides of the public streets for all new streets. In lieu of sidewalks and curb and gutter, an owner or developer shall provide a paved multi-use trail a minimum of ten feet in width connecting to the street right-of-way adjoining other properties and to each lot within the development by a hard surface connection.

(Code 1972, § 30-43; Code 1992, § 30-43; Ord. of 6-20-1989; Ord. No. 2002-2, 3-5-2002; Ord. No. 2007-1, 4-3-2007; Ord. No. ~~2010-10~~ 2010-9, 12-21-2010; Ord. No. 2012-6, § 30-43, 6-19-2012)

Sec. 42-133. Height.

Buildings may be erected up to 35 feet in height from street grade or lot grade at setback line, whichever is greater; except, that:

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

(2) Church spires, belfries, cupolas, monuments, water towers, chimneys, flues and flagpoles shall be exempt from this section.

(3) Parapet walls may be up to four feet above the height of the building on which the walls rest.

(4) No accessory building which is within 20 feet of any property line shall be more than one story high.

(5) Accessory buildings shall not exceed the main structure in height, except that when the accessory building is located at a lower ground elevation, then the elevation of the roofline of the accessory building shall not be higher than the elevation of the roofline of the main structure, but not to exceed two stories in height.

(Code 1972, § 30-44; Code 1992, § 30-44; Ord. of 12-17-1991(2))

Sec. 42-134. Corner lots.

The following special provisions shall apply to corner lots:

(1) Of the two sides of a corner lot, the front shall be deemed to be the ~~shortest~~ shorter of the two sides fronting on streets.

(2) The side yard on the side facing the side street shall be 30 feet or more for both main and accessory buildings.

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(3) For subdivisions platted after the enactment of this chapter, each corner lot shall have a minimum width at the setback line and the street line measured to the Pi of a radius where a radius exists of 125 feet.

(Code 1972, § 30-45; Code 1992, § 30-45; Ord. of 11-20-1987(a))

Sec. 42-135. Single unit ownership of two-family dwellings; purpose of provisions.

The purpose of this section is to allow for single unit ownership of either unit of a two-family dwelling which has a common vertical wall separating the two units.

(1) *Area.* Minimum lot area for two-family structures shall be 12,500 square feet with each single dwelling unit having a lot area of at least 6,250 square feet.

(2) *Setback.* Same as for other buildings.

(3) *Frontage.* Same as for other buildings, except that the minimum lot width at the street line and at the setback line for each single unit of a two-family dwelling shall be 50 feet.

(4) *Yards.* Same as for other buildings, except that for two-family dwellings in which either single unit is individually owned there shall be no side yard setback required on the interior or common property line. Exterior side yard setback shall be based upon the width of the lot frontage for the entire two-unit structure.

(Code 1972, § 30-46; Code 1992, § 30-46; Ord. of 6-20-1989)

Secs. 42-136--42-153. Reserved.

ARTICLE VI. MULTIPLE-FAMILY RESIDENTIAL DISTRICT R-3

Sec. 42-154. Statement of intent.

This district is intended for medium density residential uses and to provide for [a] variety in housing types as well as for those public and semi-public uses and accessory uses as may be necessary or are normally associated with residential surroundings. Professional offices and certain other uses needed in the community may be permitted in appropriate locations by means of a conditional use permit.

(Code 1972, § 30-47; Code 1992, § 30-47; Ord. of 10-24-1989)

Sec. 42-155. Permitted uses.

In the R-3 Multiple-Family Residential District, structures to be erected, or land to be used, shall be for one or more of the following uses:

(1) Single-family dwellings, including a family and up to two unrelated individuals per unit.

(2) Two-family dwellings, including a family and up to two unrelated individuals per unit.

(3) Townhouses, including a family and up to two unrelated individuals per unit.

(4) Multiple-family dwellings, including a family and up to two unrelated individuals per unit.

(5) Planned housing developments subject to the special regulations of section 42-164, including a family and up to two unrelated individuals per unit.

(6) Owner occupied rooming and boarding houses with not more than four roomers or boarders, with a conditional use permit.

(7) A single-family owner-occupied dwelling which, as an accessory use, offers no more than five bedrooms for short-term transient occupancy for compensation and where food service for resident guests is limited to breakfast only with a conditional use permit.

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(8) Public buildings to consist of fire, police and rescue squad stations, schools, recreational facilities and libraries. Private buildings to consist of schools, recreational facilities and libraries, with a conditional use permit.

(9) Churches and other places of worship.

(10) ~~Homes serving not more than four mentally retarded or physically disabled or handicapped persons, with a Conditional Use Permit.~~ Assisted living facilities and group homes of eight or fewer individuals, as exempted by Code of Virginia, § 15.2-2291.

(11) Family day homes serving one through five children. Family day homes serving six through 12 children with a conditional use permit.

~~(12) Repealed.~~

(12) Rest homes or housing for not more than four elderly or handicapped individuals who are physically capable of responding to emergency situations without personal assistance, with a conditional use permit.

(13) Clubs and lodges, except where activities embrace a service customarily carried on within a business district, with a conditional use permit.

(14) Parks and playgrounds.

(15) Professional offices with not more than five employees, with a conditional use permit.

(16) Home occupations, as herein defined.

(17) Off-street parking and loading.

(18) Signs in accord with the sign ordinance [chapter 4, Advertising].

(19) Public utilities, such as poles, lines, distribution transformers, pipes, meters and other facilities, necessary for the provision and maintenance of public utilities, including water and sewerage facilities; pumping and regulatory stations; substations; communications antennas; amateur radio towers. Communications monopoles with a conditional use permit.

(20) Accessory buildings, such as separate garages or carports, workshops, toolsheds and greenhouses; provided, that garages or other accessory buildings, such as carports, porches and stoops attached to the main building, shall be considered part of the main building; provided further, that no accessory building shall be closer than three feet to any property line or located within any easement or right-of-way.

(21) Condominiums, including a family and up to two unrelated individuals per unit.

(22) Home adult day care center caring for not more than three individuals not related by blood or marriage, with a conditional use permit.

(23) Construction trailers on active construction sites.

(24) Child day care centers, with a conditional use permit.

(25) Portable storage containers, in accordance with section 42-662.

(Code 1972, § 30-48; Code 1992, § 30-48; Ord. of 6-20-1989; Ord. of 10-24-1989; Ord. of 4-3-1990; Ord. of 12-17-91(1); Ord. of 9-1-1992; Ord. of 6-2-1998; Ord. of 12-7-1999; Ord. No. 2000-2, 4-18-2000; Ord. No. 2004-4, 9-7-2004; Ord. No. 2007-1, 4-3-2007; Ord. No. 2008-6, 12-2-2008; Ord. No. 2012-6, § 30-48, 6-19-2012; Ord. No. 2012-10, § 30-48, 11-20-2012)

~~**Cross reference**—Outdoor advertising in sight of public streets, § 3-36 et seq.~~

Sec. 42-156. Area and density.

(a) The minimum lot area for a single-family dwelling shall be 10,000 square feet.

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(b) The minimum lot area for a two-family dwelling and other permitted nonresidential uses shall be 12,500 square feet.

(c) The minimum lot area for a multiple-family dwelling shall be 15,625 square feet and density of development shall not exceed the ratio of ten dwelling units per gross acre.

(d) Special regulations for townhouses are contained in article XX.

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

(Code 1972, § 30-49; Code 1992, § 30-49; Ord. of 6-20-1989)

Sec. 42-157. Setback.

Structures shall be located 30 feet or more from any street right-of-way, or, in the event that buildings are already constructed on the same side of the street in the block, no new structure shall be closer to the street right-of-way line than a distance equal to the average of the distance to the street right-of-way of all existing structures in the same block on the same side of the street. This shall be known as the setback line. See article XVII for special setback regulations pertaining to the widening of highways and streets. Parking lots shall have a minimum setback of 15 feet from any street right-of-way.

(Code 1972, § 30-50; Code 1992, § 30-50; Ord. No. 2002-2, 3-5-2002)

Sec. 42-158. Frontage and lot depth.

(a) The minimum lot width at the setback line and street line shall be 80 feet for a single-family dwelling, 100 feet for a two-family dwelling and other permitted nonresidential uses, and 125 feet for a multiple-family dwelling.

(b) All structures in this district shall be located on the lot with the front of the structure facing the front lot line~~ of the lot, the front of the lot being the shortest side of the lot which abuts on a street. On a lot which extends through from street to street, structures shall be faced on the street on which the majority of existing structures face, or in case there are no existing buildings, the building official shall determine on which street the structure shall face~~. Where permitted, multiple buildings on a single lot may be arranged in accord with approved site plans.

(Code 1972, § 30-51; Code 1992, § 30-51; Ord. of 6-20-1989; Ord. of 6-2-1998; Ord. No. 2012-6, § 30-51, 6-19-2012)

Sec. 42-159. Yards.

(a) The minimum side yard for each main structure shall be~~ ten percent of the width of the lot at the setback line or~~ a minimum of ten feet or side lot line easement width, whichever is ~~greatest~~ greater.

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

(c) Accessory structures shall have a side and rear yard of three feet or more.

(d) The front yard shall contain a minimum of 20 percent greenspace or landscaped area. For duplexes for individual sale, the greenspace or landscaped area in the front yard shall be maintained at a ratio of 20 percent for each dwelling unit on each lot. For this purpose, corner lots shall be deemed to contain a minimum of 20 percent greenspace or landscaped area in each yard fronting a public street.

(e) Sidewalks and curb and gutter shall be required on both sides of the public streets for all new streets and for all multifamily residential development. In lieu of sidewalks and curb and gutter, an owner or developer shall provide a paved multi-use trail a minimum of ten feet in width

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connecting to the street right-of-way adjoining other properties and to each lot within the development for single-family, duplex or townhouse development or at least the length of the total street frontage connecting to the right-of-way adjoining other properties and to each apartment or condominium unit within the development by a hard surface connection.

(Code 1972, § 30-52; Code 1992, § 30-52; Ord. of 6-20-1989; Ord. No. 2002-2, 3-5-2002; Ord. No. 2007-1, 4-3-2007; Ord. No. ~~2010-10~~ 2010-9, 12-21-2010; Ord. No. 2012-6, § 30-52, 6-19-2012)

Sec. 42-160. Height.

Buildings may be erected up to 35 feet in height from street grade or lot grade at setback line, whichever is greater; except, that:

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

(2) Church spires, belfries, cupolas, monuments, water towers, chimneys, flues and flagpoles shall be exempt from this section.

(3) Parapet walls may be up to four feet above the height of the building on which the walls rest.

(4) No accessory building which is within ten feet of any property lot line shall be more than one story high.

(5) Accessory buildings shall not exceed the main structure in height, except that when the accessory building is located at a lower ground elevation, then the elevation of the roofline of the accessory building shall not be higher than the elevation of the roofline of the main structure, but not to exceed two stories in height.

(Code 1972, § 30-53; Code 1992, § 30-53; Ord. of 12-17-1991(2))

Sec. 42-161. Corner lots.

The following special provisions shall apply to corner lots:

(1) Of the two sides of a corner lot, the front shall be deemed to be the ~~shortest~~ shorter of the two sides fronting on streets.

(2) The side yard on the side facing the side street shall be 30 feet or more for both main and accessory buildings.

(3) Each corner lot shall have a minimum width at the setback line and the street line measured to the Pi of a radius where a radius exists of 125 feet.

(Code 1972, § 30-54; Code 1992, § 30-54; Ord. of 11-20-1987(a))

Sec. 42-162. Single unit ownership of two-family dwellings; purpose of provisions.

The purpose of this section is to allow for single unit ownership of either unit of a two-family dwelling which has a common vertical wall separating the two units.

(1) *Area.* Minimum lot area for two-family structures shall be 12,500 square feet with each single dwelling unit having a lot area of at least 6,250 square feet.

(2) *Setback.* Same as for other buildings.

(3) *Frontage.* Same as for other buildings, except that the minimum lot width at the street line and at the setback line for each single unit of a two-family dwelling shall be 50 feet.

(4) *Yards.* Same as for other buildings, except that for two-family dwellings in which either single unit is individually owned there shall be no side yard setback required on the

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interior or common property line. Exterior side yard setback shall be based upon the width of the lot at the setback line for the entire two-unit structure.

(Code 1972, § 30-55; Code 1992, § 30-55; Ord. of 6-20-1989; Ord. of 11-21-1989)

Sec. 42-163. Development standards for apartments.

(a) The development, or project, shall be designed to promote harmonious relationships with surrounding adjacent and nearby developed properties, particularly in larger developments, or projects where more than one building is involved, and to this end may employ such design techniques as may be appropriate to a particular case, including use of building types, orientation, spacing and setback of buildings, careful use of topography, maintenance of natural vegetation, location of access points, recreation areas, open spaces and parking areas, grading, landscaping and screening.

(b) No apartment building shall contain more than 12 dwelling units and no more than three apartment buildings shall be contiguous.

(c) No apartment building shall be located closer than 15 feet from a private drive, access road or open common parking area, whether oriented to the front, sides or rear of the buildings, except that parking areas may be located within five feet and private drives may be located within ten feet of any blank or windowless wall.

(d) More than one apartment building may be located on the lot, provided a minimum distance of 25 feet shall separate any two buildings, or groups of apartment buildings, from any other abutting use or building type.

(e) At least 400 square feet of commonly usable open space shall be provided for each dwelling unit. Such space shall be of such location and dimensions as to provide for outdoor living, patios, pools, lawns, play areas, walks, wooded areas and the like, but not including driveways and parking areas.

(f) Where community refuse containers are provided as accessory uses to apartment developments, such containers shall be conveniently located for pickup vehicle access and completely screened from view by means of a fence or wall with outside landscaping and an appropriately designed gate which can be latched open and closed.

(g) Each apartment dwelling unit shall contain at least 600 square feet of livable floor area, exclusive of garages, carports, cellars, basements, attics, open porches, patios or breezeways, except that up to ten percent of the units may be constructed with less floor area than this minimum.

(h) Apartment development requiring ingress and egress to a public street shall meet all the requirements of the town subdivision ordinance.

(i) Parking lots shall have a minimum setback of 15 feet from any street right-of-way.

(Code 1972, § 30-56; Code 1992, § 30-56; Ord. of 6-20-1989; Ord. No. 2002-2, 3-5-2002)

~~**Cross reference**- Subdivisions, ch. 26.~~

Sec. 42-164. Planned housing developments.

(a) Within an R-3 Multiple-Family Residential District, as a conditional use or in conjunction with an application for conditional zoning for R-3 Residential, and in order to encourage improved housing design, variety in housing types and best use of topography, a site plan ~~may~~ shall be submitted for a planned housing development, together with a subdivision plan, if required by this chapter or ~~the subdivision~~ chapter 40, and such other descriptive material or proffers as may be necessary to fully determine the development, even though such development does not comply in all respects to the dimensional requirements of the R-3 District, provided:

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(1) One or more major features of the development, such as unusual natural features, yard spaces, open spaces and building types and arrangements, are such as to justify application of this section rather than a conventional application of the other regulations of the R-3 District.

(2) Materials submitted, drawings, descriptions, proffers and the like are sufficiently detailed to ensure compliance with the intent of this section.

(3) The project itself, or a larger project of which it is a part, is of sufficient size in the location proposed as to permit development of an internal environment, which, if different from designs otherwise permitted in the R-3 District, will not adversely affect existing and future development in the surrounding area.

(4) The overall dwelling unit density does not exceed that permitted in the R-3 District for development of comparable housing types.

(5) The development is designed to promote harmonious relationships with surrounding adjacent and nearby developed properties, and, to this end, may employ such design techniques as may be appropriate to a particular case, including use of building types, orientation and spacing and setback of buildings, careful use of topography, maintenance of natural vegetation, location of recreation areas, open spaces and parking areas, grading, landscaping and screening.

(6) Provision satisfactory to the planning commission and approved by the town attorney shall be made to ensure that nonpublic areas for the common use and employment of occupants, but not in individual ownership by such occupants, shall be maintained in a satisfactory manner without expense to the general taxpayer.

(b) Procedures and general standards for approval of an application under this section shall be the same as those for a conditional use permit or for conditional zoning as described in article I, as the case may require.

(Code 1972, § 30-57; Code 1992, § 30-57; Ord. No. 2012-10, § 30-57, 11-20-2012)

~~Cross reference--Subdivisions, ch. 26.~~

Secs. 42-165--42-181. Reserved.

ARTICLE VII. RESIDENTIAL MANUFACTURED HOME SUBDIVISION DISTRICT R-MS

Sec. 42-182. Statement of intent.

This district is intended for moderate density single-family manufactured homes in subdivisions, together with such public and semi-public uses and accessory uses as may be necessary or are normally compatible with residential uses of this type.

(Code 1972, § 30-58; Code 1992, § 30-58; Ord. of 9-5-1995)

Sec. 42-183. Permitted uses.

In the R-MS Residential Manufactured Home Subdivision District, structures to be erected, or land to be used, may be for one or more of the following uses:

(1) Single-family dwellings, manufactured homes or doublewide manufactured homes, on permanent foundations, including a family and one unrelated individual per unit.

(2) Churches and other places of worship.

(3) Family day homes serving one through five children.

(4) Off-street parking and loading.

(5) Signs in accord with the sign ordinance in chapter 4, Advertising.

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(6) Public utilities, such as poles, lines, distribution transformers, pipes, meters and other facilities, necessary for the provision and maintenance of public utilities, including water and sewerage facilities; pumping and regulatory stations; substations; communications antennas; amateur radio towers. Communications monopoles with a conditional use permit.

(7) Accessory structure, such as carports, toolsheds, porches and stoops, provided that no accessory structure shall be closer than three feet from any lot line or located within any easement or right-of-way, and facilities such as recreation and other amenities accessory to the subdivision as a whole, provided such facilities are approved as part of the development plan.

(8) Adult day care center, with conditional use permit.

(9) Public buildings to consist of fire, police and rescue squad stations, schools, recreational facilities and libraries. Private buildings to consist of schools, recreational facilities and libraries with a conditional use permit.

(10) Construction trailers on active construction sites.

(11) Home occupations, as herein defined.

(12) Child day care centers, with a conditional use permit.

(13) Portable storage containers, in accordance with section 42-662.

(14) Assisted living facilities and group homes of eight or fewer individuals as exempted by Code of Virginia, § 15.2-2291.

(Code 1972, § 30-59; Code 1992, § 30-59; Ord. of 6-20-1989; Ord. of 12-17-91(1); Ord. of 9-5-1995; Ord. of 6-2-1998; Ord. of 4-20-1999; Ord. of 12-7-1999; Ord. No. 2000-2, 4-18-2000; Ord. No. 2004-4, 9-7-2004; Ord. No. 2007-1, 4-3-2007; Ord. No. 2008-6, 12-2-08; Ord. No. 2012-6, § 30-59, 6-19-2012; Ord. No. 2012-10, § 30-59, 11-20-2012)

~~**Cross reference**—Outdoor advertising in sight of public streets, § 3-36 et seq.~~

Sec. 42-184. Area.

The minimum lot area for each permitted use shall be 10,000 square feet.

(Code 1972, § 30-60; Code 1992, § 30-60)

Sec. 42-185. Setback.

Structures shall be located 30 feet or more from any street right-of-way which is 50 feet or greater in width, or, in the event that buildings are already constructed on the same side of the street in the same block, no new structure shall be closer to the street right-of-way line than a distance equal to the average of the distance to the street right-of-way of all existing structures in the same block on the same side of the street. This shall be known as the setback line. See article XVII for special setback regulations pertaining to the widening of highways and streets. Parking lots shall have a minimum setback of 15 feet from any street right-of-way.

(Code 1972, § 30-61; Code 1992, § 30-61; Ord. No. 2002-2, 3-5-2002)

Sec. 42-186. Frontage.

(a) The minimum lot width at the setback line and the street line shall be 80 feet.

(b) All structures in this district shall be located on the lot with the front of the structure facing the front lot line~~ of the lot, the front of the lot being the shortest side of the lot which abuts on a street. On a lot which extends through from street to street structures shall be faced on the street on which the majority of existing structures face, or in case there are no existing buildings, the building official shall determine on which street the structure shall face~~.

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(Code 1972, § 30-62; Code 1992, § 30-62; Ord. No. 2012-6, § 30-62, 6-19-2012)

Sec. 42-187. Yards.

(a) The minimum side yard for each main structure shall be ~~ten percent of the width of the lot frontage or~~ a minimum of ten feet or the side lot line easement width, whichever is greater.

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

(c) Accessory structures shall have a side and rear yard of three feet or more.

(d) Sidewalks and curb and gutter shall be required on both sides of the public streets for all new streets. In lieu of sidewalks and curb and gutter, an owner or developer shall provide a paved multi-use trail a minimum of ten feet in width connecting to the street right-of-way adjoining other properties and to each lot within the development by a hard surface connection.

(Code 1972, § 30-63; Code 1992, § 30-63; Ord. of 6-20-1989; Ord. No. 2007-1, 4-3-2007; Ord. No. ~~2010-10~~ 2010-9, 12-21-2010; Ord. No. 2012-6, § 30-63, 6-19-2012)

Sec. 42-188. Height.

Buildings may be erected up to 35 feet in height from street grade or lot grade at setback line, whichever is greater; except, that:

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

(2) Church spires, belfries, cupolas, monuments, water towers, chimneys, flues and flagpoles shall be exempt from this section.

(3) Parapet walls may be up to four feet above the height of the building on which the walls rest.

(4) No accessory building which is within 20 feet of any property line shall be more than one story high.

(5) Accessory buildings shall not exceed the main structure in height, except that when the accessory building is located at a lower ground elevation, then the elevation of the roofline of the accessory building shall not be higher than the elevation of the roofline of the main structure, but not to exceed two stories in height.

(Code 1972, § 30-64; Code 1992, § 30-64; Ord. of 12-17-1991(2))

Sec. 42-189. Corner lots.

The following special provisions shall apply to corner lots:

(1) Of the two sides of a corner lot, the front shall be deemed to be the ~~shortest~~ shorter of the two sides fronting on streets.

(2) The side yard on the side facing the side street shall be 30 feet or more for both main and accessory buildings.

(3) For subdivisions platted after the enactment of this chapter, each corner lot shall have a minimum width at the setback line and the street line measured to the Pi of a radius where a radius exists of 125 feet.

(Code 1972, § 30-65; Code 1992, § 30-65; Ord. of 11-20-1987(a))

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Secs. 42-190--42-216. Reserved.

ARTICLE VIII. MIXED USE: RESIDENTIAL - LIMITED BUSINESS DISTRICT MU-1

Sec. 42-217. Statement of intent.

This district is intended as a transitional district for the combination of medium density residential uses and the conduct of limited business. This district will provide for ~~[~~a~~]~~ variety in housing types as well as for those public and semi-public uses and accessory uses, as may be necessary or are normally associated with residential surroundings, while including such business uses as retail stores, banks, theaters, business and professional offices, day care centers, restaurants and service stations which the public requires direct and frequent access, but which is not characterized either by constant heavy trucking other than stocking and delivery of light retail goods or by any nuisance factors other than occasioned by incidental light and noise of congregation of people and passenger vehicles. This district is intended to serve as a buffer between purely residential districts and districts which allow general commercial activity. Emphasis will be placed upon planned development with binding conditions to ensure the protection of both neighboring residential areas and residences within the district.

(Code 1992, § 30-66; Ord. No. 2004-4, 9-7-2004)

Sec. 42-218. Permitted uses.

In the MU-1 Mixed Use: Residential - Limited Business District, structures to be erected, or land to be used, shall be for one or more of the following uses (Note: Activities or uses which instruct the reader to 'see' a permitted use serve only as a cross reference to the list of permitted uses and associated conditions, if any. The listing of a cross reference in no way implies that the cross reference is a permitted use or activity. Listed permitted uses which instruct the reader to 'see also' another permitted use or section of ~~the zoning ordinance~~ this chapter or this Code are intended to refer the reader to additional information that is relevant to that permitted use.~~ed.~~):

(1) Single-family dwellings, including a family and one unrelated individual per unit.

(2) Two-family dwellings, including a family and up to two unrelated individuals per unit.

(3) Home occupations, as herein defined.

(4) Townhouses, including a family and up to two unrelated individuals per unit, (see article XX, Townhouses, for townhouse provisions) with a conditional use permit.

(5) Condominiums, including a family and up to two unrelated individuals per unit, with a conditional use permit.

(6) Multiple-family dwellings, including a family and up to two unrelated individuals per unit, with a conditional use permit.

(7) Planned housing developments, including a family and up to two unrelated individuals per unit, subject to the special regulations of section 42-227, with a conditional use permit.

(8) Bed and breakfast inns, with a conditional use permit

(9) Family day homes serving one through five children. Family day homes serving six through 12 children, with a conditional use permit.

(10) Parks and playgrounds.

(11) Public buildings to consist of fire, police and rescue squad stations, schools, recreational facilities, libraries, museums and art galleries. Private schools, recreational facilities, libraries, museums and art galleries with a conditional use permit.

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(12) Off-street parking and loading.

(13) Signs in accord with the sign ordinance in chapter 4, Advertising.

(14) Construction trailers on active construction sites.

(15) Facilities and structures necessary for rendering utility service, including poles, wires, transformers, transmission lines, telephone booths and the like for normal electrical power distribution or communication service; communications antennas; amateur radio towers; meters and pipelines or conduits for electrical, gas, sewer or water service; pumping and regulator stations; substations. Communications monopoles and major transmission lines are permitted with a conditional use permit.

(16) Accessory buildings, such as separate garages or carports, workshops, toolsheds and greenhouses; provided, that garages or other accessory buildings, such as carports, porches and stoops attached to the main building, shall be considered part of the main building; provided further, that no accessory building shall be closer than three feet to any property line or located within any easement or right-of-way.

(17) Any use permitted in the B-1 Limited Business District, with a conditional use permit and subject to the use regulations of this district, except that uses permitted as conditional uses in the B-1 Limited Business District but permitted by right in the MU-1 District, shall not require a conditional use permit. Uses permitted in the B-1 Limited Business District with a conditional use permit are limited to the following provision exceptions.

a. Fitness center or health club shall be limited to a maximum of 2,500 square feet.

b. Rental of household items, tools and appliances shall be limited to a maximum of 2,500 square feet with all storage inside a fully enclosed building.

c. Greenhouse or nursery, commercial or retail (but not wholesale) limited to a maximum of 2,500 square feet.

(18) Recycling collection center with a zoning permit application and plan of operation approved by the administrator. The administrator may refer any proposed collection center application to the town planning commission or health official, or both, for their advice as to the desirability, practicability or health ~~affects~~ [effects] of any such center before issuing a zoning permit to any collection center applicant. Collection center zoning permits may be revoked at any time by the administrator or health official when such recycling center poses a threat to public safety, health or general welfare.

(19) Miniwarehouses, with a conditional use permit.

(20) Portable storage containers, in accordance with section 42-662.

(21) Assisted living facilities and group homes of eight or fewer individuals, as exempted by Code of Virginia, § 15.2-2291.

(Code 1992, § 30-67; Ord. No. 2004-4, 9-7-2004; Ord. No. 2007-1, 4-3-2007; Ord. No. 2008-6, 12-2-2008; Ord. No. 2012-6, § 30-67, 6-19-2012; Ord. No. 2012-10, § 30-67, 11-20-2012)

Sec. 42-219. ~~Same~~—Limitations on permitted uses.

(a) *Plans; site plan.* Before a building permit shall be used or construction commenced on any permitted use in this district or a permit issued for a new use, the plans, in sufficient detail to show the operations and processes, together with a site plan as required herein, shall be submitted to the administrator for review.

(b) *Similar uses permitted.* Other manufacturing uses which, in the opinion of the administrator, are of the same general character as those permitted uses listed above shall be

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permitted. All uses shall be conducted so as not to produce hazardous, objectionable or offensive conditions at property line boundaries by reason of odor, dust, smoke, cinders, fumes, noise, vibration, heat, glare, wastes, fire or explosion.

(c) *Enclosed buildings.* All uses shall be conducted within a completely enclosed building of permanent and durable construction, with no open storage of waste material. Products or equipment used or manufactured on the premises may be stored in the open if screened from the street or from a residential district by landscaping, fences or walls.

(d) *Landscaping.* Any part of the front yard not used for parking or accessways shall be landscaped with grass, trees, shrubs or pedestrian walks.

(e) *Site plan.* The plan for the site shall be designed to promote careful use of topography and to promote harmonious relationships with adjacent and nearby residential and business properties, developed or undeveloped, and to this end may provide effective screening along side and rear property lines by means of fences, walls, hedges, planting screen or natural vegetation.

(f) *Refuse.* Refuse containers or refuse storage shall be located in a paved area and hidden from general public view, either from within or outside the premises, by means of fences, walls or landscaping planting.

(g) *Drainage.* Provisions shall be made for proper stormwater drainage from parking and loading areas. Water shall not be permitted to drain from such areas onto adjacent property, except into a natural watercourse or a drainage easement. Provisions shall be made for protection against erosion and sedimentation in accord with applicable town ordinances.

(h) *Fencing.* All fencing shall have a uniform and durable character and shall be properly maintained.

(Code 1992, § 30-68; Ord. No. 2004-4, 9-7-2004)

Sec. 42-220. Area and density.

(a) The minimum lot area for a single-family dwelling shall be 10,000 square feet.

(b) The minimum lot area for a two-family dwelling and shall be 12,500 square feet.

(c) The minimum lot area for a multiple-family dwelling shall be 15,625 square feet and density of development shall not exceed the ratio of ten dwelling units per gross acre.

(d) Special regulations for townhouses are contained in article XX.

(e) There shall be no minimum area required for businesses.

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

(Code 1992, § 30-69; Ord. No. 2004-4, 9-7-2004)

Sec. 42-221. Setback.

Structures, temporary or permanent, shall be located 30 feet or more from any street right-of-way, or, in the event that buildings are already constructed on the same side of the street in the block, no new structure shall be closer to the street right-of-way line than a distance equal to the average of the distance to the street right-of-way of all existing structures in the same block on the same side of the street. This shall be known as the setback line. See article XVII for special setback regulations pertaining to the widening of highways and streets. The minimum building

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setback from [328] ~~area~~ any common area shall be ten feet. Parking lots shall have a minimum setback of 15 feet from any street right-of-way. Restaurant outdoor dining areas shall have a minimum setback of 15 feet from any street right-of-way.

(Code 1992, § 30-70; Ord. No. 2004-4, 9-7-2004; Ord. No. 2007-1, 4-3-2007)

Sec. 42-222. Frontage and yards.

(a) The minimum lot width at the setback line and street line shall be 80 feet for a single-family dwelling, 100 feet for a two-family dwelling, and 125 feet for a multiple-family dwelling. Commercial uses have no minimum width.

(b) All residential structures in this district shall be located on the lot with the front of the structure facing the front lot line ~~of the lot, the front of the lot being the shortest side of the lot which abuts on a street. On a lot which extends through from street to street, structures shall be faced on the street on which the majority of existing structures face, or in case there are no existing buildings, the building official shall determine on which street the structure shall face~~. Where permitted, multiple buildings on a single lot may be arranged in accord with approved site plans.

(c) Commercial lots need not abut or adjoin a public street right-of-way, provided vehicular or pedestrian access is provided to a public street right-of-way through a perpetual unobstructed paved easement or parking area of at least 30 feet in width for vehicular access or ten feet in width for pedestrian access. Other access designs may be approved by the administrator with consideration being given to overall site conditions and traffic patterns in keeping with article XXI, Site Plan Review.

(d) The minimum side yard for each residential structure shall be ~~ten percent of the width of the lot at the setback line or~~ a minimum of ten feet or side lot line easement width, whichever is ~~greatest~~ greater.

(e) Each structure shall have a rear yard of 20 feet or more.

(f) The minimum side yard for each main structure shall be ~~ten percent of the width of the lot frontage, or~~ a minimum of ten feet. The side yard of corner lots shall be 30 feet or more.

(g) Single-family residences shall have a setback of a minimum of ten feet from any residential district. Main structures other than single-family residences shall have a setback of a minimum of 20 feet from any residential district.

(h) Accessory structures shall have a side and rear yard of three feet or more.

(i) Lots need not abut or adjoin a public street right-of-way, provided vehicular or pedestrian access is provided to a public street right-of-way through a perpetual unobstructed paved easement or parking area of at least 30 feet in width for vehicular access or ten feet in width for pedestrian access. Other access designs may be approved by the administrator with consideration being given to overall site conditions and traffic patterns in keeping with article XXI, Site Plan Review.

(j) If a development includes common areas in addition to the individual lots, the common areas shall be maintained by, and be the sole responsibility of, the developer-owner of the development until such time as the developer-owner conveys such common area to a nonprofit corporate owner whose members shall be all of the individual owners of the individual lots in the development. Said land shall be conveyed to, and be held by, said nonprofit corporate owner solely for the benefit of the owners of the individual lots in the development. In the event of such

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[328] Should “area” be “any?”

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conveyance by the developer-owner to a nonprofit corporate owner, deed restrictions and covenants shall provide, among other things, that any assessments, charges for cost of maintenance of such common areas shall constitute a pro rata lien upon the individual lots. Maintenance to exteriors, lawns, special lighting and drainage shall be provided in a manner so as to discharge any responsibility for the town.

(k) Whenever any development containing common area is proposed by a developer, and before any permit for the erection of structures shall be granted, the developer, or his agent, shall apply, in writing, to the agent for the approval of the plat and submit three copies of the plat, including the lot, street and utilities layout to a scale of not less than one inch equals 50 feet. No lots shall be sold until a final plat for the development shall have been approved by council and recorded in the office of the clerk of the county within 60 days after notification of final approval by the agent; otherwise, the approval shall become invalid.

(l) Provisions shall be made to ensure that nonpublic areas for the common use of occupants shall be maintained without expense to the town.

(m) No business or commercial building or structure, temporary or permanent, shall be located closer than 20 feet to the boundary of a residential district or located within any easement or right-of-way. Residential development shall comply with all frontage, lot, yards and development standards for similar development in the R-3 Multiple-Family Residential District, unless such residence is part of the business building or structure.

(n) The front yard shall contain a minimum of 20 percent greenspace or landscaped area with no more than 50 percent of the greenspace in grass alone. The greenspace shall contain trees with a minimum height, at time of planting, of six feet or more at the ratio of one tree per 400 square feet or less of greenspace area. Such greenspace is to be distributed uniformly around the perimeter of the site or distributed throughout the parking and pedestrian areas. For duplexes for individual sale, the greenspace or landscaped area in the front yard shall be maintained at a ratio of 20 percent for each dwelling unit on each lot. For this purpose, corner lots shall be deemed to contain a minimum of 20 percent greenspace or landscaped area in each yard fronting a public street.

(o) A landscaping plan with all areas drawn to scale shall be submitted as part of the site plan.

(p) Preservation of existing trees is encouraged and shall be credited toward the landscaping requirement.

[329](q) If a development includes common areas in addition to the individual lots, the common areas shall be maintained by, and be the sole responsibility of, the developer-owner of the development until such time as the developer-owner conveys such common area to a nonprofit corporate owner whose members shall be all of the individual owners of the individual lots in the development. Said land shall be conveyed to, and be held, by said nonprofit corporate owner solely for the benefit of the owners of the individual lots in the development. In the event of such conveyance by the developer-owner to a nonprofit corporate owner, deed restrictions and covenants shall provide, among other things, that any assessments, charges for cost of maintenance of such common areas shall constitute a pro rata lien upon the individual lots. Maintenance to exteriors, lawns, special lighting and drainage shall be provided in a manner so as to discharge any responsibility for the town.

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[329] This subsection (q) appears to be the same as subsection (j) above, Delete (q) and renumber?

PROOFS

[330](r) Whenever any development containing common area is proposed by a developer, and before any permit for the erection of structures shall be granted, the developer, or his agent, shall apply, in writing, to the agent for the approval of the plat and submit three copies of the plat, including the lot, street and utilities layout to a scale of not less than one inch equals 50 feet. No lots shall be sold until a final plat for the development shall have been approved by council and recorded in the office of the clerk of the county within 60 days after notification of final approval by the agent; otherwise, the approval shall become invalid.

[331](s) Provisions shall be made to ensure that nonpublic areas for the common use of occupants shall be maintained without expense to the town.

(t) Sidewalks shall be required for all new development. The zoning administrator/town manager may waive this requirement in circumstances that sidewalks do not provide desired connectivity and/or are not physically practical due to site limitations, provided the owner/developer makes a contribution in an amount approximate to the sidewalk installation cost to the town to be utilized for sidewalk improvements and/or repairs in other locations. The zoning administrator/town manager may refer the decision regarding the connectivity and/or practicality to the planning commission should there be any doubts. The town manager/town engineer shall make the determination of the approximate sidewalk installation cost.

(Code 1992, § 30-71; Ord. No. 2004-4, 9-7-2004; Ord. No. 2007-1, 4-3-2007; Ord. No. ~~2010-10~~ 2010-9, 12-21-2010; Ord. No. 2012-6, § 30-71, 6-19-2012)

~~**Cross reference**— Planting shade trees, § 25-17; fences, signs, trees, shrubs, etc. at intersections, § 25-18.~~

Sec. 42-223. Height.

Buildings may be erected up to 35 feet in height from street grade or lot grade at setback line, whichever is greater; except, that:

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

(2) Church spires, belfries, cupolas, monuments, water towers, chimneys, flues and flagpoles shall be exempt from this section.

(3) Parapet walls may be up to four feet above the height of the building on which the walls rest.

(4) For residential uses, no accessory building which is within ten feet of any property lot line shall be more than one story high.

(5) Accessory buildings shall not exceed the main structure in height, except that when the accessory building is located at a lower ground elevation, then the elevation of the roofline of the accessory building shall not be higher than the elevation of the roofline of the main structure, but not to exceed two stories in height.

(6) The height limit may be increased up to 70 feet, provided the building is set back from all lot lines at least two feet for each one foot of height over 35 feet.

(Code 1992, § 30-72; Ord. No. 2004-4, 9-7-2004; Ord. No. 2007-1, 4-3-2007)

Sec. 42-224. Corner lots.

The following special provisions shall apply to corner lots:

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[330] This subsection (r) appears to be the same as subsection (k) above, Delete (r) and renumber?
[331] This subsection (s) appears to be the same as subsection (l) above, Delete (s) and renumber?

PROOFS

(1) Of the two sides of a corner lot, the front shall be deemed to be the ~~shortest~~ shorter of the two sides fronting on streets.

(2) The side yard on the side facing the side street shall be 30 feet or more for both main and accessory buildings.

(3) Each corner lot shall have a minimum width at the setback line and the street line measured to the Pi of a radius where a radius exists of 125 feet.

(Code 1992, § 30-73; Ord. No. 2004-4, 9-7-2004)

Sec. 42-225. Single unit ownership of two-family dwellings; purpose of provisions.

The purpose of this section is to allow for single unit ownership of either unit of a two-family dwelling which has a common vertical wall separating the two units.

(1) *Area.* Minimum lot area for two-family structures shall be 12,500 square feet with each single dwelling unit having a lot area of at least 6,250 square feet.

(2) *Setback.* Same as for other buildings.

(3) *Frontage.* Same as for other buildings, except that the minimum lot width at the street line and at the setback line for each single unit of a two-family dwelling shall be 50 feet.

(4) *Yards.* Same as for other buildings, except that for two-family dwellings in which either single unit is individually owned there shall be no side yard setback required on the interior or common property line. Exterior side yard setback shall be based upon the width of the lot at the setback line for the entire two-unit structure.

(Code 1992, § 30-74; Ord. No. 2004-4, 9-7-2004)

Sec. 42-226. Development standards for apartments.

(a) The development, or project, shall be designed to promote harmonious relationships with surrounding adjacent and nearby developed properties, particularly in larger developments, or projects, where more than one building is involved, and to this end may employ such design techniques as may be appropriate to a particular case, including use of building types, orientation, spacing and setback of buildings, careful use of topography, maintenance of natural vegetation, location of access points, recreation areas, open spaces and parking areas, grading, landscaping and screening.

(b) No apartment building shall contain more than 12 dwelling units and no more than three apartment buildings shall be contiguous.

(c) No apartment building shall be located closer than 15 feet from a private drive, access road or open common parking area, whether oriented to the front, sides or rear of the buildings, except that parking areas may be located within five feet and private drives may be located within ten feet of any blank or windowless wall.

(d) More than one apartment building may be located on the lot, provided a minimum distance of 25 feet shall separate any two buildings, or groups of apartment buildings, from any other abutting use or building type.

(e) At least 400 square feet of commonly usable open space shall be provided for each dwelling unit. Such space shall be of such location and dimensions as to provide for outdoor living, patios, pools, lawns, play areas, walks, wooded areas and the like, but not including driveways and parking areas.

(f) Where community refuse containers are provided as accessory uses to apartment developments, such containers shall be conveniently located for pickup vehicle access and

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completely screened from view by means of a fence or wall with outside landscaping and an appropriately designed gate which can be latched open and closed.

(g) Each apartment dwelling unit shall contain at least 600 square feet of livable floor area, exclusive of garages, carports, cellars, basements, attics, open porches, patios or breezeways, except that up to ten percent of the units may be constructed with less floor area than this minimum.

(h) Apartment development requiring ingress and egress to a public street shall meet all the requirements of the town subdivision ordinance.

(i) Parking lots shall have a minimum setback of 15 feet from any street right-of-way.

(Code 1992, § 30-75; Ord. No. 2004-4, 9-7-2004)

~~**Cross reference**— Subdivisions, ch. 26.~~

Sec. 42-227. Planned housing developments.

Within a MU-1 Mixed Use: Residential - Limited Business District as a conditional use or in conjunction with an application for conditional zoning for MU-1 Mixed Use: Residential - Limited Business District, and in order to encourage improved housing design, variety in housing types and best use of topography, a site plan ~~may~~ shall be submitted for a planned housing development, together with a subdivision plan, if required by this chapter or the subdivision chapter, and such other descriptive material or proffers as may be necessary to fully determine the development, even though such development does not comply in all respects to the dimensional requirements of the MU-1 District, provided:

(1) One or more major features of the development, such as unusual natural features, yard spaces, open spaces and building types and arrangements, are such as to justify application of this section rather than a conventional application of the other regulations of the MU-1 District.

(2) Materials submitted, drawings, descriptions, proffers and the like are sufficiently detailed to ensure compliance with the intent of this section.

(3) The project itself, or a larger project of which it is a part, is of sufficient size in the location proposed as to permit development of an internal environment, which, if different from designs otherwise permitted in the MU-1 District, will not adversely affect existing and future development in the surrounding area.

(4) The overall dwelling unit density does not exceed that permitted in the MU-1 District for development of comparable housing types.

(5) The development is designed to promote harmonious relationships with surrounding adjacent and nearby developed properties, and, to this end, may employ such design techniques as may be appropriate to a particular case, including use of building types, orientation and spacing and setback of buildings, careful use of topography, maintenance of natural vegetation, location of recreation areas open spaces, and parking areas, grading, landscaping and screening.

(6) Provision satisfactory to the planning commission and approved by the town attorney shall be made to ensure that nonpublic areas for the common use and employment of occupants, but not in individual ownership by such occupants, shall be maintained in a satisfactory manner without expense to the general taxpayer.

Procedures and general standards for approval of an application under this section shall be the same as those for a conditional use permit or for conditional zoning as described in article I, as the case may require.

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(Code 1992, § 30-76; Ord. No. 2004-4, 9-7-2004; Ord. No. 2012-10, § 30-76, 11-20-2012)

~~**Cross reference**— Subdivisions, ch. 26.~~

Secs. 42-228--42-247. Reserved.

ARTICLE IX. MIXED USE: RESIDENTIAL - LIMITED BUSINESS - LIMITED INDUSTRIAL DISTRICT MU-2

Sec. 42-248. Statement of intent.

This district is intended as a transitional district to provide for the combination of medium density residential uses and the conduct of limited business and industrial activity to which the public requires direct and frequent access, but which is not characterized either by constant heavy trucking other than stocking and delivery of light retail goods or by any nuisance factors other than occasioned by incidental light and noise of congregation of people and passenger vehicles, and for a variety of light manufacturing, fabricating and processing uses appropriately located for access by highways providing a controlled environment. Uses are to be conducted within completely enclosed buildings or within screened areas. This district is intended to serve as a buffer between purely residential districts and districts which allow general commercial and industrial activity. Emphasis will be placed upon planned development with binding conditions to ensure the protection of both neighboring residential areas and residences within the district.

(Code 1992, § 30-77; Ord. No. 2004-4, 9-7-2004)

Sec. 42-249. Permitted uses.

In the MU-2: Mixed Use Residential - Limited Business - Limited Industrial District, structures to be erected, or land to be used, may be for one or more of the following uses [332] ~~[Note: Activities or uses which instruct the reader to "see" a permitted use serve only as a cross reference to the list of permitted uses and associated conditions, if any. The listing of a cross reference in no way implies that the cross reference is a permitted use or activity. Listed permitted uses which instruct the reader to "see also" another permitted use or section of the Zoning Ordinance or Town Code are intended to refer the reader to additional information that is relevant to that permitted use.~~ [333] ~~ed.]~~:

(1) Single-family dwellings, including a family and one unrelated individual per unit.

(2) Two-family dwellings, including a family and up to two unrelated individuals per unit.

(3) Home occupations, as herein defined.

(4) Townhouses, including a family and up to two unrelated individuals per unit, (see article XX, Townhouses, for townhouse provisions), with a Conditional Use Permit.

(5) Condominiums, including a family and up to two unrelated individuals per unit, with a conditional use permit.

(6) Multiple-family dwellings, including a family and up to two unrelated individuals per unit, with a conditional use permit.

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[332] Delete this note and place it at the beginning of the chapter as an editor's note if it is applicable to the entire chapter? I think we can just delete the note and not put it anywhere else as I think it was a carryover from the B-3 District note.

[333] What is this? Deleted.

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(7) Planned housing developments, including a family and up to two unrelated individuals per unit, subject to the special regulations of section 42-258, with a conditional use permit.

(8) Bed and breakfast inns, with a conditional use permit.

(9) Family day homes serving one through five children. Family day homes serving six through 12 children, with a conditional use permit.

(10) Parks and playgrounds.

(11) Public buildings to consist of fire, police and rescue squad stations, schools, recreational facilities, libraries, museums and art galleries. Private schools, recreational facilities, libraries, museums and art galleries, with a conditional use permit.

(12) Off-street parking and loading.

(13) Signs in accord with the sign ordinance in chapter 4, Advertising.

(14) Construction trailers on active construction sites.

(15) Facilities and structures necessary for rendering utility service, including poles, wires, transformers, transmission lines, telephone booths and the like for normal electrical power distribution or communication service; communications antennas; amateur radio towers; meters and pipelines or conduits for electrical, gas, sewer or water service; pumping or regulator stations; substations. Communications monopoles and major transmission lines are permitted with a conditional use permit.

(16) Accessory buildings, such as separate garages or carports, workshops, toolsheds and greenhouses; provided, that garages or other accessory buildings, such as carports, porches and stoops attached to the main building, shall be considered part of the main building; provided further, that no accessory building shall be closer than three feet to any property line or located within any easement or right-of-way.

(17) Any use permitted in the B-1 Limited Business District, with a conditional use permit and subject to the use regulations of this district, except that uses permitted as conditional uses in the B-1 Limited Business District but permitted by right in the MU-2 District shall not require a conditional use permit. Uses permitted in the B-1 Limited Business District with a conditional use permit are limited to the following provision exceptions:

a. Fitness center or health club shall be limited to a maximum of 2,500 square feet.

b. Rental of household items, tools and appliances shall be limited to a maximum of 2,500 square feet with all storage inside a fully enclosed building.

c. Greenhouse or nursery, commercial or retail (but not wholesale) limited to a maximum of 2,500 square feet.

(18) Recycling collection center with a zoning permit application and plan of operation approved by the administrator. The administrator may refer any proposed collection center application to the town planning commission or health official, or both, for their advice as to the desirability, practicability or health ~~affects [~~effects~~]~~ of any such center before issuing a zoning permit to any collection center applicant. Collection center zoning permits may be revoked at any time by the administrator or health official when such recycling center poses a threat to public safety, health or general welfare.

(19) Miniwarehouses, with a conditional use permit.

(20) Laboratories, research, experimental or testing, excluding animals and explosives, with a conditional use permit.

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(21) Manufacture or assembly of medical and dental equipment, drafting and optical instruments, watches, clocks, toys, games, electrical or electronic apparatus, and communication equipment with a conditional use permit.

(22) Compounding of cosmetics, toiletries, drugs and pharmaceutical products, with a conditional use permit.

(23) Molding of candles and soap, with a conditional use permit.

(24) Manufacture of pottery or other similar ceramic products, from previously pulverized clay, and in kilns fired only by smokeless furnaces, with a conditional use permit.

(25) Monument sales establishments with incidental processing to order, but not including, shaping of headstones, with a conditional use permit.

(26) Printing, publishing and engraving establishment, photographic processing, blueprinting, photocopying and similar uses, with a conditional use permit.

(27) Radio or television broadcasting studios and offices, with a conditional use permit.

(28) Sign fabricating and painting, with a conditional use permit.

(29) Portable storage containers, in accordance with section 42-662.

(30) Assisted living facilities and group homes of eight or fewer individuals as exempted by Code of Virginia, § 15.2-2291.

(Code 1992, § 30-78; Ord. No. 2004-4, 9-7-2004; Ord. No. 2007-1, 4-3-2007; Ord. No. 2008-6, 12-2-2008; Ord. No. 2012-6, § 30-78, 6-19-2012; Ord. No. 2012-10, § 30-78, 11-20-2012)

Sec. 42-250. ~~Same~~—limitations on permitted uses.

(a) *Plans; site plan.* Before a building permit shall be used or construction commenced on any permitted use in this district or a permit issued for a new use, the plans, in sufficient detail to show the operations and processes, together with a site plan as required herein, shall be submitted to the administrator for review.

(b) *Similar uses permitted.* Other manufacturing uses which, in the opinion of the administrator, are of the same general character as those permitted uses listed above shall be permitted. All uses shall be conducted so as not to produce hazardous, objectionable or offensive conditions at property line boundaries by reason of odor, dust, smoke, cinders, fumes, noise, vibration, heat, glare, wastes, fire or explosion.

(c) *Enclosed buildings.* All uses shall be conducted within a completely enclosed building of permanent and durable construction, with no open storage of waste material. Products or equipment used or manufactured on the premises may be stored in the open if screened from the street or from a residential district by landscaping, fences or walls.

(d) *Landscaping.* Any part of the front yard not used for parking or accessways shall be landscaped with grass, trees, shrubs or pedestrian walks.

(e) *Site plan.* The plan for the site shall be designed to promote careful use of topography and to promote harmonious relationships with adjacent and nearby residential and business properties, developed or undeveloped, and to this end may provide effective screening along side and rear property lines by means of fences, walls, hedges, planting screen or natural vegetation.

(f) *Refuse.* Refuse containers or refuse storage shall be located in a paved area and hidden from general public view, either from within or outside the premises, by means of fences, walls or landscaping planting.

(g) *Drainage.* Provisions shall be made for proper stormwater drainage from parking and loading areas. Water shall not be permitted to drain from such areas onto adjacent property except

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into a natural watercourse or a drainage easement. Provisions shall be made for protection against erosion and sedimentation in accord with applicable town ordinances.

(h) *Fencing*. All fencing shall have a uniform and durable character and shall be properly maintained.

(Code 1992, § 30-79; Ord. No. 2004-4, 9-7-2004)

Sec. 42-251. Area and density.

(a) The minimum lot area for a single-family dwelling shall be 10,000 square feet.

(b) The minimum lot area for a two-family dwelling ~~and~~ shall be 12,500 square feet.

(c) The minimum lot area for a multiple-family dwelling shall be 15,625 square feet and density of development shall not exceed the ratio of ten dwelling units per gross acre.

(d) Special regulations for townhouses are contained in article XX.

(e) There shall be no minimum area required for businesses.

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

(Code 1992, § 30-80; Ord. No. 2004-4, 9-7-2004)

Sec. 42-252. Setback.

Structures, temporary or permanent, shall be located 30 feet or more from any street right-of-way, or, in the event that buildings are already constructed on the same side of the street in the block, no new structure shall be closer to the street right-of-way line than a distance equal to the average of the distance to the street right-of-way of all existing structures in the same block on the same side of the street. This shall be known as the setback line. See article XVII for special setback regulations pertaining to the widening of highways and streets. The minimum building setback from common area shall be ten feet. Parking lots shall have a minimum setback of 15 feet from any street right-of-way. Restaurant outdoor dining areas shall have a minimum setback of 15 feet from any street right-of-way.

(Code 1992, § 30-81; Ord. No. 2004-4, 9-7-2004; Ord. No. 2007-1, 4-3-2007)

Sec. 42-253. Frontage and yards.

(a) The minimum lot width at the setback line and street line shall be 80 feet for a single-family dwelling, 100 feet for a two-family dwelling and 125 feet for a multiple-family dwelling. Commercial uses have no minimum width.

(b) All residential structures in this district shall be located on the lot with the front of the structure facing the front lot line ~~of the lot, the front of the lot being the shortest side of the lot which abuts on a street. On a lot which extends through from street to street, structures shall be faced on the street on which the majority of existing structures face, or in case there are no existing buildings, the building official shall determine on which street the structure shall face~~. Where permitted, multiple buildings on a single lot may be arranged in accord with approved site plans.

(c) Commercial lots need not abut or adjoin a public street right-of-way, provided vehicular or pedestrian access is provided to a public street right-of-way through a perpetual unobstructed paved easement or parking area of at least 30 feet in width for vehicular access or ten feet in width for pedestrian access. Other access designs may be approved by the administrator with consideration being given to overall site conditions and traffic patterns in keeping with article XXI, Site Plan Review.

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(d) The minimum side yard for each residential structure shall be ~~ten percent of the width of the lot at the setback line or~~ a minimum of ten feet or side lot line easement width, whichever is ~~greatest~~ greater.

(e) Each structure shall have a rear yard of 20 feet or more.

(f) The minimum side yard for each main structure shall be ~~ten percent of the width of the lot frontage, or~~ a minimum of ten feet. The side yard of corner lots shall be 30 feet or more.

(g) Single-family residences shall have a setback of a minimum of ten feet from any residential district. Main structures other than single-family residences shall have a setback of a minimum of 20 feet from any residential district.

(h) Accessory structures shall have a side and rear yard of three feet or more.

(i) Lots need not abut or adjoin a public street right-of-way, provided vehicular or pedestrian access is provided to a public street right-of-way through a perpetual unobstructed paved easement or parking area of at least 30 feet in width for vehicular access or ten feet in width for pedestrian access. Other access designs may be approved by the administrator with consideration being given to overall site conditions and traffic patterns in keeping with article XXI, Site Plan Review.

(j) If a development includes common areas in addition to the individual lots, the common areas shall be maintained by, and be the sole responsibility of, the developer-owner of the development until such time as the developer-owner conveys such common area to a nonprofit corporate owner whose members shall be all of the individual owners of the individual lots in the development. Said land shall be conveyed to, and be held by, said nonprofit corporate owner solely for the benefit of the owners of the individual lots in the development. In the event of such conveyance by the developer-owner to a nonprofit corporate owner, deed restrictions and covenants shall provide, among other things, that any assessments, charges for cost of maintenance of such common areas shall constitute a pro rata lien upon the individual lots. Maintenance to exteriors, lawns, special lighting and drainage shall be provided in a manner so as to discharge any responsibility for the town.

(k) Whenever any development containing common area is proposed by a developer, and before any permit for the erection of structures shall be granted, the developer, or his agent, shall apply, in writing, to the agent for the approval of the plat and submit three copies of the plat, including the lot, street and utilities layout to a scale of not less than one inch equals 50 feet. No lots shall be sold until a final plat for the development shall have been approved by council and recorded in the office of the clerk of the county within 60 days after notification of final approval by the agent; otherwise, the approval shall become invalid.

(l) Provisions shall be made to ensure that nonpublic areas for the common use of occupants shall be maintained without expense to the town.

(m) No business or commercial building or structure, temporary or permanent, shall be located closer than 20 feet to the boundary of a residential district or located within any easement or right-of-way. Residential development shall comply with all frontage, lot, yards and development standards for similar development in the R-3 Multiple-Family Residential District, unless such residence is part of the business building or structure.

(n) The front yard shall contain a minimum of 20 percent greenspace or landscaped area with no more than 50 percent of the greenspace in grass alone. The greenspace shall contain trees with a minimum height, at time of planting, of six feet or more at the ratio of one tree per 400 square feet or less of greenspace area. Such greenspace is to be distributed uniformly around the perimeter of the site or distributed throughout the parking and pedestrian areas. For duplexes for individual sale, the greenspace or landscaped area in the front yard shall be maintained at a ratio

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of 20 percent for each dwelling unit on each lot. For this purpose, corner lots shall be deemed to contain a minimum of 20 percent greenspace or landscaped area in each yard fronting a public street.

(o) A landscaping plan with all areas drawn to scale shall be submitted as part of the site plan.

(p) Preservation of existing trees is encouraged and shall be credited toward the landscaping requirement.

[334](q) If a development includes common areas in addition to the individual lots, the common areas shall be maintained by, and be the sole responsibility of, the developer-owner of the development until such time as the developer-owner conveys such common area to a nonprofit corporate owner whose members shall be all of the individual owners of the individual lots in the development. Said land shall be conveyed to, and be held by, said nonprofit corporate owner solely for the benefit of the owners of the individual lots in ~~(r)~~ the development. In the event of such conveyance by the developer-owner to a nonprofit corporate owner, deed restrictions and covenants shall provide, among other things, that any assessments, charges for cost of maintenance of such common areas shall constitute a pro rata lien upon the individual lots. Maintenance to exteriors, lawns, special lighting and drainage shall be provided in a manner so as to discharge any responsibility for the town.

[335](r) Whenever any development containing common area is proposed by a developer, and before any permit for the erection of structures shall be granted, the developer, or his agent, shall apply, in writing, to the agent for the approval of the plat and submit three copies of the plat, including the lot, street and utilities layout to a scale of not less than one inch equals 50 feet. No lots shall be sold until a final plat for the development shall have been approved by council and recorded in the office of the clerk of the county within 60 days after notification of final approval by the agent; otherwise, the approval shall become invalid.

[336](s) Provisions shall be made to ensure that nonpublic areas for the common use of occupants shall be maintained without expense to the town.

(t) Sidewalks shall be required for all new development. The zoning administrator/town manager may waive this requirement in circumstances that sidewalks do not provide desired connectivity and/or are not physically practical due to site limitations provided the owner/developer makes a contribution in an amount approximate to the sidewalk installation cost to the town to be utilized for sidewalk improvements and/or repairs in other locations. The zoning administrator/town manager may refer the decision regarding the connectivity and/or practicality to the planning commission should there be any doubts. The town manager/town engineer shall make the determination of the approximate sidewalk installation cost.

(Code 1992, § 30-82; Ord. No. 2004-4, 9-7-2004; Ord. No. 2007-1, 4-3-2007; Ord. No. ~~2010-10~~ 2010-9, 12-21-2010; Ord. No. 2012-6, § 30-82, 6-19-2012)

~~**Cross reference**—Planting shade trees, § 25-17; fences, signs, trees, shrubs, etc. at intersections, § 25-18.~~

Sec. 42-254. Height.

Buildings may be erected up to 35 feet in height from street grade or lot grade at setback line, whichever is greater; except, that:

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[334] This subsection (q) appears to be the same as subsection (j) above, Delete (q) and renumber?
[335] This subsection (r) appears to be the same as subsection (k) above, Delete (r) and renumber?
[336] This subsection (s) appears to be the same as subsection (l) above, Delete (s) and renumber?

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

(2) Church spires, belfries, cupolas, monuments, water towers, chimneys, flues and flagpoles shall be exempt from this section.

(3) Parapet walls may be up to four feet above the height of the building on which the walls rest.

(4) For residential uses, no accessory building which is within ten feet of any property lot line shall be more than one story high.

(5) Accessory buildings shall not exceed the main structure in height, except that when the accessory building is located at a lower ground elevation, then the elevation of the roofline of the accessory building shall not be higher than the elevation of the roofline of the main structure, but not to exceed two stories in height.

(6) The height limit may be increased up to 70 feet, provided the building is set back from all lot lines at least two feet for each one foot of height over 35 feet.

(Code 1992, § 30-83; Ord. No. 2004-4, 9-7-2004; Ord. No. 2007-1, 4-3-2007)

Sec. 42-255. Corner lots.

The following special provisions shall apply to corner lots:

(1) Of the two sides of a corner lot, the front shall be deemed to be the ~~shortest~~ shorter of the two sides fronting on streets.

(2) The side yard on the side facing the side street shall be 30 feet or more for both main and accessory buildings.

(3) Each corner lot shall have a minimum width at the setback line and the street line measured to the Pi of a radius where a radius exists of 125 feet.

(Code 1992, § 30-84; Ord. No. 2004-4, 9-7-2004)

Sec. 42-256. Single unit ownership of two-family dwellings; purpose of provisions.

The purpose of this section is to allow for single unit ownership of either unit of a two-family dwelling which has a common vertical wall separating the two units.

(1) *Area.* Minimum lot area for two-family structures shall be 12,500 square feet with each single dwelling unit having a lot area of at least 6,250 square feet.

(2) *Setback.* Same as for other buildings.

(3) *Frontage.* Same as for other buildings, except that the minimum lot width at the street line and at the setback line for each single unit of a two-family dwelling shall be 50 feet.

(4) *Yards.* Same as for other buildings, except that for two-family dwellings in which either single unit is individually owned there shall be no side yard setback required on the interior or common property line. Exterior side yard setback shall be based upon the width of the lot at the setback line for the entire two-unit structure.

(Code 1992, § 30-85; Ord. No. 2004-4, 9-7-2004)

Sec. 42-257. Development standards for apartments.

(a) The development, or project, shall be designed to promote harmonious relationships with surrounding adjacent and nearby developed properties, particularly in larger developments, or projects, where more than one building is involved, and, to this end, may employ such design techniques as may be appropriate to a particular case, including use of building types, orientation,

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spacing and setback of buildings, careful use of topography, maintenance of natural vegetation, location of access points, recreation areas, open spaces and parking areas, grading, landscaping and screening.

(b) No apartment building shall contain more than 12 dwelling units and no more than three apartment buildings shall be contiguous.

(c) No apartment building shall be located closer than 15 feet from a private drive, access road or open common parking area, whether oriented to the front, sides or rear of the buildings, except that parking areas may be located within five feet and private drives may be located within ten feet of any blank or windowless wall.

(d) More than one apartment building may be located on the lot provided a minimum distance of 25 feet shall separate any two buildings or groups of apartment buildings from any other abutting use or building type.

(e) At least 400 square feet of commonly usable open space shall be provided for each dwelling unit. Such space shall be of such location and dimensions as to provide for outdoor living, patios, pools, lawns, play areas, walks, wooded areas and the like, but not including driveways and parking areas.

(f) Where community refuse containers are provided as accessory uses to apartment developments, such containers shall be conveniently located for pickup vehicle access and completely screened from view by means of a fence or wall with outside landscaping and an appropriately designed gate which can be latched open and closed.

(g) Each apartment dwelling unit shall contain at least 600 square feet of livable floor area, exclusive of garages, carports, cellars, basements, attics, open porches, patios or breezeways, except that up to ten percent of the units may be constructed with less floor area than this minimum.

(h) Apartment development requiring ingress and egress to a public street shall meet all the requirements of the town subdivision ordinance.

(i) Parking lots shall have a minimum setback of 15 feet from any street right-of-way.

(Code 1992, § 30-86; Ord. No. 2004-4, 9-7-2004)

~~**Cross reference**—Subdivisions, ch. 26.~~

Sec. 42-258. Planned housing developments.

(a) Within a MU-2 Mixed Use: Residential - Limited Business - Limited Industrial District as a conditional use or in conjunction with an application for conditional zoning for MU-2 Mixed Use: Residential - Limited Business - Limited Industrial, and in order to encourage improved housing design, variety in housing types and best use of topography, a site plan ~~may~~ shall be submitted for a planned housing development, together with a subdivision plan, if required by this chapter or the subdivision chapter, and such other descriptive material or proffers as may be necessary to fully determine the development, even though such development does not comply in all respects to the dimensional requirements of the MU-2 District, provided:

(b) One or more major features of the development, such as unusual natural features, yard spaces, open spaces and building types and arrangements, are such as to justify application of this section rather than a conventional application of the other regulations of the MU-2 District.

(c) Materials submitted, drawings, descriptions, proffers and the like are sufficiently detailed to ensure compliance with the intent of this section.

(d) The project itself, or a larger project of which it is a part, is of sufficient size in the location proposed as to permit development of an internal environment, which, if different from

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designs otherwise permitted in the MU-2 District, will not adversely affect existing and future development in the surrounding area.

(e) The overall dwelling unit density does not exceed that permitted in the MU-2 District for development of comparable housing types.

(f) The development is designed to promote harmonious relationships with surrounding adjacent and nearby developed properties, and, to this end may, employ such design techniques as may be appropriate to a particular case, including use of building types, orientation and spacing and setback of buildings, careful use of topography, maintenance of natural vegetation, location of recreation areas, open spaces and parking areas, grading landscaping, and screening.

(g) Provision satisfactory to the planning commission and approved by the town attorney shall be made to ensure that nonpublic areas for the common use and employment of occupants, but not in individual ownership by such occupants, shall be maintained in a satisfactory manner without expense to the general taxpayer.

(h) Procedures and general standards for approval of an application under this section shall be the same as those for a conditional use permit or for conditional zoning as described in article I, as the case may require.

(Code 1992, § 30-87; Ord. No. 2004-4, 9-7-2004; Ord. No. 2012-10, § 30-87, 11-20-2012)

~~**Cross reference**— Subdivisions, ch. 26.~~

Secs. 42-259--42-279. Reserved.

ARTICLE X. LIMITED BUSINESS DISTRICT B-1

Sec. 42-280. Statement of intent.

This district is intended to provide for a variety of retail shopping, office uses and miscellaneous personal and business service uses generally for the convenience of nearby residential neighborhoods. To enhance the general character of the district, its function of local and neighborhood service and its compatibility with residential surroundings, the range of permitted uses and the sizes of certain uses are limited.

(Code 1972, § 30-66; Code 1992, § 30-88; Ord. No. 2004-4, § 30-66, 9-7-2004)

Sec. 42-281. Permitted uses.

In the B-1 Limited Business District, structures to be erected, or land to be used, may be for one or more of the following uses:

(1) A single-family dwelling in association with a permitted office, business or commercial use in the same building or on the same premises for use by the proprietor or an employee of said business, including a family and one unrelated individual per unit.

(2) Retail stores, including sale of accessories, antiques, appliances, art or art supplies, beverages (alcoholic or otherwise), books, carpets, clothing, drugs, fabrics, flowers, food, furniture, hardware, jewelry, gifts, office supplies and stationery, shoes, paint, wallpaper, sporting goods, and similar stores and shops.

(3) Convenience stores with retail sales of gasoline, but not auto repair or servicing.

(4) Bakeries, provided that the majority of products produced on the premises are sold at retail on the premises.

(5) Banks and other financial institutions.

(6) Dry cleaners, laundries and laundromats with floor area not exceeding 2,500 square feet.

(7) Barber and beauty shops.

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(8) Fitness center or health club.

(9) Offices, business, professional or administrative.

(10) Clinics.

(11) Churches and other places of worship.

(12) Child day care center.

(13) Public buildings to consist of fire, police and rescue squad stations, schools, recreational facilities, libraries, museums and art galleries. Private buildings to consist of schools, recreational facilities, libraries, museums and art galleries, with a conditional use permit.

(14) Funeral homes and crematories.

(15) Clubs and lodges, with a conditional use permit.

(16) Restaurants, catering or delicatessen business.

(17) Shoe repair or tailor shop with floor area not exceeding 2,500 square feet.

(18) Printing and duplicating services, with floor area not exceeding 2,500 square feet.

(19) Rental of household items, tools and appliances.

(20) Public utilities, such as poles, lines, distribution transformers, pipes, meters and other facilities, necessary for the provision and maintenance of public utilities, including water and sewerage facilities; pumping and regulatory stations; substations; communications antennas; amateur radio towers. Communications monopoles with a conditional use permit.

(21) Off-street parking and loading, as required.

(22) Signs in accord with the sign ordinance in chapter 4, Advertising.

(23) Greenhouse or nursery, commercial, wholesale or retail, with a conditional use permit.

(24) Adult day care center.

(25) General hospitals.

(26) Convalescent homes, rest homes, nursing homes and housing for the elderly and handicapped.

(27) Rooming and boarding houses serving one through four persons. Rooming and boarding houses serving five through 14 persons, with a conditional use permit.

(28) Recycling collection center with a zoning permit application and plan of operation approved by the administrator. The administrator may refer any proposed collection center application to the town planning commission or health official or both for their advice as to the desirability, practicability or health ~~affects [~~effects~~]~~ of any such center before issuing a zoning permit to any collection center applicant. Collection center zoning permits may be revoked at any time by the administrator or health official when such recycling center poses a threat to public safety, health or general welfare.

(29) Construction trailers on active construction sites.

(30) Family day homes, with a conditional use permit.

(31) Portable storage containers, in accordance with section 42-662.

(32) Janitorial services.

(33) Personal service establishments.

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(Code 1972, § 30-67; Code 1992, § 30-1989; Ord. of 9-6-1988; Ord. of 6-20-1989; Ord. of 10-24-1989; Ord. of 7-2-91; Ord. of 12-17-1991(1); Ord. of 6-2-1998; Ord. of 12-7-1999; Ord. No. 2000-2, 4-18-2000; Ord. No. 2001-1, 4-17-2001; Ord. No. 2004-4, § 30-67, 9-7-2004; Ord. No. 2007-1, 4-3-2007; Ord. No. 2008-4, 11-18-2008; Ord. No. 2008-6, 12-2-2008; Ord. No. 2012-6, § 30-89, 6-19-2012; Ord. No. 2012-10, § 30-89, 11-20-2012)

~~**Cross reference**— Outdoor advertising in sight of public streets, § 3-36 et seq.~~

Sec. 42-282. Area.

There shall be no minimum lot area or width required; except that the required area for permitted uses utilizing individual sewage disposal systems shall be approved by the health official. The administrator may require a greater area, if considered necessary by the health official.

(Code 1972, § 30-68; Code 1992, § 30-90; Ord. No. 2004-4, § 30-68, 9-7-2004)

Sec. 42-283. Setback.

Structures, temporary or permanent, shall be located 30 feet or more from any street right-of-way, or, in the event that buildings are already constructed on the same side of the street in the block, no new structure shall be closer to the street right-of-way line than a distance equal to the average of the distance to the street right-of-way of all existing structures in the same block on the same side of the street. This shall be known as the setback line. See article XVII for special setback regulations pertaining to the widening of highways and streets. Parking lots shall have a minimum setback of 15 feet from any street right-of-way. Restaurant outdoor dining areas shall have a minimum setback of 15 feet from any street right-of-way

(Code 1972, § 30-69; Code 1992, § 30-91; Ord. of 4-3-1990; Ord. No. 2002-2, 3-5-2002; Ord. No. 2004-4, 9-7-2004; Ord. No. 2007-1, 4-3-2007)

Sec. 42-284. Yards.

(a) No building or structure shall be located closer than 20 feet to the boundary of a residential district or located within any easement or right-of-way.

(b) A minimum of 20 percent of the site shall be reserved for greenspace landscaping with no more than 50 percent of the greenspace in grass alone. The greenspace shall contain trees with a minimum height at time of planting of six feet or more at the ratio of one tree per 400 square feet or less of greenspace area. Such greenspace is to be distributed uniformly around the perimeter of the site or distributed throughout the parking and pedestrian areas.

(c) A landscaping plan with all areas drawn to scale shall be submitted as part of the site plan.

(d) Preservation of existing trees is encouraged and shall be credited toward the landscaping requirement.

(e) Sidewalks shall be required for all new development. In lieu of sidewalks, an owner-developer may provide a paved multi-use trail if approved by the town manager. The trail must be a minimum of ten feet in width and adjoin the street right-of-way. A trail must run the entire road frontage of the parcel. In the absence of unreasonable hardship, the town manager will not approve a trail for parcels whose adjoining parcels have sidewalks such that a trail connects to a sidewalk. The zoning administrator/town manager may waive this requirement in circumstances that sidewalks do not provide desired connectivity and/or are not physically practical due to site limitations provided the owner/developer makes a contribution in an amount approximate to the sidewalk installation cost to the town to be utilized for sidewalk improvements and/or repairs in other locations. The zoning administrator/town manager may refer the decision regarding the connectivity and/or practicality to the planning commission should there be any doubts. The town

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manager/town engineer shall make the determination of the approximate sidewalk installation cost.

(Code 1972, § 30-70; Code 1992, § 30-92; Ord. of 5-2-1989; Ord. of 6-20-1989; Ord. of 7-2-1991; Ord. of 6-2-1998; Ord. No. 2004-4, § 30-70, 9-7-2004; Ord. No. 2013-6, § 30-92, 5-7-2013)

Sec. 42-285. Height.

Buildings may be erected up to 35 feet in height from street grade or lot grade at setback line, whichever is greater; except, that:

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

(2) Church spires, belfries, cupolas, monuments, water towers, chimneys, flues and flagpoles shall be exempt from this section.

(3) Parapet walls may be up to four feet above the height of the building on which the walls rest.

(4) No accessory building which is within ten feet of any property lot line shall be more than one story high.

(5) Accessory buildings shall not exceed the main structure in height, except that when the accessory building is located at a lower ground elevation, then the elevation of the roofline of the accessory building shall not be higher than the elevation of the roofline of the main structure, but not to exceed two stories in height.

(Code 1972, § 30-71; Code 1992, § 30-93; Ord. of 12-17-1991(2); Ord. No. 2004-4, § 30-71, 9-7-2004)

Secs. 42-286--42-303. Reserved.

ARTICLE XI. CENTRAL BUSINESS DISTRICT B-2

Sec. 42-304. Statement of intent.

This district is intended to provide for an appropriate variety of uses in the traditional center for commercial, financial, professional, governmental and cultural activities and to promote a convenient and relatively compact arrangement of uses and buildings. Higher density residential uses are permitted by conditional use permit to encourage housing convenient to places of shopping and work.

(Code 1972, § 30-72; Code 1992, § 30-94; Ord. No. 2004-4, § 30-72, 9-7-2004)

Sec. 42-305. Permitted uses.

In the B-2 Central Business District, structures to be erected, or land to be used, may be for one or more of the following uses (Note: Activities or uses which instruct the reader to see a permitted use serve only as a cross reference to the list of permitted uses and associated conditions, if any. The listing of a cross reference in no way implies that the cross reference is a permitted use or activity. Listed permitted uses which instruct the reader to see also another permitted use or section of the zoning ordinance or town code are intended to refer the reader to additional information that is relevant to that permitted use.~~ ed.~~):

(1) Any use permitted in the R-3 Residential District, with a conditional use permit and subject to the use regulations of that district, but subject to the area and dimensional regulations for the B-2 Central Business District, except that uses permitted as conditional uses in the R-3 District, but permitted by right in the B-2 District shall not require a conditional use permit. A single-family dwelling, including a family and one unrelated individual per unit in association with a permitted office, business or

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commercial use, in the same building or on the same premises for use by the proprietor or an employee of said business shall be permitted, but not subject to said requirements.

(2) Apartments or other dwellings above street level, including a family and up to two unrelated individuals per unit, designed as an integral part of a building or group of buildings, containing offices, retail or commercial uses. Apartments or other dwellings at or below street level, including a family and up to two unrelated individuals per unit, designed as an integral part of a building or group of buildings containing offices, retail or commercial uses, with a conditional use permit. In approving such mixed use developments due consideration shall be given to such matters as fire safety, light and air, size and number of dwelling units and means of access thereto, location and number of parking spaces, location of dwellings with respect to commercial uses, and amenities provided for use of residential occupants.

(3) Retail stores, including sale of accessories, antiques, appliances, art or art supplies, beverages (alcoholic or otherwise), books, carpets, clothing, drugs, fabrics, flowers, food, furniture, hardware, jewelry, gifts, office supplies and stationery, shoes, paint, wallpaper, sporting goods, and similar stores and shops.

(4) Bakeries.

(5) Banks and other financial institutions.

(6) Dry cleaners, laundries and laundromats.

(7) Barber and beauty shops.

(8) Fitness center or health club.

(9) Auto, truck and home appliance services.

(10) Theaters and assembly halls.

(11) Hotels and motels, tourist homes and bed and breakfast inns.

(12) Offices, business, professional or administrative.

(13) Churches and other places of worship.

(14) Public buildings to consist of fire, police and rescue squad stations, schools, recreational facilities, libraries, museums and art galleries. Private buildings to consist of schools, recreational facilities, libraries, museums and art galleries, with a conditional use permit.

(15) Hospitals, general.

(16) Funeral homes and crematories.

(17) Service stations with major repair under cover.

(18) Clubs and lodges, with a conditional use permit.

(19) Auto and truck rental, sales and service with a ten-foot front yard setback for vehicle display area. See also *Service stations* and *Commercial garages*.

(20) Restaurants, food handlers and caterers.

(21) Shoe repair or tailor shop.

(22) Plumbing and electrical supply with storage under cover.

(23) Printing and duplicating services.

(24) Rental of household items, tools and appliances.

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(25) Public utilities, such as poles, lines, distribution transformers, pipes, meters and other facilities, necessary for the provision and maintenance of public utilities, including water and sewerage facilities; pumping and regulatory stations; substations; communications antennas; amateur radio towers. Communications monopoles, with a conditional use permit.

(26) Parking garages with a conditional use permit.

(27) Off-street parking and loading.

(28) Signs in accord with the sign ordinance [chapter 4, Advertising].

(29) Dancehalls, with a conditional use permit.

(30) Commercial garage and/or towing service, with major repair and related storage under cover, with a conditional use permit. See also *Auto and truck rental, sales and services* and *Service stations*.

(31) Radio and television stations and studios or recording studios.

(32) Industrialized building units, temporary only, for business, institutional, security or construction purposes, with a conditional use permit. A conditional use permit shall not be required for construction trailers on active construction sites.

(33) The following listed uses, provided not more than five persons are engaged in actual production work, with a conditional use permit:

a. Assembly of electrical appliances, electronic instruments and devices, radios and phonographs and the manufacture of small parts, such as coils, condensers, transformers and crystal holders.

b. Commercial cabinet or woodworking shops; blacksmith shops, and welding or machine shops.

c. Pharmaceutical, medical or dental laboratories.

(34) Public billiard parlors and poolrooms, game rooms, bowling alleys, skating rinks, indoor and outdoor shooting ranges, paintball courses and similar forms of public amusement, with a conditional use permit.

(35) Rooming and boarding houses serving one through four persons. Rooming and boardinghouses serving five through 14 persons, with a conditional use permit.

(36) Recycling collection center with a zoning permit application and plan of operation approved by the administrator. The administrator may refer any proposed collection center application to the town planning commission or health official, or both, for their advice as to the desirability, practicability or health affects of any such center before issuing a zoning permit to any collection center applicant. Collection center zoning permits may be revoked at any time by the administrator or health official when such recycling center poses a threat to public safety, health or general welfare.

(37) Child day care centers or family day homes, with a conditional use permit.

(38) Tattoo parlors and body piercing establishments, with approval of the ~~Montgomery~~ county health department.

(39) Portable storage containers, in accordance with section 42-662.

(40) Janitorial services.

(41) Personal service establishments.

(42) Farmers' markets, with a conditional use permit.

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Note: The following activities or uses serve only as a cross reference to permitted uses listed above which may or may not have conditions attached to the use. The listing of the following cross reference in no way implies that they are a permitted use or activity unless permitted elsewhere within this section. ed.:

Amusement activities, see *Public billiard, game rooms*.

Appliance service, see *Auto, truck and home appliance service*.

Bed and breakfast, see *Hotels, motels*.

Dressmaking, see *Shoe repair and tailor shop*.

Electrical supply, see *Plumbing and electrical supply*.

Garages, see *Commercial garages* and *Service stations*.

Home appliance service, see *Auto, truck and home appliance service*.

Tailoring shop, see *Shoe repair or tailor shop*.

Tourist homes, see *Hotels, motels*.

(Code 1972, § 30-73; Code 1992, § 30-95; Ord. of 10-24-1989; Ord. of 7-2-1991; Ord. of 6-2-1998; Ord. of 12-7-1999; Ord. No. 2000-2, 4-18-2000; Ord. No. 2001-1, 4-17-2001; Ord. No. 2004-4, § 30-73, 9-7-2004; Ord. No. 2007-1, 4-3-2007; Ord. No. 2008-4, 11-18-2008; Ord. No. 2008-6, 12-2-2008; Ord. No. 2012-6, § 30-95, 6-19-2012; Ord. No. 2012-10, § 30-95, 11-20-2012)

Sec. 42-306. Area.

There shall be no minimum lot area or width required; except that the required area for permitted uses utilizing individual sewage disposal systems shall be approved by the health official and except that townhouses shall not exceed a density of 20 dwelling units per acre and multiple-family dwellings shall not exceed a density of 30 dwelling units per acre. The administrator may require a greater area, if considered necessary by the health official.

(Code 1972, § 30-74; Code 1992, § 30-96; Ord. No. 2004-4, § 30-74, 9-7-2004)

Sec. 42-307. Setback.

There shall be no setback requirements, except within the area formed by a straight line connecting two points, one in each street, on the adjacent street right-of-way line 20 feet distant from the intersection of the two street right-of-way lines which border the property and as provided in article XVII for special setback regulations pertaining to the widening of highways and streets.

(Code 1972, § 30-75; Code 1992, § 30-97; Ord. No. 2004-4, § 30-75, 9-7-2004; Ord. No. 2007-1, 4-3-2007)

Sec. 42-308. Frontage, yards and height.

(a) There shall be no minimum frontage, front yard setback, side yard setback or [337]rear yard ~~or height~~ regulations, except that no building or structure shall be located closer than ten feet to the boundary of a residential district. However, no building or structure shall be located within any easement or right-of-way. Additionally, gas station pump island locations shall comply with state department of transportation setbacks. There shall be no height regulation with the exception that structures greater than 70 feet shall require conditional use permit approval. Town water tanks shall be exempt from the conditional use permit requirement.

(b) Sidewalks shall be required for all new development. The zoning administrator/town manager may waive this requirement in circumstances that sidewalks do not provide desired connectivity and/or are not physically practical due to site limitations, provided the owner/developer makes a contribution in an amount approximate to the sidewalk installation cost

[337] Should this read: front, side or rear yard setbacks or ….? Yes, corrected.

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to the town to be utilized for sidewalk improvements and/or repairs in other locations. The zoning administrator/town manager may refer the decision regarding the connectivity and/or practicality to the planning commission should there be any doubts. The town manager/town engineer shall make the determination of the approximate sidewalk installation cost.

(Code 1972, § 30-76; Code 1992, § 30-98; Ord. of 6-20-1989; Ord. of 6-2-1998; Ord. No. 2004-4, § 30-76, 9-7-2004; Ord. No. 2012-6, § 30-98, 6-19-2012)

Secs. 42-309--42-334. Reserved.

ARTICLE XII. GENERAL BUSINESS DISTRICT B-3

Sec. 42-335. Statement of intent.

This district covers that portion of the community intended for the conduct of general business to which the public requires direct and frequent access, but which is not characterized either by constant heavy trucking other than stocking and delivery of light retail goods or by any nuisance factors other than occasioned by incidental light and noise of congregation of people and passenger vehicles. This district shall include such uses as retail stores, banks, theaters, business offices, newspaper offices, printing presses, restaurants and taverns and garages and service stations. In view of the extensive application of the district and the variety of conditions which may be anticipated, residential uses are permitted with a conditional use permit.

(Code 1972, § 30-77; Code 1992, § 30-99; Ord. No. 2004-4, § 30-77, 9-7-2004)

Sec. 42-336. Permitted uses.

In the B-3 General Business District, structures to be erected, or land to be used, may be for one or more of the following uses (Note: Activities or uses which instruct the reader to see a permitted use serve only as a cross reference to the list of permitted uses and associated conditions, if any. The listing of a cross reference in no way implies that the cross reference is a permitted use or activity. Listed permitted uses which instruct the reader to see also another permitted use or section of the zoning ordinance or town code are intended to refer the reader to additional information that is relevant to that permitted use. ~~ed.~~):

(1) Any principal use permitted in the R-3 Multiple-Family Residential District, with a conditional use permit, except that uses permitted as conditional uses in the R-3 District, but permitted as of right in the B-3 District, shall not require a conditional use permit. Dwellings are subject to the same requirements as in the R-3 District, except that a single-family dwelling in association with a permitted office, business or commercial use, in the same building or on the same premises for use by the proprietor or an employee of said business shall be permitted, but not subject to said requirements, including a family and one unrelated individual per unit; and for multifamily dwellings, the density of development shall not exceed the ratio of 20 dwelling units per gross acre.

(2) Animal hospital, pet shop or pet grooming establishment.

(3) Retail stores, including sale of accessories, antiques, appliances, art or art supplies, beverages (alcoholic or otherwise), books, carpets, clothing, drugs, fabrics, flowers, food, furniture, hardware, jewelry, gifts, office supplies and stationery, shoes, paint, wallpaper, sporting goods, and similar stores and shops.

(4) Bakeries.

(5) Banks and other financial institutions.

(6) Dry cleaners, laundries and laundromats.

(7) Barber and beauty shops.

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(8) Fitness center or health club.

(9) Auto, truck and home appliance services. Also see *Service stations* and *Commercial garages*.

(10) Theaters and assembly halls.

(11) Hotels and motels, tourist homes and bed and breakfast inns.

(12) Offices, business, professional or administrative.

(13) Churches and other places of worship.

(14) Public buildings to consist of fire, police and rescue squad stations, schools, recreational facilities, libraries, museums and art galleries. Private buildings to consist of schools, recreational facilities, libraries, museums and art galleries, with a conditional use permit.

(15) Hospitals, general.

(16) Funeral homes and crematories.

(17) Service stations with major repair under cover. Also see *Commercial garage*.

(18) Clubs and lodges, with a conditional use permit.

(19) Auto and truck rental, sales and service. Also see *Service stations* and *Commercial garages*.

(20) Restaurants, food handlers and caterers.

(21) Shoe repair or tailor shop.

(22) Plumbing and electrical supply with storage under cover.

(23) Printing and duplicating services.

(24) Rental of household items, tools and appliances.

(25) Lumber and building materials store, wholesale or retail, but not a lumberyard or manufacturer of brick or concrete blocks.

(26) Self-service storage compartments commonly known as miniwarehouses.

(27) Facilities and structures necessary for rendering utility service, including poles, wires, transformers, transmission lines, telephone booths and the like for normal electrical power distribution or communication service; communications antennas; amateur radio towers; meters and pipelines or conduits for electrical, gas, sewer or water service; pumping and regulatory stations; substations. Communications monopoles and major transmission lines are permitted with a conditional use permit.

(28) Off-street parking and loading; parking garages, with a conditional use permit.

(29) Signs in accord with the sign ordinance in chapter 4, Advertising.

(30) Dancehalls, with a conditional use permit.

(31) Mobile home parks, with a conditional use permit. Also see article ~~[~~XVIII,~~]~~ Mobile Home Parks.

(32) Mobile home sales, single- or double-wide, with a conditional use permit.

(33) Machinery and equipment sales, service and storage (but not junk), with a conditional use permit.

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(34) Commercial garage and/or towing service, with major repair and related storage under cover, with a conditional use permit. Also see *Auto, truck sales and home appliance services* and *Service stations*.

(35) Contractors equipment storage yard or plant or rental of equipment commonly used by contractors (but not material storage), with a conditional use permit.

(36) Radio and television stations and studios or recording studios.

(37) Industrialized building units for business, institutional, security or construction purposes, with a conditional use permit. Conditional use permits shall not be required for construction trailers on active construction sites.

(38) The following listed uses, provided not more than 50 persons are engaged in actual production work, with a conditional use permit:

a. Assembly of electrical appliances, electronic instruments and devices, radios and phonographs and the manufacture of small parts, such as coils, condensers, transformers and crystal holders.

b. Commercial cabinet or woodworking shops; blacksmith shops and welding or machine shops.

c. Pharmaceutical, medical or dental laboratories.

(39) Carnival or fairgrounds, with a conditional use permit.

(40) Public billiard parlors and poolrooms, game rooms, bowling alleys, skating rinks, indoor and outdoor shooting ranges, paintball courses and similar forms of public amusement, with a conditional use permit.

(41) Greenhouse or nursery, commercial, wholesale or retail.

(42) Convalescent homes, rest homes, nursing homes and housing for the elderly and handicapped.

(43) Rooming and boarding houses serving one through four persons. Rooming and boarding houses serving five through 14 persons, with a conditional use permit.

(44) Child day care center.

(45) Campground, overnight, with a conditional use permit. Other permitted B-3 uses located upon the same property as the campground are permitted, provided that non-campground users do not traverse the campground areas to have access to these non-campground uses. Provided further that a fence or other suitable barricade and screening separates the campground from adjacent properties or uses.

(46) Recycling collection center with a zoning permit application and plan of operation approved by the administrator. The administrator may refer any proposed collection center application to the town planning commission or health official, or both, for their advice as to the desirability, practicability or health ~~affects [~~effects~~]~~ of any such center before issuing a zoning permit to any collection center applicant. Collection center zoning permits may be revoked at any time by the administrator or health official when such recycling center poses a threat to public safety, health or general welfare.

(47) Recycling, post-collection separation facilities, with a conditional use permit and a plan of operation approved by the administrator. In cases of doubt regarding the nature of a process or use, the administrator may require an engineering report describing the process or use and the probable impacts of the facility.

(48) Auction house, business, with a conditional use permit.

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(49) Family day homes, with a conditional use permit.

(50) Kennels with a conditional use permit.

(51) Automobile upholstery shops, with a conditional use permit.

(52) Railroad yards and terminals, with a conditional use permit.

(53) Farmers' markets or flea markets, with a conditional use permit.

(54) Automobile auctions, with a conditional use permit.

(55) Tattoo parlors and body piercing establishments with approval of the ~~Montgomery~~ county health department.

(56) Portable storage containers, in accordance with section 42-662.

(57) Janitorial services.

(58) Exterminating services with a conditional use permit.

(59) Personal service establishments.

[Note: The following activities or uses serve only as a cross reference to permitted uses listed above which may or may not have conditions attached to the use. The listing of the following cross reference in no way implies that they are a permitted use or activity unless permitted elsewhere within this section. [338] ~~ed.~~]

Appliance service, see Auto, truck and home appliance services.

Bed and breakfast inns, see Hotels, motels.

Building material sales, see Lumber and building materials sales.

Equipment sales, service, etc., see Machinery and equipment sales and services.

Pet shops, see Animal.

Tourist homes, see Hotels, motels.

(Code 1972, § 30-78; Code 1992, § 30-100; Ord. of 9-6-1988; Ord. of 10-24-1989; Ord. of 7-2-1991; Ord. of 12-3-1991; Ord. of 12-17-1991(1); Ord. of 6-15-1993; Ord. of 6-2-1998; Ord. of 12-7-1999; Ord. No. 2000-2, 4-18-2000; Ord. No. 2001-1, 4-17-2001; Ord. No. 2001-4, 8-7-2001; Ord. No. 2004-4, § 30-78, 9-7-2004; Ord. No. 2005-1, 1-18-2005; Ord. No. 2006-1, 1-17-2006; Ord. No. 2006-6, 12-19-2006; Ord. No. 2007-1, 4-3-2007; Ord. No. 2008-4, 11-18-2008; Ord. No. 2008-6, 12-2-2008; Ord. No. 2012-3, § 30-100, 2-12-2012; Ord. No. 2012-6, § 30-100, 6-19-2012; Ord. No. 2012-10, § 30-100, 11-20-2012)

Sec. 42-337. Area.

There shall be no minimum area required; except that the required area for permitted uses utilizing individual sewage disposal systems shall be approved by the health official and except that residential uses shall comply with the lot area and width requirements of the R-3 District. The administrator may require a greater area, if considered necessary by the health official.

(Code 1972, § 30-79; Code 1992, § 30-101; Ord. No. 2004-4, § 30-79, 9-7-2004)

Sec. 42-338. Setback.

Structures, temporary or permanent, shall be located 30 feet or more from any street right-of-way, or, in the event that buildings are already constructed on the same side of the street in the block, no new structure shall be closer to the street right-of-way line than a distance equal to the average of the distance to the street right-of-way of all existing structures in the same block on the same side of the street. This shall be known as the setback line. See article XVII for special setback regulations pertaining to the widening of highways and streets. The minimum building

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[338] What is this? Not sure, deleted.

PROOFS

setback from [339] ~~area~~ any common area shall be ten feet. Parking lots shall have a minimum setback of 15 feet from any street right-of-way. Restaurant outdoor dining areas shall have a minimum setback of 15 feet from any street right-of-way.

(Code 1972, § 30-80; Code 1992, § 30-102; Ord. of 4-3-1990; Ord. No. 2001-5, 11-6-2001; Ord. No. 2002-2, 3-5-2002; Ord. No. 2004-4, § 30-80, 9-7-2004; Ord. No. 2007-1, 4-3-2007)

Sec. 42-339. Frontage and yards.

(a) Lots need not abut or adjoin a public street right-of-way, provided vehicular or pedestrian access is provided to a public street right-of-way through a perpetual unobstructed paved easement or parking area of at least 30 feet in width for vehicular access or ten feet in width for pedestrian access. Other access designs may be approved by the administrator with consideration being given to overall site conditions and traffic patterns in keeping with article XXI, Site Plan Review.

(b) If a development includes common areas in addition to the individual lots, the common areas shall be maintained by, and be the sole responsibility of, the developer-owner of the development until such time as the developer-owner conveys such common area to a nonprofit corporate owner whose members shall be all of the individual owners of the individual lots in the development. Said land shall be conveyed to, and be held by, said nonprofit corporate owner solely for the benefit of the owners of the individual lots in the development. In the event of such conveyance by the developer-owner to a nonprofit corporate owner, deed restrictions and covenants shall provide, among other things, that any assessments, charges for cost of maintenance of such common areas shall constitute a pro rata lien upon the individual lots. Maintenance to exteriors, lawns, special lighting and drainage shall be provided in a manner so as to discharge any responsibility for the town.

(c) Whenever any development containing common area is proposed by a developer, and before any permit for the erection of structures shall be granted, the developer, or his agent, shall apply, in writing, to the agent for the approval of the plat and submit three copies of the plat, including the lot, street and utilities layout to a scale of not less than one inch equals 50 feet. No lots shall be sold until a final plat for the development shall have been approved by council and recorded in the office of the clerk of the county within 60 days after notification of final approval by the agent; otherwise, the approval shall become invalid.

(d) Provisions shall be made to ensure that nonpublic areas for the common use of occupants shall be maintained without expense to the town.

(e) No business or commercial building or structure, temporary or permanent, shall be located closer than 20 feet to the boundary of a residential district or located within any easement or right-of-way. Residential development shall comply with all frontage, lot, yards and development standards for similar development in the R-3 Multiple-Family Residential District, unless such residence is part of the business building or structure.

(f) A minimum of 20 percent of the site shall be reserved for greenspace landscaping with no more than 50 percent of the greenspace in grass alone. The greenspace shall contain trees with a minimum height, at time of planting, of six feet or more at the ratio of one tree per 400 square feet or less of greenspace area. Such greenspace is to be distributed uniformly around the perimeter of the site or distributed throughout the parking and pedestrian areas.

(g) A landscaping plan with all areas drawn to scale shall be submitted as part of the site plan.

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[339] Should “area” be “any?”

PROOFS

(h) Preservation of existing trees is encouraged and shall be credited toward the landscaping requirement.

(i) Sidewalks shall be required for all new development. In lieu of sidewalks, an owner or developer may provide a paved multi-use trail if approved by the town manager. The trail must be a minimum of ten feet in width and adjoin the street right-of-way. A trail must run the entire road frontage of the parcel. In the absence of unreasonable hardship, the town manager will not approve a trail for parcels whose adjoining parcels have sidewalks such that a trail connects to a sidewalk. The zoning administrator/town manager may waive this requirement in circumstances that sidewalks do not provide desired connectivity and/or are not physically practical due to site limitations, provided the owner/developer makes a contribution in an amount approximate to the sidewalk installation cost to the town to be utilized for sidewalk improvements and/or repairs in other locations. The zoning administrator/town manager may refer the decision regarding the connectivity and/or practicality to the planning commission should there be any doubts. The town manager/town engineer shall make the determination of the approximate sidewalk installation cost.

(Code 1972, § 30-81; Code 1992, § 30-103; Ord. of 5-2-1989; Ord. of 6-20-1989; Ord. of 7-2-1991; Ord. of 6-2-1998; Ord. No. 2001-5, 11-6-2001; Ord. No. 2004-4, § 30-81, 9-7-2004; Ord. No. 2013-6, § 30-103, 5-7-2013)

~~**Cross reference**— Planting shade trees, § 25-17; fences, signs, trees, shrubs, etc. at intersections, § 25-18.~~

Sec. 42-340. Height.

Buildings may be erected up to 35 feet in height from street grade or lot grade at setback line, whichever is greater; except, that:

(1) The height limit may be increased up to 70 feet, provided the building is set back from all lot lines at least two feet for each one foot of height over 35 feet.

(2) Church spires, belfries, cupolas, monuments, water towers, chimneys, flues and flagpoles shall be exempt from this section.

(3) Parapet walls may be up to four feet above the height of the building on which the walls rest.

(Code 1972, § 30-82; Code 1992, § 30-105; Ord. No. 2004-4, § 30-82, 9-7-2004; Ord. No. 2007-1, 4-3-2007)

Secs. 42-341--42-368. Reserved.

ARTICLE XIII. LIMITED INDUSTRIAL DISTRICT I-1

Sec. 42-369. Statement of intent.

This district is intended to provide for a variety of light manufacturing, fabricating, processing, wholesale distributing and warehousing uses appropriately located for access by highways and providing a controlled environment within which signing is limited, uses are to be conducted generally within completely enclosed buildings or within screened areas, and a moderate amount of landscaping is required. In order to preserve the land for industry, to reduce extraneous traffic and avoid future conflicts between industry and other uses, business and service uses are limited primarily to those which will be useful to employees in the district and future residential uses are restricted.

(Code 1972, § 30-83; Code 1992, § 30-105; Ord. No. 2004-4, § 30-83, 9-7-2004)

Sec. 42-370. Permitted uses~~--generally~~.

In the I-1 Limited Industrial District, structures to be erected, or land to be used, shall be for one or more of the following uses:

(1) Retail and service establishments as follows:

PROOFS

a. Automobile service station.

b. Banks and savings and loan offices.

c. Business and office supply establishments.

d. Clinics, medical or dental.

e. Churches and other places of worship.

f. Employment service or agency.

g. Janitorial or exterminating service.

h. Offices and office buildings, studios and the like, business, professional or administrative.

i. Restaurant or cafeteria, drive-in or otherwise.

j. Security service office or station.

k. Retail or wholesale sales and service incidental to a permitted manufacturing, processing, storing or distributing use.

(2) Generally those light manufacturing uses similar to those listed below which do not create any more danger to health and safety in surrounding areas and which do not create any more offensive noise, vibration, smoke, dust, lint, odor, heat, glare, or electrical impulse than that which is generally associated with light industries of the types specifically permitted below:

a. Manufacture or assembly of spacecraft or component parts, medical and dental equipment, drafting, optical and musical instruments, watches, clocks, toys, games, electrical or electronic apparatus and communication equipment.

b. Manufacture or assembly of boats, boat trailers, bolts, buttons, nuts, screws and rivets, firearms, photographic and metering equipment, electrical appliances, tools, dies, machinery and hardware products, sheet metal products, heating, cooling and ventilating equipment, and vitreous enameled products.

c. Beverage blending or bottling, bakery products, candy manufacture, tobacco products, dairy products and ice cream, fruit and vegetable processing and canning, meat and poultry products, but not distilling of beverages or slaughtering of poultry or animals, or processing or bulk storage of grain or feeds for animals or poultry.

d. Manufacture of rugs, mattresses, pillows, quilts, millinery, hosiery, clothing and fabrics, shoes and leather products, printing and finishing of textiles and fibers into fabric goods.

e. Manufacture of boxes, furniture, cabinets, baskets and other wood products of similar nature.

f. Compounding of cosmetics, toiletries, drugs and pharmaceutical products.

g. Molding of candles and soap.

h. Manufacture of pottery or other similar ceramic products, from previously pulverized clay, and in kilns fired only by smokeless furnaces.

In cases of doubt regarding the nature of a process or use, the administrator may require an engineering report describing the process or use and the probable impact thereof at property lines in terms of the factors listed above or other significant factors as may be associated with a particular process or use or may require a conditional use permit.

(3) Agriculture and forestry use as permitted in the A Agricultural District.

PROOFS

(4) Dwellings for resident watchmen and caretakers employed on the premises, including a family and one unrelated individual per unit; other single-family or two-family dwellings, including a family and up to two unrelated individuals per unit, with a conditional use permit.

(5) Automobile and truck or recreation vehicle assembling, painting, upholstering, repairing, rebuilding or reconditioning, body or fender work, but not auto salvage or junk, with a conditional use permit.

(6) Facilities and structures necessary for rendering utility service, including poles, wires, transformers, transmission lines, telephone booths and the like for normal electrical power distribution or communication service; communications antennas; amateur radio towers; meters and pipelines or conduits for electrical, gas, sewer or water service; treatment facilities; pumping and regulatory stations. Communications monopoles and towers and major transmission are permitted with a conditional use permit.

(7) Greenhouse or nursery, commercial, wholesale or retail.

(8) Laboratories, research, experimental or testing, excluding animals and explosives.

(9) Lumber and building materials store, wholesale or retail, but not a lumberyard or manufacture of brick or concrete blocks.

(10) Monument sales establishments with incidental processing to order, but not including shaping of headstones.

(11) Printing, publishing and engraving establishment, photographic processing, blueprinting, photocopying and similar uses.

(12) Private club, lodge, meeting hall, labor union or fraternal organization or sorority, with a conditional use permit.

(13) Public buildings to consist of fire, police and rescue squad stations and recreational facilities. Private buildings to consist of recreational facilities, with a conditional use permit.

(14) Radio or television broadcasting studios and offices.

(15) Railroad spur tracks or mainline.

(16) Rug and carpet cleaning and storage with incidental sales of rugs and carpets.

(17) Sign fabricating and painting.

(18) Tire rebuilding or recapping.

(19) Wholesale merchandising or storage warehouse or distribution warehouse, but not a truck or truck freight terminal.

(20) Off-street parking and loading.

(21) Signs in accord with the sign ordinance in chapter 4, Advertising.

(22) Accessory buildings and uses, including, but not limited to, the following:

a. Dwellings accessory to a farm of ten acres or more, including a family and up to two unrelated individuals per unit.

b. Retail and service facilities inside a principal building for the use of occupants thereof and occupants of other buildings in the industrial development. Retail and service facilities may include barbershops, beauty parlors, dining rooms, newsstands, restaurants, tobacco, drugs and sundries.

PROOFS

c. Storage of supplies, merchandise, equipment or goods normally carried in stock, used or produced in connection with a permitted office, business, commercial or industrial use subject to applicable district regulations.

(23) Industrialized building units for permitted business, agricultural, limited industrial, institutional, security or construction purposes, with a conditional use permit. Conditional use permits shall not be required for construction trailers on active construction sites.

(24) Miniwarehouses.

(25) Recycling collection center with a zoning permit application and plan of operation approved by the administrator. The administrator may refer any proposed collection center application to the town planning commission or health official or both for their advice as to the desirability, practicability or health affects of any such center before issuing a zoning permit to any collection center applicant. Collection center zoning permits may be revoked at any time by the administrator or health official when such recycling center poses a threat to public safety, health or general welfare.

(26) Plumbing and electrical supply with storage under cover.

(27) Portable storage containers, in accordance with section 42-662.

(28) Public billiard parlors and poolrooms, game rooms, bowling alleys, skating rinks, indoor and outdoor shooting ranges, paintball courses, and similar forms of public amusement, with a conditional use permit.

(Code 1972, § 30-84; Code 1992, § 30-106; Ord. of 6-20-1989; Ord. of 7-2-1991; Ord. of 12-17-1991(1); Ord. of 6-2-1998; Ord. No. 2000-2, 4-18-2000; Ord. No. 2001-1, 4-17-2001; Ord. No. 2004-2, 5-18-2004; Ord. No. 2004-4, § 30-84, 9-7-2004; Ord. No. 2007-1, 4-3-2007; Ord. No. 2008-6, 12-2-2008; Ord. No. 2012-2, § 30-106, 2-21-2012; Ord. No. 2012-6, § 30-106, 6-19-2012; Ord. No. 2012-10, § 30-106, 11-20-2012)

~~**Cross reference**— Outdoor advertising in sight of public streets, § 3-36 et seq.~~

Sec. 42-371. ~~Same—~~Limitations on permitted uses.

(a) *Plans; site plan.* Before a building permit shall be used or construction commenced on any permitted use in this district or a permit issued for a new use, the plans, in sufficient detail to show the operations and processes, together with a site plan as required herein, shall be submitted to the administrator for review.

(b) *Similar uses permitted.* Other manufacturing uses which, in the opinion of the administrator, are of the same general character as those permitted uses listed above shall be permitted. All uses shall be conducted so as not to produce hazardous, objectionable or offensive conditions at property line boundaries by reason of odor, dust, smoke, cinders, fumes, noise, vibration, heat, glare, wastes, fire or explosion.

(c) *Enclosed buildings.* All uses shall be conducted within a completely enclosed building of permanent and durable construction, with no open storage of waste material. Products or equipment used or manufactured on the premises may be stored in the open if screened from the street or from a residential district by landscaping, fences or walls.

(d) *Landscaping.* Any part of the front yard not used for parking or accessways shall be landscaped with grass, trees, shrubs or pedestrian walks. The front yard shall contain a minimum of 20 percent greenspace or landscaped area. For duplexes for individual sale, the greenspace or landscaped area in the front yard shall be maintained at a ratio of 20 percent for each dwelling unit on each lot. For this purpose, corner lots shall be deemed to contain a minimum of 20 percent greenspace or landscaped area in each yard fronting a public street.

PROOFS

(e) *Site plan.* The plan for the site shall be designed to promote careful use of topography and to promote harmonious relationships with adjacent and nearby residential and business properties, developed or undeveloped, and, to this end, may provide effective screening along side and rear property lines by means of fences, walls, hedges, planting screen or natural vegetation.

(f) *Refuse.* Refuse containers or refuse storage shall be located in a paved area and hidden from general public view, either from within or outside the premises, by means of fences, walls or landscaping planting.

(g) *Drainage.* Provision shall be made for proper stormwater drainage from parking and loading areas. Water shall not be permitted to drain from such areas onto adjacent property, except into a natural watercourse or a drainage easement. Provision shall be made for protection against erosion and sedimentation in accord with applicable town ordinances.

(h) *Fencing.* All fencing shall have a uniform and durable character and shall be properly maintained.

(Code 1972, § 30-85; Code 1992, § 30-107; Ord. No. 2004-4, § 30-85, 9-7-2004)

Sec. 42-372. Area.

(a) For permitted uses utilizing individual sewerage disposal systems, the required area shall be determined and approved by the health official.

(b) Required lot area for dwellings shall adhere to the requirements of the R3 Multiple-Family Residential District, unless such dwelling is part of the industrial building or structure.

(Code 1972, § 30-86; Code 1992, § 30-108; Ord. of 6-20-1989; Ord. No. 2004-4, § 30-86, 9-7-2004)

Sec. 42-373. Setback.

Structures, temporary or permanent, shall be located 30 feet or more from any street right-of-way, or, in the event that buildings are already constructed on the same side of the street in the block, no new structure shall be closer to the street right-of-way line than a distance equal to the average of the distance to the street right-of-way of all existing structures in the same block on the same side of the street. This shall be known as the setback line. See article XVII for special setback regulations pertaining to the widening of highways and streets. Parking lots shall have a minimum setback of 15 feet from any street right-of-way. Restaurant outdoor dining areas shall have a minimum setback of 15 feet from any street right-of-way.

(Code 1972, § 30-87; Code 1992, § 30-109; Ord. of 4-3-1990; Ord. of 6-2-1998; Ord. No. 2002-2, 3-5-2002; Ord. No. 2004-4, § 30-87, 9-7-2004; Ord. No. 2007-1, 4-3-2007)

Sec. 42-374. Frontage and yards.

(a) The minimum lot width at the setback line shall be 100 feet.

(b) The minimum side yard for each main structure shall be ~~ten percent of the width of the lot frontage, or~~ a minimum of 40 feet. The side yard of corner lots shall be 30 feet or more.

(c) Each main structure shall have a rear yard of not less than 40 feet.

(d) No building or structure shall be located closer than 40 feet to the boundary of a residential district.

(e) Residential development shall comply with all frontage, lot, yard and development standards for similar development in the R-3 Multiple-Family Residential District, unless such dwelling is part of the industrial building or structure.

(Code 1972, § 30-88; Code 1992, § 30-110; Ord. of 6-20-1989; Ord. of 6-2-1998; Ord. No. 2004-4, § 30-88, 9-7-2004; Ord. No. 2007-1, 4-3-2007; Ord. No. 2012-6, § 30-110, 6-19-2012)

PROOFS

Sec. 42-375. Coverage.

Impervious surfaces may cover up to 80 percent of the area of the lot. The front yard shall contain a minimum of 20 percent greenspace or landscaped area.

(Code 1972, § 30-89; Code 1992, § 30-111; Ord. No. 2004-4, § 30-89, 9-7-2004)

Sec. 42-376. Height.

Buildings may be erected up to 35 feet in height from street grade or lot grade at setback line, whichever is greater; except, that:

(1) The height limit may be increased up to 70 feet provided the building is set back from all lot lines at least ten feet for each five feet of height over 35 feet.

(2) Cupolas, monuments, water towers, chimneys, flues and flagpoles shall be exempt from this section.

(3) Parapet walls may be up to four feet above the height of the building on which the walls rest.

(Code 1972, § 30-90; Code 1992, § 30-112; Ord. No. 2004-4, § 30-90, 9-7-2004)

Secs. 42-377--42-395. Reserved.

ARTICLE XIV. GENERAL INDUSTRIAL DISTRICT I-2

Sec. 42-396. Statement of intent.

The purpose of this district is to provide for a wide variety of industrial operations, including open storage of products, supplies and equipment, but to restrict or prohibit those industries which have characteristics likely to produce serious adverse effects within or beyond the limits of the district. Certain potentially hazardous industries are permitted only after public hearings and review to ensure protection of the public interest and surrounding property and persons. In order to preserve the land for industry, to reduce extraneous traffic, and avoid future conflicts between industry and other uses, business and service uses are limited primarily to those which will be useful to employees in the district and future residential uses are restricted.

(Code 1972, § 30-91; Code 1992, § 30-113; Ord. No. 2004-4, § 30-91, 9-7-2004)

Sec. 42-397. Permitted uses~~—generally~~.

In the I-2 General Industrial District, structures to be erected, or land to be used, shall be for one or more of the following uses:

(1) Any manufacturing, processing, storing or distributing use permitted in the I-1 Limited Industrial District.

(2) Agriculture and forestry use as permitted in the A Agricultural District.

(3) Dwellings for resident watchmen and caretakers employed on the premises, including a family and one unrelated individual per unit; other single-family or two-family dwellings, including a family and up to two unrelated individuals per unit, with a conditional use permit.

(4) Retail and service establishments as follows:

a. Automobile service station.

b. Banks and savings and loan offices.

c. Business and office supply establishments.

d. Clinics, medical or dental.

PROOFS

e. Employment service or agency.

f. Janitorial or exterminating service.

g. Offices and office buildings, studios and the like, business, professional or administrative.

h. Restaurant or cafeteria, drive-in or otherwise.

i. Security service office or station.

j. Temporary stands, or outdoor areas or temporary vehicle parking, for retail or wholesale trade.

k. Trade or business school, including instruction in heavy construction or materials handling equipment or similar vehicles and equipment.

l. Retail or wholesale sales and service incidental to a permitted manufacturing, processing, storing or distributing use.

m. Veterinary or dog or cat hospitals.

n. Adult businesses as regulated in section 42-398(f), with a conditional use permit.

(5) Off-street parking and loading and parking garages.

(6) Signs in accord with the sign ordinance in chapter 4, Advertising.

(7) Facilities and structures necessary for rendering utility service, including poles, wires, transformers, transmission lines, telephone booths and the like for normal electrical power distribution or communication service; communications antennas; amateur radio towers; meters and pipelines or conduits for electrical, gas, sewer or water service; treatment facilities; pumping and regulatory stations; substations. Public utility generating, booster or relay stations; major transmission lines and towers; communications monopoles or towers; railroad yards and terminals are permitted with a conditional use permit.

(8) Industrialized building units for business, agricultural, industrial, institutional, security or construction purposes, with a conditional use permit. Conditional use permits shall not be required for construction trailers on active construction sites.

(9) The following uses and any similar industrial uses which are not likely to create any more offensive noise, vibrations, dust, heat, smoke, odor, glare or other objectionable influences than the minimum amount normally resulting from other uses permitted, and manufacture, compounding, processing, packaging or treatment of the following products or similar products. In cases of doubt regarding the nature of a process or use, the administrator may require an engineering report describing the process or use and the probable impact thereof at property lines in terms of the factors listed above or other significant factors as may be associated with a particular process or use. Where doubt remains following such engineering report, the proposal shall be considered as a potentially hazardous use and ~~referred to the Town Council for decision after public hearing~~ shall require conditional use permit approval.

a. Abrasive wheels, stones, paper, cloth and related products.

b. Adhesives, but not glue or size manufacture.

c. Agricultural or farm implements, manufacture, sale, storage or repair.

d. Aircraft and aircraft parts.

e. Aluminum extrusion, rolling, fabrication and forming.

PROOFS

f. Automobile, motorcycle, bus, tractor truck, pickup or panel truck manufacture, assembly, rental or repair, but not a salvage or wrecking yard.

g. Bag manufacture or cleaning.

h. Barrel or box manufacturing.

i. Blacksmith shop.

j. Building materials (cement, lime in bags or container, sand, gravel, stone, lumber, structural or reinforcing steel, pipe and the like) storage and sales, open or enclosed, but not manufacture or steel fabricating or junk storage.

k. Candles, including wax or tallow manufacture.

l. Ceramics and ceramic products.

m. Coal, flour or grain elevator; coal or wood yard.

n. Concrete products or central mixing and proportioning plant.

o. Contractor's equipment storage yard or plant or rental of equipment commonly used by contractors.

p. Engine testing (internal combustion engines), but not jet engines or rockets.

q. Equipment sales, rental, service and storage, but not junk.

r. Excelsior, wood fiber.

s. Fertilizer storage in bags or bulk storage of liquid or dry fertilizer in tanks or in a completely enclosed building, but not manufacture or processing.

t. Flour, storage, blending and packaging, but not milling.

u. Galvanizing or plating (hot dip).

v. Glass and glass products.

w. Ink manufacture from primary raw materials (including colors and pigments).

x. Lumberyard.

y. Meat products, manufacture, but not slaughtering of animals and poultry or smoking and curing of meat.

z. Monuments and architectural stone.

aa. Oils, shortenings and fats (edible), and storage.

bb. Paper and paperboard (from paper machine only), but not pulp mills.

cc. Petroleum and other inflammable liquids, aboveground bulk storage up to 80,000 gallons, but not refining.

dd. .Plumbing and electrical supplies, manufacture, sale or storage.

ee. Railroad switching and classification yards, repairs and cleaning shops, roundhouses, powerhouses, interlocking towers and fueling, sanding and watering stations.

ff. Recycling, post-collection separation facilities with a zoning permit application and plan of operation approved by the administrator and subject to the foregoing conditions. Collection center zoning permits may be revoked at any time by the administrator or health official when such recycling center poses a threat to public safety, health or general welfare. In addition, any landscaping or screening provisions of this article shall be mandatory.

PROOFS

gg. Sand and gravel processing, but not extraction or stone crushing or grinding.

hh. Sawmill (including cooperage stock mill), stationary and planing mill.

ii. Soap products, but not soap manufacture.

jj. Structural iron and steel fabrication.

kk. Terminal, truck, with any petroleum storage to not exceed 80,000 gallons.

ll. Terminal, truck freight. (Note: changed from prior listing as truck terminal, freight.)

mm. Terminal, truck freight, with any petroleum storage to not exceed 80,000 gallons.

nn. Tobacco products, cigars, cigarettes.

oo. Wallboard and plaster, building, insulation and composition flooring.

pp. Welding and soldering shops; machine shop.

qq. Well drilling establishment, water, gas or oil; offices, storage or service of supplies and equipment.

rr. Wire rope and cable.

ss. Wood chip and fiber board.

(10) Accessory buildings and uses, including, but not limited to, the following:

a. Dwellings accessory to a farm of ten acres or more, including a family and up to two unrelated individuals per unit.

b. Retail and service facilities inside a principal building for the use of occupants thereof and occupants of other buildings in the industrial development. Retail and service facilities may include barbershops, beauty parlors, dining rooms, newsstands, restaurants, tobacco, drugs and sundries.

c. Storage of supplies, merchandise, equipment or goods normally carried in stock, used or produced in connection with a permitted office, business, commercial or industrial use subject to applicable district regulations.

(11) Potentially hazardous uses permitted as conditional uses. The following uses or the manufacture, compounding, processing, packaging or treatment of products not specifically listed above or below, but which may have accompanying hazards, such as fire, explosion, noise, vibration, dust or the emission of smoke, odor, toxic gases or other pollutants, may, if not in conflict with any state or town law or ordinance, be located in the I-2 General Industrial District, only after the location and nature of such use shall have been approved by the town council as ~~conditional uses after public hearing~~ a conditional use permit, as provided in this chapter. In cases of doubt regarding the nature of a process or use, the town council may require an engineering report describing the process or use and the probable impact thereof at property lines in terms of the factors listed above or other significant factors as may be associated with a particular process or use. The town council shall review the plans and statements and shall not permit such buildings, structures or uses until there has been shown that the public health, safety ~~morals,~~ and general welfare will be properly protected, and that necessary safeguards will be provided for the protection of streams or other water areas and surrounding property and persons. The town council, in reviewing the plans and statements, shall consult with other agencies created for the promotion of public health and safety, and shall pay particular attention to protection of the town, the county and its neighbors from the harmful effects of air or water pollution of any type.

a. Airport or heliport.

PROOFS

b. Bleaching products, dyestuff or textile bleaching.

c. Cider and vinegar.

d. Cleaning and polishing preparations, dressings and blackings, processing.

e. Film, photographic.

f. Flour, feed and grain milling or grain drying.

g. Foundries or forge plant, pneumatic drop and forging hammering.

h. Incinerator, industrial or public.

i. Livestock market.

j. Match manufacturer.

k. Paint, oil, shellac, turpentine or varnish.

l. Petroleum and other inflammable liquids, aboveground bulk storage over 80,000 gallons, but not refining.

m. Pickles, sauerkraut, vegetable relish and sauces.

n. Plastic material and synthetic resins, processing only.

o. Sand and gravel extraction, or similar major excavations.

p. Sandblasting or cutting.

q. Septic storage tanks, aboveground; in conjunction with a commercial septic service for the temporary storage and collection of septic effluent prior to transfer of such effluent to a sanitary disposal facility.

r. Soap manufacture.

s. Starch manufacture.

t. Terminal, truck with any petroleum storage exceeding 80,000 gallons.

u. Terminal, truck freight with any petroleum storage exceeding 80,000 gallons.

(12) Recycling collection center with a zoning permit application and plan of operation approved by the administrator. The administrator may refer any proposed collection center application to the town planning commission or health official, or both, for their advice as to the desirability, practicability or health ~~affects [~~effects~~]~~ of any such center before issuing a zoning permit to any collection center applicant. Collection center zoning permits may be revoked at any time by the administrator or health official when such recycling center poses a threat to public safety, health or general welfare.

(13) Public buildings to consist of fire, police and rescue squad stations and recreational facilities.

(14) Auction house, business.

(15) Auction house, industrial.

(16) Kennels, with a conditional use permit.

(17) Laboratories, research, experimental or testing, excluding animals and explosives.

(18) Portable storage containers, in accordance with section 42-662.

(19) Public billiard parlors and poolrooms, game rooms, bowling alleys, skating rinks, indoor and outdoor shooting ranges, paintball courses and similar forms of public amusement, with a conditional use permit.

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(Code 1972, § 30-92; Code 1992, § 30-114; Ord. of 4-3-1990; Ord. of 7-2-1991; Ord. of 7-16-1991; Ord. of 12-17-1991(1); Ord. of 6-15-1993; Ord. of 6-2-1998; Ord. No. 2000-2, 4-18-2000; Ord. No. 2001-1, 4-17-2001; Ord. No. 2004-2, 5-18-2004; Ord. No. 2004-4, § 30-92, 9-7-2004; Ord. No. 2007-1, 4-3-2007; Ord. No. 2008-6, 12-2-2008; Ord. No. 2012-6, § 30-114, 6-19-2012; Ord. No. 2012-10, § 30-114, 11-20-2012)

~~**Cross reference**— Outdoor advertising in sight of public streets, § 3-36 et seq.~~

Sec. 42-398. ~~Same~~—Limitations.

(a) *Plans; site plan.* Before a building permit shall be issued or construction commenced on any permitted use in this district or a permit issued for a new use, the plans, in sufficient detail to show the operations and processes, together with a site plan as required herein, shall be submitted to the administrator for review.

(b) *Landscaping; traffic hazards.* The front yard shall contain a minimum of 20 percent greenspace or landscaped area. For duplexes for individual sale, the greenspace or landscaped area in the front yard shall be maintained at a ratio of 20 percent for each dwelling unit on each lot. For this purpose, corner lots shall be deemed to contain a minimum of 20 percent greenspace or landscaped area in each yard fronting a public street. The plans and execution must take into consideration traffic hazards. Landscaping may be permitted up to a height of three feet and to within 50 feet of the corner of any intersecting streets.

(c) *Site plan.* The plan for the site shall be designed to promote careful use of topography and to promote harmonious relationships with adjacent and nearby residential and business properties, developed or undeveloped, and, to this end, may provide effective screening along side and rear property lines by means of fences, walls, hedges, planting screen or natural vegetation.

(d) *Drainage.* Provisions shall be made for proper stormwater drainage from parking and loading areas. Water shall not be permitted to drain from such areas onto adjacent property except into a natural watercourse or a drainage easement. Provisions shall be made for protection against erosion and sedimentation in accord with applicable town ordinances.

(e) *Fencing.* All fencing shall have a uniform and durable character and shall be properly maintained.

(f) *Adult businesses.* In addition to all other requirements, any adult business shall conform to the following requirements:

(1) The business shall be located at least 500 feet away from any residential or agricultural zoning district, and at least 500 feet from the property line of any land used for any of the following:

a. A residence;

b. A nursing home, assisted living facility or similar institution;

c. An adult day care center;

d. A child day care center;

e. A public or private school, college or university;

f. A public park;

g. A public library, museum or cultural center;

h. A church or other place of worship;

i. A hotel, motel or boarding house;

j. Any other adult business.

(2) Adult merchandise shall not be visible from any point outside the establishment.

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(3) Signs or attention-getting devices for the business shall not contain any words or graphics depicting, describing or relating to specified sexual activities or specified anatomical areas, as defined in section 42-1.

(4) The business shall not begin service to the public or any outside activity before 6:00 a.m. Hours of operation for any adult movie theater, adult nightclub or other business providing adult entertainment shall not extend after 2:00 a.m. Hours of operation for any adult bookstore, adult video store, adult model studio, adult store or any other adult business, except an adult motel, shall not extend after 12:00 midnight.

(5) In any adult business other than an adult motel or adult movie theater, there shall be no viewing of videotapes, computer disks, CD-ROMs, DVD-ROMs, virtual reality devices, internet sites or files transmitted over the internet, or similar media characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas, as defined in section 42-1, while on the premises.

(6) Adult merchandise shall be located in a separate room or other area inaccessible to persons under 18 years of age.

(7) All owners, managers, employees and entertainers shall be at least 18 years of age.

(8) The owner or operator shall install, operate and maintain a security camera and video tape system designed by a security specialist. Surveillance cameras shall continuously monitor all entrances, parking areas and all areas of the establishment where the adult business is conducted, except for the sleeping rooms of an adult motel. Such cameras shall provide clear imagery of the establishment's patrons and their vehicles. Tapes recording activities in the areas under surveillance shall be preserved for a period of four months. Authorized representatives of the town police department or the town planning office shall have access to such tapes, upon request.

(9) The owner or operator shall provide adequate lighting for all entrances, exits and parking areas serving the adult business, and all areas of the establishment where the adult business is conducted, except for the private rooms of an adult motel or the movie viewing areas in an adult movie theater. The term "adequate lighting" means sufficient lighting for clear visual and security camera surveillance.

(Code 1972, § 30-93; Code 1992, § 30-115; Ord. No. 2004-4, § 30-93, 9-7-2004)

~~**Cross reference**— Erosion and sediment control, ch. 10.~~

Sec. 42-399. Area.

(a) For permitted uses utilizing individual sewage disposal systems, the required area shall be determined and approved by the health official.

(b) Required lot area for dwellings shall adhere to the requirements of the R-3 Multiple-Family Residential District, unless such dwelling is part of the industrial building or structure.

(Code 1972, § 30-94; Code 1992, § 30-116; Ord. of 6-20-1989; Ord. No. 2004-4, § 30-94, 9-7-2004)

Sec. 42-400. Setback.

Structures, temporary or permanent, shall be located 30 feet or more from any street right-of-way which is 50 feet or greater in width or 55 feet or more from the centerline of any street right-of-way less than 50 feet in width. See article XVII for special setback regulations pertaining to the widening of highways and streets. The minimum building setback from any common area shall be ten feet. Parking lots shall have a minimum setback of 15 feet from any street right-of-way. Restaurant outdoor dining areas shall have a minimum setback of 15 feet from any street right-of-way.

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(Code 1972, § 30-95; Code 1992, § 30-117; Ord. of 4-3-1990; Ord. No. 2001-5, 11-6-2001; Ord. No. 2002-2, 3-5-2002; Ord. No. 2004-4, § 30-95, 9-7-2004; Ord. No. 2007-1, 4-3-2007)

Sec. 42-401. Frontage and yards.

(a) For permitted uses, the minimum side or rear yard adjoining or adjacent to a residential district shall be 40 feet. The side yard of corner lots shall be 30 feet or more.

(b) Residential development shall comply with all frontage, lot, yard and development standards for similar development in the R-3 Multiple-Family Residential District, unless such dwelling is part of the industrial building or structure.

(c) Lots need not abut or adjoin a public street right-of-way, provided vehicular or pedestrian access is provided to a public street right-of-way through a perpetual unobstructed paved easement or parking area of at least 30 feet in width for vehicular access or ten feet in width for pedestrian access. Other access designs may be approved by the administrator with consideration being given to overall site conditions and traffic patterns in keeping with article XXI, Site Plan Review.

(d) If a development includes common areas in addition to the individual lots, the common areas shall be maintained by, and be the sole responsibility of, the developer-owner of the development until such time as the developer-owner conveys such common area to a nonprofit corporate owner whose members shall be all of the individual owners of the individual lots in the development. Said land shall be conveyed to, and be held by, said nonprofit corporate owner solely for the benefit of the owners of the individual lots in the development. In the event of such conveyance by the developer-owner to a nonprofit corporate owner, deed restrictions and covenants shall provide, among other things, that any assessments, charges for cost of maintenance of such common areas shall constitute a pro rata lien upon the individual lots. Maintenance to exteriors, lawns, special lighting and drainage shall be provided in a manner so as to discharge any responsibility for the town.

(e) Whenever any development containing common area is proposed by a developer, and before any permit for the erection of structures shall be granted, the developer, or his agent, shall apply, in writing, to the agent for the approval of the plat and submit three copies of the plat, including the lot, street and utilities layout to a scale of not less than one inch equals 50 feet. No lots shall be sold until a final plat for the development shall have been approved by council and recorded in the office of the clerk of the county within 60 days after notification of final approval by the agent; otherwise, the approval shall become invalid.

(f) Provisions shall be made to ensure that nonpublic areas for the common use of occupants shall be maintained without expense to the town.

(Code 1972, § 30-96; Code 1992, § 30-118; Ord. of 6-20-1989; Ord. No. 2001-5, 11-6-2001; Ord. No. 2004-4, § 30-96, 9-7-2004; Ord. No. 2007-1, 4-3-2007)

Sec. 42-402. Coverage.

Impervious surfaces may cover up to 80 percent of the area of the lot. The front yard shall contain a minimum of 20 percent greenspace or landscaped area.

(Code 1972, § 30-97; Code 1992, § 30-119; Ord. No. 2004-4, § 30-97, 9-7-2004)

Sec. 42-403. Height.

There shall be no height restrictions in the I-2 General Industrial District with the exception that structures greater than 70 feet shall require conditional use permit approval. Town water tanks shall be exempt from the conditional use permit requirement.

(Code 1972, § 30-98; Code 1992, § 30-120; Ord. No. 2004-4, § 30-98, 9-7-2004; Ord. No. 2012-6, § 30-120, 6-19-2012)

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Secs. 42-404--42-434. Reserved.

ARTICLE XV. FLOODPLAIN DISTRICTS, FP*

~~***Cross reference**— Buildings, ch. 9; water and sewers, ch. 29.~~

Sec. 42-435. Purpose.

The purpose of these provisions is to prevent the loss of property and life, 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, acting alone or in combination with other existing or future uses, activities and development, will cause unacceptable increases in flood heights, velocities and frequencies.

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

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

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

(Code 1972, § 30-99; Code 1992, § 30-121; Ord. No. 2004-4, § 30-99, 9-7-2004)

Sec. 42-436. Applicability.

These provisions shall apply to all lands within the jurisdiction of the town and identified as being in the 100-year floodplain by the Federal Insurance Administration.

(Code 1972, § 30-100; Code 1992, § 30-122; Ord. No. 2004-4, § 30-100, 9-7-2004)

Sec. 42-437. Compliance.

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

(Code 1972, § 30-101; Code 1992, § 30-123; Ord. No. 2004-4, § 30-101, 9-7-2004)

Sec. 42-438. Abrogation and greater restrictions.

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

(Code 1972, § 30-102; Code 1992, § 30-124; Ord. No. 2004-4, § 30-102, 9-7-2004)

Sec. 42-439. Establishment and description of districts.

(a) *Basis of districts.* The various floodplain districts shall include special flood hazard areas. The basis for the delineation of these districts shall be the Flood Insurance Study (FIS) and the Flood Insurance Rate Maps (FIRM) for the county and the town prepared by the Federal Emergency Management Agency, Federal Insurance Administration, dated September 25, 2009, as amended (maps may be viewed on the official FEMA website).

(1) The floodway district is delineated for purposes of this article using the criteria that certain areas within the floodplain must be capable of carrying the waters of the 100-year flood without increasing the water surface elevation of that flood more than one foot at

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any point. These areas included in this district are specifically defined in Table 2 of the above-referenced Flood Insurance Study and shown on the accompanying Flood Boundary and Floodway Map or Flood Insurance Rate Map.

(2) The flood-fringe district shall be that area of the 100-year floodplain not included in the floodway district. The basis for the outermost boundary of this district shall be the 100-year flood elevations contained in the flood profiles of the above-referenced flood insurance study and as shown on the accompanying Flood Boundary and Floodway Map or Flood Insurance Rate Map. The special floodplain district shall be those areas identified as an AE Zone on the maps accompanying the Flood Insurance Study for which 100-year flood elevations have been provided.

(3) 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 maps accompanying the flood insurance study. For these areas, 100-year flood elevations and floodway information from other federal, state or other acceptable source 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:

a. Corps of Engineers—Floodplain information reports.

b. U.S. Geological Survey—Floodprone quadrangles.

c. U.S.D.A., Soil Conservation Service—Flood hazard analyses.

d. Known highway marks from past floods.

e. Tennessee Valley Authority flood reports.

f. Other sources.

Then the applicant for the proposed use, development and/or activity shall determine this elevation in accordance with hydrologic and hydraulic analyses [340] shall ~~[sic]~~ be undertaken only by professional engineers or others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently accepted technical concepts. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough review by the town.

(b) *Overlay concept.*

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

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

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

(Code 1972, § 30-103; Code 1992, § 30-125; Ord. of 9-5-1995; Ord. No. 2004-4, § 30-103, 9-7-2004; Ord. No. 2009-7, § 30-103, 9-15-2009)

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[340] This sentence is incomplete. Add the word “which” or please reword?

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Sec. 42-440. Official floodplain districts zoning map.

The boundaries of the floodplain districts are established as shown on the Flood Boundary and Floodway and/or Flood Insurance Rate Map which is declared to be a part of this article and which shall be kept on file at the town municipal offices (and may also be viewed on the official FEMA website).

(Code 1972, § 30-104; Code 1992, § 30-126; Ord. No. 2004-4, § 30-104, 9-7-2004; Ord. No. 2009-7, § 30-104, 9-15-2009)

Sec. 42-441. District boundary changes.

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

(Code 1972, § 30-105; Code 1992, § 30-127; Ord. No. 2004-4, § 30-105, 9-7-2004)

Sec. 42-442. Interpretation of district boundaries.

Initial interpretations of the boundaries of the floodplain districts shall be made by the [341] ~~zoning officer~~ zoning administrator. Should a dispute arise concerning the boundaries of any of the districts, the board of zoning appeals shall make the necessary determination. The person questioning or contesting the location of the district boundary shall be given a reasonable opportunity to present his case to the board and to submit his own technical evidence, if he so desires.

(Code 1972, § 30-106; Code 1992, § 30-128; Ord. No. 2004-4, § 30-106, 9-7-2004)

Sec. 42-443. District provisions.

(a) *General.* All uses, activities and development occurring within any floodplain district shall be undertaken only upon the issuance of a zoning permit. Such development shall be undertaken only in strict compliance with the provisions of this article and with all other applicable codes and ordinances, such as the Virginia Uniform Statewide Building Code and the town subdivision regulations. Prior to the issuance of any such permit, the zoning officer shall require all applications to include compliance with all applicable state and federal laws. Under no circumstances shall any use, activity, and/or development adversely affect the capacity of the channels or floodways of any watercourse, drainage ditch or any other drainage facility or system.

(b) *Alterations or relocation of channels or floodways.* Prior to any proposed alteration or relocation of any channels or floodways of any watercourse, stream, etc., within this jurisdiction a permit from the U. S. Army Corps of Engineers, the Virginia Marine Resources Commission and certification from the Virginia Department of Environmental Quality is necessary (a joint permit application is available from any of these organizations). Further, notification of the proposal shall be given to all affected adjacent jurisdictions, the division of dam safety and floodplain management (department of conservation and recreation), and the Federal Insurance Administration.

(c) *Site plans and building permits.* All applications for development in the floodplain district and all building permits issued for the floodplain shall incorporate the following information:

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[341] Should this be zoning administrator? Yes, changed.

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(1) For structures that have been elevated, the elevation of the lowest floor (including basement).

(2) For structures that have been floodproofed (nonresidential only), the elevation to which the structure has been floodproofed.

(3) The elevation of the 100-year flood.

(4) Topographic information showing existing and proposed ground elevations.

(d) *Manufactured homes and recreational vehicles.* All manufactured homes to be placed or substantially improved within the floodplain district shall be placed on a permanent foundation and elevated and anchored in accordance with the Virginia Uniform Statewide Building Code. All recreational vehicles placed on sites must either:

(1) Be on the site for fewer than 180 consecutive days;

(2) Be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions); or

(3) Meet all the requirements for manufactured homes.

(e) *Design criteria for utilities and facilities.*

(1) *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.

(2) *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.

(3) *Drainage facilities.* All storm drainage facilities shall be designed to convey the flow of surface waters without damage to persons or property. The systems shall ensure drainage away from buildings and on-site waste disposal sites. The town council, or its designated agent, may require a primary 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.

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

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

(f) *Residential construction.* New construction or additions of any residential structure (including manufactured homes) shall have the lowest floor, including basement, elevated no lower than one foot above the base flood elevation.

(g) *Nonresidential construction.* New construction or additions of any commercial, industrial or nonresidential building (or manufactured home) shall have the lowest floor, including basement, elevated to no lower than one foot above the base flood elevation. Buildings located in all A1-30, AE and AH Zones may be floodproofed in lieu of being elevated, provided that all areas of the building components below the elevation corresponding to the BFE, plus one foot are watertight

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with walls substantially impermeable to the passage of water, and use structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied.

(Code 1972, § 30-107; Code 1992, § 30-129; Ord. No. 2004-4, § 30-107, 9-7-2004; Ord. No. 2009-7, § 30-107, 9-15-2009)

~~**Cross reference**—Subdivisions, ch. 26.~~

Sec. 42-444. Floodway district.

(a) In the floodway district no development shall be permitted except where the effect of such development on flood heights is fully offset by accompanying improvements which have been approved by all appropriate local and/or state authorities, as required above.

(b) Encroachments, including fill, new construction, substantial improvements and other developments are prohibited unless certification (with supporting technical data) by a registered professional engineer is provided demonstrating that encroachments shall not result in any increase in flood levels during occurrence of the base flood.

(c) Development activities which increase the water surface elevation of the base flood may be allowed, provided that the applicant first applies, with the town's endorsement, for a conditional Flood Insurance Rate Map and floodway revision, and receives the approval of the Federal Emergency Management Agency.

(d) All new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of this article.

(e) The placement of manufactured homes (mobile homes) is prohibited, except in an existing manufactured homes (mobile homes) park or subdivision. A replacement manufactured home may be placed on a lot in an existing manufactured home park or subdivision, provided the anchoring, elevation and encroachment standards are met.

(f) Permitted uses. In the floodway district the following uses and activities are permitted, provided that they are in compliance with the provisions of the underlying district and are not prohibited by any other ordinance and provided that they do not require structures, fill or storage of materials and equipment:

(1) Agricultural uses, such as general farming, pasture, grazing, outdoor plant nurseries, horticulture, truck farming, forestry, sod farming and wild crop harvesting.

(2) Public and private recreational uses and activities, such as parks, day camps, picnic grounds, golf courses, boat launching and swimming areas, hiking and horseback riding trails, wildlife and nature preserves, game farms, fish hatcheries, trap and skeet game ranges and hunting and fishing areas.

(3) Accessory residential uses, such as yard areas, gardens, play areas and pervious loading areas.

(4) Accessory industrial and commercial uses, such as yard areas, pervious parking and loading areas, airport landing strips, etc.

(Code 1972, § 30-108; Code 1992, § 30-130; Ord. No. 2004-4, § 30-108, 9-7-2004; Ord. No. 2009-7, § 30-108, 9-15-2009)

State law reference—Uniform regulations for manufactured housing, Code of Virginia, § 15.2-2290.

Sec. 42-445. Flood-fringe and approximated floodplain districts.

(a) In the flood-fringe and approximated floodplain districts, the development and/or use of land shall be permitted in accordance with the regulations of the underlying district, provided that

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all such uses, activities and/or development shall be undertaken in strict compliance with the floodproofing and related provisions contained in the Virginia Uniform Statewide Building Code and all other applicable codes and ordinances.

(b) Until a regulatory floodway is designated, no new construction, substantial improvements or other development (including fill) shall be permitted within the areas of special flood hazard, designated as Zones A1-30 and AE on the Flood Rate Insurance Map, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development will not increase the water surface elevation of the base flood more than one foot at any point within the town.

(c) Development activities in Zones A1-30, AE and AH on the town's Flood Insurance Rate Map which increase the water surface elevation of the base flood by more than one foot may be allowed, provided that the applicant first applies, with the town's endorsement, for a conditional Flood Insurance Rate Map revision, and receives the approval of the Federal Emergency Management Agency.

(Code 1972, § 30-109; Code 1992, § 30-131; Ord. No. 2004-4, § 30-109, 9-7-2004; Ord. No. 2009-7, § 30-109, 9-15-2009)

Sec. 42-446. Variances; additional factors to be considered.

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

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

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

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

(4) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners.

(5) The importance of the services provided by the proposed facility to the community.

(6) The requirements of the facility for a waterfront location.

(7) The availability of alternative locations not subject to flooding for the proposed use.

(8) The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.

(9) The relationship of the proposed use to the comprehensive plan and floodplain management program for the area.

(10) The safety of access by ordinary and emergency vehicles to the property in time of flood.

(11) The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters expected at the site.

(12) Such other factors which are relevant to the purpose of this article.

(b) The board of zoning appeals may refer any application and accompanying documentation pertaining to any request for a variance to any engineer or other qualified person or agency for

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technical assistance in evaluating the proposed project in relation to flood heights and velocities, and the adequacy of the plans for protection and other related matters.

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

(1) Unacceptable or prohibited increases in flood heights;

(2) Additional threats to public safety;

(3) Extraordinary public expense;

(4) Creating nuisances;

(5) Causing fraud or victimization of the public; or

(6) Conflict with local laws or ordinances.

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

(e) Variances shall be issued only after the board of zoning appeals has held a public hearing on the request for variance in accordance with local and state requirements for such hearings.

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

(1) Increases risks to life and property; and

(2) Will result in increased premium rates for flood insurance.

(g) A record shall be maintained of the above notification as well as all variance actions, including justification for issuance of the variances. Any variances which are issued shall be noted in the annual report submitted to the Federal Insurance Administrator.

(Code 1972, § 30-110; Code 1992, § 30-132; Ord. No. 2004-4, § 30-110, 9-7-2004)

Sec. 42-447. Existing structures in floodplain districts.

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

(1) Existing structures and/or uses located in the floodway district shall not be expanded or enlarged (unless the effect of the proposed expansion or enlargement on flood heights is fully offset by accompanying improvements).

(2) Any modification, alteration, repair, reconstruction or improvement of any kind to a structure, and/or use, located in any floodplain district to any extent, or amount of less than 50 percent of its market value, shall conform to the VA USBC.

(3) 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 this article and shall require the entire structure to conform to the VA USBC.

(4) Uses of adjuncts thereof which are, or become, nuisances shall not be permitted to continue.

(Code 1972, § 30-111; Code 1992, § 30-133; Ord. No. 2004-4, § 30-111, 9-7-2004; Ord. No. 2009-7, § 30-111, 9-15-2009)

~~**Cross reference**—Buildings, ch. 9.~~

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Sec. 42-448. Definitions.

~~For the purpose of this article, certain terms are defined as follows:~~

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

Base flood means the flood having a one percent chance of being equaled or exceeded in any given year.

Base flood elevation means the Federal Emergency Management Agency designated 100-year water surface elevation.

Basement means any area of the building having its floor sub-grade (below ground level) on all sides.

Board of zoning appeals means the board appointed to review appeals made by individuals with regard to decisions of the zoning administrator in the interpretation of this article.

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

Elevated building means a non-basement building built to have the lowest floor elevated above the ground level by means of fill, solid foundation perimeter walls, pilings, or columns (posts and piers).

Encroachment means the advance or infringement of uses, plant growth, fill, excavation, buildings, permanent structures or development into a floodplain, which may impede or alter the flow capacity of a floodplain.

Existing manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by the town.

Expansion to an existing manufactured home park or subdivision means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufacturing homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

Flood or *flooding* means:

(1) A general or temporary condition of partial or complete inundation of normally dry land areas from:

a. The overflow of inland or tidal waters; or

b. The unusual and rapid accumulation or runoff of surface waters from any source.

(2) The collapse or subsistence of land along the shore of a lake, or other body of water, as a result of erosion or undermining, caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in subsection (1)a of this definition.

PROOFS

(3) Mudflows which are proximately caused by flooding, as defined in this article, and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.

Flood Insurance Rate Map (FIRM) means an official map of the town, on which is delineated both the special hazard areas and the risk premium zones applicable to the town.

Flood proofing means any combination of structural and non-structural additions, changes or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

Floodplain or flood-prone area means any land area susceptible to being inundated by water from any source.

Floodway means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

Freeboard means a factor of safety usually expressed in feet, above a flood level for purposes of floodplain management. The term "freeboard" tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings and the hydrological effect of urbanization in the watershed.

Highest adjacent grade means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

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;

(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.

Lowest floor means the lowest floor of the lowest enclosed area, including basement. An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of Federal Code 44CFR § 60.3.

Manufactured home means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes, the term "manufactured home" also includes park trailers, travel trailers and other similar vehicles placed on a site for greater than 180 consecutive days.

Manufactured home park or subdivision means a parcel, or contiguous parcels, of land divided into two or more manufactured home lots for rent or sale.

PROOFS

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

New manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by the town.

Recreational vehicle means a vehicle which is:

(1) Built on a single chassis;

(2) 400 square feet, or less, when measured at the largest horizontal projection;

(3) Designed to be self-propelled or permanently towable by a light duty truck; and

(4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational camping, travel or seasonal use.

Shallow flooding area means a special flood hazard area with base flood depths from one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Special flood hazard area means the land in the floodplain subject to a one percent or greater chance of being flooded in any given year, as determined in this article.

Start of construction means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, substantial improvement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of the construction means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Structure, for floodplain management purposes, means a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home. The term "structure" for insurance coverage purposes, means a walled and roofed building, other than a gas or liquid storage tank, that is principally above ground and affixed to a permanent site, as well as a manufactured home on a permanent foundation. For the latter purpose, the term "structure" includes a building while in the course of construction, alteration or repair, but does not include building materials or supplies intended for use in such construction, alteration or repair, unless such materials or supplies are within an enclosed building on the premises.

PROOFS

Substantial damage refers to 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.

(1) The term "substantial improvement" means any reconstruction, rehabilitation, addition or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the start of construction of the improvement.

(2) The term "substantial improvement" includes structures which have incurred substantial damage regardless of the actual repair work performed.

(3) The term "substantial improcvement" does not, however, include either:

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

b. Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a *historic structure*.

Violation means the failure of a structure or other development to be fully compliant with the Town's flood plain management regulations. A structure or other development without the elevation certificate, other certifications or other evidence of compliance required in this article is presumed to be in violation until such time as that documentation is provided.

Watercourse means a lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodically. The term "watercourse" includes specifically designated areas in which substantial flood damage may occur.

(Code 1972, § 30-114; Code 1992, § 30-134; Ord. No. 2004-4, § 30-112, 9-7-2004; Ord. No. 2009-7, § 30-112, 9-15-2009)

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

[342]~~**Sec. 30-135. Severability.**~~

~~If any section, subsection, paragraph, sentence, clause, or phrase of this article shall be declared invalid for any reasons whatever, such decision shall not affect the remaining portions of this article which shall remain in full force and effect, and for this purpose the provisions of this article are hereby declared to be severable.~~

~~(Code 1972, § 30-113; Code 1992, § 30-135; Ord. No. 2004-4, § 30-113, 9-7-2004)~~

Sec. 42-449. Municipal liability.

(a) The degree of flood protection sought by the provisions of this article is considered reasonable for regulatory purposes and is based on accepted engineering methods of study. Larger floods may occur on rare occasions. Flood heights may be increased by manmade or natural causes, such as ice jams and bridge openings restricted by debris. This article does not imply that areas outside the floodplain districts, or that land uses permitted within such districts, will be free from flooding or flood damages.

(b) Records of actions associated with administering this article shall be kept on file and maintained by the zoning administrator. This article shall not create liability on the part of the

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[342] Delete as chapter 1 has a severability clause which covers the entire Code? I am okay with that.

PROOFS

town, or any officer or employee thereof, for any flood damages that result from reliance on this article or any administrative decision lawfully made thereunder.

(Code 1972, § 30-114; Code 1992, § 30-136; Ord. No. 2004-4, § 30-114, 9-7-2004; Ord. No. 2009-7, § 30-114, 9-15-2009)

Secs. 42-450--42-468. Reserved.

ARTICLE XVI. NONCONFORMING USES

Sec. 42-469. Nonconforming use may be continued.

Except as otherwise provided herein, the lawful use of land or buildings existing at the [343]effective date of this chapter may be continued although such use does not conform to the provisions hereof. Except as provided in this article, such nonconforming use may not be enlarged, extended, reconstructed or structurally altered, except in compliance with the provisions of this chapter.

(Code 1972, § 30-115; Code 1992, § 30-137; Ord. No. 2004-4, § 30-115, 9-7-2004)

Sec. 42-470. Changes in district boundaries.

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

(Code 1972, § 30-116; Code 1992, § 30-138; Ord. No. 2004-4, § 30-116, 9-7-2004)

Sec. 42-471. Change of nonconforming use.

If no structural alterations are made, a nonconforming use of land or of a building may be changed to another nonconforming use of the same or of a more restricted classification. Removal and replacement of a nonconforming mobile home shall be permitted as a change of use under this section if said replacement is completed within two years of the removal. Whenever a nonconforming use of land or buildings has been changed to a more restricted use or to a conforming use, such use shall not thereafter be changed to a less restricted use.

(Code 1972, § 30-117; Code 1992, § 30-139; Ord. of 11-5-1991; Ord. No. 2004-4, § 30-117, 9-7-2004)

Sec. 42-472. Extension of use within existing building.

The nonconforming use of a building may be hereafter extended throughout those parts of a building which are lawfully and manifestly arranged or designed for such use at the time of the enactment of this chapter.

(Code 1972, § 30-118; Code 1992, § 30-140; Ord. No. 2004-4, § 30-118, 9-7-2004)

Sec. 42-473. Buildings nonconforming in height, yard area or bulk.

A building nonconforming only as to height, yard areas or bulk requirements may be altered or extended, provided such alteration or extension does not increase the degree of nonconformity in any respect. The nonconforming status of such building as to height, yard areas or bulk shall not be affected by a discontinuance of internal use.

(Code 1972, § 30-119; Code 1992, § 30-141; Ord. No. 2004-4, § 30-119, 9-7-2004)

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[343] Insert effective date of original ordinance and include statement regarding effective date of any amendment to the chapter to establish date of nonconformity? Yes.

PROOFS

Sec. 42-474. Discontinuance of nonconforming use.

No building, or portion thereof, used in whole, or in part, for a nonconforming use in a residential district which remains idle or unused for a continuous period of two years, whether or not the equipment or fixtures are removed, shall again be used, except in conformity with the regulations of the district in which such building or land is located.

(Code 1972, § 30-120; Code 1992, § 30-142; Ord. No. 2004-4, § 30-120, 9-7-2004)

Sec. 42-475. Destruction of a nonconforming use.

Where a conforming structure devoted to a nonconforming activity is damaged or where a nonconforming structure is damaged, either may be repaired or restored, provided that any such repair or restoration shall be completed within 24 months from the date of destruction.

(Code 1972, § 30-121; Code 1992, § 30-143; Ord. No. 2004-4, § 30-121, 9-7-2004; Ord. No. 2007-1, 4-3-2007)

Sec. 42-476. Intermittent use.

The casual, intermittent, temporary or illegal use of land or buildings shall not be sufficient to establish the existence of a nonconforming use, and the existence of a nonconforming use on a part of a lot or tract shall not be construed to establish a nonconforming use on the entire lot or tract.

(Code 1972, § 30-122; Code 1992, § 30-144; Ord. No. 2004-4, § 30-122, 9-7-2004)

Sec. 42-477. Existence of a nonconforming use.

When evidence available to the administrator is deemed by him to be inconclusive, whether a nonconforming use exists shall be a question of fact and shall be decided by the board of zoning appeals after public notice and hearing and in accordance with the rules of the board.

(Code 1972, § 30-123; Code 1992, § 30-145; Ord. No. 2004-4, § 30-123, 9-7-2004)

Sec. 42-478. Nonconforming lots.

Any lot lawfully of record at the time of adoption of this amendment which is less in area or width than the minimum required by this chapter may be used if the requirements of this chapter regarding setbacks, side and rear yards and health requirements are complied with.

(Code 1972, § 30-124; Code 1992, § 30-146; Ord. No. 2004-4, § 30-124, 9-7-2004)

Sec. 42-479. Nonconforming lots; eminent domain.

A lot of record or structure which, solely as a result of an eminent domain proceeding, no longer conforms to the requirements of these regulations and restrictions as to area, frontage and dimensions of lots or yards, shall not be deemed a nonconforming lot or structure for the purpose of this chapter.

(Code 1972, § 30-125; Code 1992, § 30-147; Ord. No. 2004-4, § 30-125, 9-7-2004)

Sec. 42-480. Nonconforming dwellings in business and industrial districts.

A dwelling nonconforming as to use in a business or industrial district shall be considered as a conforming use in application of the height, area and bulk requirements of this chapter.

(Code 1972, § 30-126; Code 1992, § 30-148; Ord. No. 2004-4, § 30-126, 9-7-2004)

PROOFS

~~**Sec. 30-149. Permits.**~~

~~[344]All nonconforming uses shall obtain a zoning permit and a certificate of occupancy within 60 days after the adoption of this chapter if required and notified by the Zoning Administrator. Such permits shall be issued promptly upon the written request of the owner or operator of a nonconforming use.~~

~~The construction or use of a nonconforming building or land area for which a permit was issued legally prior to the adoption of this chapter may proceed; provided, that such building is completed within one year or such use of land established within 30 days after the effective date of this chapter.~~

~~(Code 1972, § 30-127; Code 1992, § 30-149; Ord. No. 2004-4, § 30-127, 9-7-2004)~~

Secs. 42-481--42-498. Reserved.

ARTICLE XVII. WIDENING OF HIGHWAYS AND STREETS*

~~***Cross reference**— Streets and sidewalks, ch. 25.~~

Sec. 42-499. Purpose of article.

The purpose of this article shall be to establish varying setback lines on specific streets which do not necessarily conform to the regular setback lines as established in each of the zoning districts. These streets, for the most part, are those streets designated in a study conducted by the state department of transportation and adopted by the town council as thoroughfares and as such are scheduled to be widened and reconstructed to varying widths. The setback lines shall be established in order to provide an adequate setback for future building construction in the areas along these streets where additional rights-of-way and construction easements are planned.

(Code 1972, § 30-128; Code 1992, § 30-150; Ord. No. 2004-4, § 30-128, 9-7-2004)

[345]Sec. 42-500. Adoption of certain reports by reference.

~~The reports entitled Christiansburg Area Highway Needs and Christiansburg Area Functional Plans, as approved and adopted by the Town Council, are hereby made a part of this chapter by reference.~~

The state department of transportation six-year improvement program and any transportation improvement program adopted by the town council shall be made a part of this chapter, by reference.

(Code 1972, § 30-129; Code 1992, § 30-151; Ord. No. 2004-4, § 30-129, 9-7-2004)

~~[346]**Sec. 30-152. Future thoroughfares--Designated; enumerated.**~~

~~The following named streets, to the extent indicated in the reports mentioned in Section 30-151, are designated as future thoroughfares:~~

~~Depot Street.~~

~~First Street.~~

~~North Franklin Street.~~

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[344] This has expired unless it should be amended to include a permit for nonconformity to any amendment to the chapter. Delete - our attorney said it is not legal to require a permit to maintain grandfathered status.

[345] Still correct? Change as indicated.

[346] Still correct? Delete.

PROOFS

~~North Main Street (Cambria Street, Route 111).~~

~~Park Street.~~

~~Peppers Ferry Road.~~

~~Phlegar Street.~~

~~Radford Street.~~

~~Roanoke Street.~~

~~South Franklin Street.~~

~~West Main Street.~~

~~(Code 1972, § 30-130; Code 1992, § 30-152; Ord. of 6-20-89; Ord. No. 2004-4, § 30-130, 9-7-2004)~~

Sec. 42-501. Same--setback requirements.

Building setback lines on the streets enumerated in section ~~30-152~~ 42-500 shall be measured from the future right-of-way lines or the lines shown as construction limits in the area functional plans of the town, whichever of the lines shall require the most setback, when such streets have approved local, state and/or federal funding.

(Code 1972, § 30-131; Code 1992, § 30-153; Ord. of 6-2-1998; Ord. No. 2004-4, § 30-131, 9-7-2004)

~~**Sec. 30-154. Setback requirements for streets other than those enumerated in section 30-152.**~~

~~Building setback lines on streets other than those enumerated in Section 30-152 shall be measured from the future right-of-way lines or the lines shown as construction limits in the area functional plans of the Town, whichever of the lines shall require the most setback, when such streets have approved local, state, and/or federal funding.~~

~~(Code 1972, § 30-132; Code 1992, § 30-154; Ord. of 6-2-98; Ord. No. 2004-4, § 30-132, 9-7-2004)~~

Sec. 42-502. Interpretation of setback lines.

If no distance or other means is given to determine a setback line accurately, the location of the line shall be determined by the use of the scale shown in the plans as contained in the area functional plans of the town.

(Code 1972, § 30-133; Code 1992, § 30-155; Ord. No. 2004-4, § 30-133, 9-7-2004)

Secs. 42-503--42-519. Reserved.

ARTILE XVIII. [347]MOBILE HOME PARKS~~*~~

~~***Cross reference**--Buildings, ch. 9; solid waste, weeds, tree trimmings, leaves, ch. 24; streets and sidewalks, ch. 25; water and sewers, ch. 29; zoning, ch. 30.~~

Sec. 42-520. Required permits; application for conditional use permit.

The location of mobile home parks shall require, in addition to the zoning permit and certificate of occupancy, a conditional use permit issued by the ~~governing body~~ town council. The application for the conditional use permit shall include, but shall not be limited to, a site plan of the mobile home park drawn to scale by a certified land surveyor or professional engineer showing:

(1) Street or roadway layout.

(2) Water layout.

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[347] Term mobile home park still correct? Yes.

PROOFS

(3) Sanitary sewer or septic tank layout.

(4) Groundwater drainage plan.

(5) Lot layout.

(6) Position of trailers on lots.

(7) Landscape plan, recreation and service facilities.

(Code 1972, § 30-134; Code 1992, § 30-156; Ord. No. 2004-4, § 30-134, 9-7-2004)

Sec. 42-521. Design generally.

(a) The number and location of access drives shall be controlled for traffic safety and protection of surrounding properties, and no mobile home space shall be designed for direct access to a street outside the boundaries of the park.

(b) The topography of the site shall be such as to facilitate drainage, and adequate drainage facilities shall be provided. The overall design shall evidence a reasonable effort to preserve the natural amenities of the site, particularly mature trees.

(c) Each mobile home park shall provide not less than one multiple purpose developed recreational area of at least 10,000 square feet in area for the use of occupants of the park. Any part of the mobile home park not used for buildings or other structures, off-street parking, recreation uses, drives and pedestrian walks, central laundry drying yards or garbage and trash collection stations, or other uses, shall be planted with appropriate ground cover, trees, flowers, shrub and grass lawns, all of which shall be properly maintained. Where no trees exist, at least two shade trees shall be planted and properly maintained on each mobile home site.

(Code 1972, § 30-135; Code 1992, § 30-157; Ord. No. 2004-4, § 30-135, 9-7-2004)

Sec. 42-522. Lots and parking.

Each mobile home space or lot within a park shall have a central water and sewer system designed to accommodate one mobile home and shall have a minimum width of 40 feet, minimum depth of 125 feet and a minimum area, excluding the area underneath the mobile home, of 3,000 square feet. Each lot, or space, must front on a street, road or right-of-way. Parking spaces for mobile homes shall be arranged so as to provide a distance of 15 feet or more between individual units, but shall be no closer than 7 ½ feet to the individual lot line of the mobile home space or 30 feet to the front of lot or mobile home space. Additional parking area shall be designated for accessory storage of boats and boat trailers, camping equipment and other recreational vehicles.

(Code 1972, § 30-136; Code 1992, § 30-158; Ord. No. 2004-4, § 30-136, 9-7-2004)

State law reference—Uniform regulations for manufactured housing, Code of Virginia, § 15.2-2290.

Sec. 42-523. Streets.

Each mobile home park must adjoin a town maintained public street. All streets within the park must be dedicated as a public street and have a right-of-way width of at least 50 feet, with a hard surface pavement at least 30 feet wide in the center of the right-of-way and with adequate ditches and drainage on either side of the pavement. Streets must be adequately lighted at night.

(Code 1972, § 30-137; Code 1992, § 30-159; Ord. No. 2004-4, § 30-137, 9-7-2004)

Sec. 42-524. Water facilities.

The owner of the mobile home park shall be required to install water mains and fire hydrants within the park of a size and number to be determined by the town adequate to furnish fire protection to the entire park in addition to furnishing domestic water needs to the park. Individual meters may be required for each trailer space, if deemed necessary by the town.

PROOFS

(Code 1972, § 30-138; Code 1992, § 30-160; Ord. No. 2004-4, § 30-138, 9-7-2004)

Sec. 42-525. Sanitary facilities and sewage disposal systems.

(a) Each mobile home within the park must be equipped with modern sanitary facilities to include commode, washbasin, shower or bath and kitchen sink. Each home shall be required to connect to the town sanitary sewer system which shall be extended throughout the park, at the expense of the owner of the park. If it is physically impossible to extend the town system throughout the park, the owner shall then provide each trailer space with a septic tank and drainfield which shall be approved by the health department. Size, location and grade of all sewer lines in the park must be approved by the town.

(b) Existing septic systems in parks already established at the time of passage of this chapter may be continued in service until such time as they become inoperative or hazardous to health, at which time the owner of the park shall be required to provide for connecting such inoperative system to the town's sanitary sewer system.

(Code 1972, § 30-139; Code 1992, § 30-161; Ord. No. 2004-4, § 30-139, 9-7-2004)

Sec. 42-526. Garbage and trash disposal.

Mobile home parks must avail themselves of the town garbage collection service and shall abide by all ordinances and regulations pertaining to same. Where community refuse containers are provided as accessory uses to the mobile home park, such containers shall be conveniently located for pickup vehicle access and completely screened from view by means of a fence or wall with outside landscaping and an appropriately designed gate which can be latched open and closed.

(Code 1972, § 30-140; Code 1992, § 30-162; Ord. No. 2004-4, § 30-140, 9-7-2004)

[348]~~**Sec. 30-163. Conformance with building code.**~~

~~All construction including additions or alterations to mobile homes must conform to the~~ [349]~~Building Code of the Town. All mobile homes or trailers must be equipped with at least two usable exits to the outside.~~

~~(Code 1972, § 30-141; Code 1992, § 30-163; Ord. No. 2004-4, § 30-141, 9-7-2004)~~

~~**State law reference**—Uniform regulations for manufactured housing, Code of Virginia, § 15.2-2290.~~

Sec. 42-527. Electrical connections.

Each mobile home space shall be provided with electrical outlets installed in accordance with the National Electrical Code.

(Code 1972, § 30-142; Code 1992, § 30-164; Ord. No. 2004-4, § 30-142, 9-7-2004)

Secs. 42-528--42-545. Reserved.

ARTICLE XIX. PROVISIONS FOR APPEAL*

***State law reference**—Appeals, Code of Virginia, § 15.2-22

PROOFS

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[348] Is this still correct? Yes.

[349] Change to Uniform Statewide Building Code? Just delete, it has to meet USBC anyhow.

DIVISION 1. GENERALLY

Secs. 42-546—42-565. Reserved.

DIVISION 2. BOARD OF ZONING APPEALS

State law reference—Board of zoning appeals, Code of Virginia, §§ 15.2-2308—15.2-2309.

Sec. 42-566. ~~Board of zoning appeals.~~ Membership; terms; removal and disqualification of members; officers.

(a) A board of zoning appeals consisting of five members shall be appointed by the [350]circuit or corporation court of the county or town. Appointments for vacancies occurring otherwise than by expiration of term shall in all cases be for the unexpired term.

(b) The term of office shall be for five years. [351]~~except, that of the first five members appointed, one shall serve for five years, one for four years, one for three years, one for two years and one for one year.~~

(c) Members may be removed for cause by the appointing authority upon written charges and after a public hearing.

(d) Members may be reappointed to succeed themselves.

(e) Members of the board shall hold no other public office in the locality, except that one may be a member of the local planning commission.

(f) A member whose term expires shall continue to serve until his successor is appointed and qualifies.

(g) Any member of the board shall be disqualified to act upon a matter before the board with respect to property in which the member has an interest.

(h) The board shall choose annually its own chair~~man~~ and a vice-chair~~man~~ who shall act in the absence of the chair~~man~~.

(Code 1972, § 30-143; Code 1992, § 30-165; Ord. No. 2004-4, § 30-143, 9-7-2004)

~~**Cross reference**—Administration, ch. 2.~~

State law reference—Created, membership, Code of Virginia, § 15.2-2308. A.

Sec. 42-567. ~~Same.~~ Powers and duties.

The board of zoning appeals shall have the following powers and duties:

(1) To hear and decide appeals from any order, requirement, decision and determination made by an administrative officer in the administration or enforcement of this chapter or any ordinance adopted pursuant thereto. [352]The decision on such appeal shall be based on the board's judgment of whether the zoning administrator was correct. The board shall consider the purpose and intent of any applicable ordinances, laws and regulations in making its decision.

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[350] Who appoints the members? The Montgomery Circuit Court.

[351] Delete as this was the initial appointment and state the terms are staggered? Yes.

[352] Add from Code of Virginia, § 15.2-2309 1? Okay, but say Zoning Administrator rather than administrative officer?

PROOFS

(2) To hear and decide ~~on~~ applications for special exceptions upon which the board is specifically authorized to pass under this chapter. [353]The board may impose such conditions relating to the use for which a permit is granted as it may deem necessary in the public interest, including limiting the duration of a permit, and may require a guarantee or bond to ensure that the conditions imposed are being, and will continue to be, complied with.

No ~~special exception~~ variance may be granted except after notice and hearing, as provided by Code of Virginia, § 15.2-2204. However, when giving any required notice to the owners, their agents or the occupants of abutting property and property immediately across the street or road from the property affected, the board may give such notice by first-class mail rather than by registered or certified mail.

(3) To revoke a ~~special exception~~ variance previously granted by the board of zoning appeals if the board determines that there has not been compliance with the terms or conditions of the permit. No special exception may be revoked except after notice and hearing, as provided by Code of Virginia, § 15.2-2204. However, when giving any required notice to the owners, their agents or the occupants of abutting property and property immediately across the street or road from the property affected, the board may give such notice by first-class mail rather than by registered or certified mail.

(4) To authorize upon appeal in specific cases such variance from the terms of this chapter as will not be contrary to the public interest when, owing to special conditions, a literal enforcement of the chapter will result in unnecessary hardship; provided, that the spirit of the chapter shall be observed and substantial justice done, as follows:

a. When a property owner can show that his property was acquired in good faith and where, by reason of the exceptional narrowness, shallowness, size or shape of a specific piece of property at the time of the effective date of the chapter or where by reason of exceptional topographic conditions or other extraordinary situation or condition of such piece of property, or of the [354]~~use~~ condition, situation or development of property immediately adjacent thereto, the strict application of the terms of the chapter would effectively prohibit or unreasonably restrict the use of the property or where the board is satisfied, upon the evidence heard by it, that the granting of such variance will alleviate a clearly demonstrable hardship ~~approaching confiscation~~, as distinguished from a special privilege or convenience sought by the applicant; provided, that all variances shall be in harmony with the intended spirit and purpose of the chapter. No such variance shall be authorized by the board unless it finds:

1. That the strict application of the chapter would produce undue hardship.
2. That such hardship is not shared generally by other properties in the same zoning district and the same vicinity.
3. That the authorization of such variance will not be of substantial detriment to adjacent property and that the character of the district will not be changed by the granting of the variance.

b. No such variance shall be authorized except after notice and hearing, as required by Code of Virginia, § 15.2-2204, and amendments thereto. However, when giving any

[353] Add to conform to Code of Virginia, § 15.2-2309 6.,7.? Okay, but call it a variance rather than a special exception?

[354] Conform to Code of Virginia, § 15.2-2309 2. Yes.

PROOFS

required notice to the owners, their agents or the occupants of abutting property and property immediately across the street or road from the property affected, the board may give such notice by first-class mail rather than by registered or certified mail.

c. No variance shall be authorized unless the board finds that the condition or situation of the property concerned or the intended use of the property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the chapter.

d. In authorizing a variance, the board may impose such conditions regarding the location, character and other features of the proposed structure or use as it may deem necessary in the public interest and may require a guarantee or bond to ensure that the conditions imposed are being, and shall continue to be, complied with. [355]Notwithstanding any other provision of law, the property upon which a property owner has been granted a variance shall be treated as conforming for all purposes under state law and local ordinance; however, the structure permitted by the variance may not be expanded unless the expansion is within an area of the site or part of the structure for which no variance is required under the ordinance. Where the expansion is proposed within an area of the site or part of the structure for which a variance is required, the approval of an additional variance shall be required.

(5) To hear and decide applications for interpretation of the district map where there is any uncertainty as to the location of a district boundary. After notice to the owners of the property affected by the question, and after public hearing with notice, as required by Code of Virginia, § 15.2-2204, the board may interpret the map in such way as to carry out the intent and purpose of the ordinance for the particular section or district in question. However, when giving any required notice to the owners, their agents or the occupants of abutting property and property immediately across the street or road from the property affected, the board may give such notice by first-class mail rather than by registered or certified mail. The board shall not have the power to change substantially the locations of district boundaries as established by ordinance.

(6) No provision of this section shall be construed as granting any board the power to rezone property or to base board decisions on the merits of the purpose and intent of local ordinances duly adopted by the town council.

(Code 1972, § 30-144; Code 1992, § 30-166; Ord. No. 2004-4, § 30-144, 9-7-2004; Ord. No. 2012-6, § 30-166, 6-19-2012)

State law reference—Powers and duties of boards, Code of Virginia, § 15.2-2309.

Sec. 42-568. ~~Same~~ rules and regulations.

(a) The board of zoning appeals shall adopt such rules and regulations as it may consider necessary.

(b) The meeting of the board shall be held at the call of its chairperson or at such times as a quorum of the board may determine.

(c) The chairperson or, in his absence, the acting chairperson, may administer oaths and compel the attendance of witnesses.

(d) The board shall keep minutes of its proceedings showing the vote of each member upon each question or, if absent or failing to vote, indicating such fact. It shall keep records of its

[355] Add to conform to Code of Virginia, § 15.2309 2. Yes.

PROOFS

examinations and other official actions, all of which shall be immediately filed in the office of the board and shall be a public record.

(e) A quorum shall be at least three members.

(f) A favorable vote of three members of the board shall be necessary to reverse any order, requirement, decision or determination of any administrative official or to decide in favor of the applicant on any matter upon which the board is required to pass.

(Code 1972, § 30-145; Code 1992, § 30-167; Ord. No. 2004-4, § 30-145, 9-7-2004)

Sec. 42-569. Procedure for appeal.

(a) An appeal to the board may be taken by any person aggrieved or by an officer, department, board or bureau of the municipality affected by any decision of the zoning administrator. [356]Notwithstanding any Charter provision to the contrary, any written notice of a zoning violation or a written order of the zoning administrator dated on or after July 1, 1993, shall include a statement informing the recipient that he may have a right to appeal the notice of a zoning violation or a written order within 30 days in accordance with this section, and that the decision shall be final and unappealable if not appealed within 30 days. The zoning violation or written order shall include the applicable appeal fee and a reference to where additional information may be obtained regarding the filing of an appeal. The appeal period shall not commence until the statement is given. A written notice of a zoning violation or a written order of the zoning administrator that includes such statement sent by registered or certified mail to, or posted at, the last known address of the property owner, as shown on the current real estate tax assessment books or current real estate tax assessment records, shall be deemed sufficient notice to the property owner and shall satisfy the notice requirements of this section. Such appeal shall be taken within 30 days after the decision appealed from by filing with the zoning administrator and the board a notice of appeal specifying the grounds thereof. The zoning administrator shall forthwith transmit to the board all the papers constituting the record upon which the action appealed was taken. An appeal shall stay all proceedings in the furtherance of the action appealed from unless the zoning administrator certifies to the board that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order granted by the board or by a court of record on application and on notice to the zoning administrator and for good cause shown.

(b) Appeals shall be mailed to the board of zoning appeals in care of the zoning administrator, and a copy of the appeal shall be mailed to the secretary of the planning commission. A third copy should be mailed to the individual official, department or agency concerned, if any.

(c) Appeals requiring an advertised public hearing shall be paid for by the appellant.

(d) [357]In no event shall a written order, requirement, decision or determination made by the zoning administrator, or other administrative officer, be subject to change, modification or reversal by any zoning administrator or other administrative officer after 60 days have elapsed from the date of the written order, requirement, decision or determination where the person aggrieved has materially changed his position in good faith reliance on the action of the zoning administrator or other administrative officer, unless it is proven that such written order, requirement, decision or determination was obtained through malfeasance of the zoning administrator or other administrative officer or through fraud. The 60-day limitation period shall not apply, in any case,

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[356] Add to conform to Code of Virginia, § 15.2-2311 Yes.

[357] Add to conform to Code of Virginia, § 15.2-2311 C. Yes.

PROOF

where, with the concurrence of the attorney for the town council, modification is required to correct clerical or other nondiscretionary errors.

(Code 1972, § 30-146; Code 1992, § 30-168; Ord. No. 2004-4, § 30-146, 9-7-2004)

State law reference—Appeals to board, Code of Virginia, § 15.2-2311.

Sec. 42-570. Public hearing.

The board shall fix a reasonable time for the hearing of an application or appeal, shall give public notice thereof as well as due notice to the parties in interest and shall decide the same within 60 days. In exercising its powers, the board may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from. The concurring vote of three members shall be necessary to reverse any order, requirement, decision or determination of an administrative officer or to decide in favor of the applicant on any matter upon which it is required to pass under this chapter or to effect any variance from the chapter. The board shall keep minutes of its proceedings and other official actions which shall be filed in the office of the board and shall be public records. The chairperson, or, in his absence, the acting chairperson, may administer oaths and compel the attendance of witnesses.

(Code 1972, § 30-147; Code 1992, § 30-169; Ord. No. 2004-4, § 30-147, 9-7-2004)

State law reference—Appeal procedure, Code of Virginia, § 15.2-2312.

[358]Sec. 42-571. Appeal from decision of board.

(a) Any persons jointly or severally aggrieved by any decision of the board of zoning appeals or any taxpayer, officer, department, board or bureau of the town may ~~present to~~ may file with the clerk of the circuit or corporation court of the county a petition that shall be styled "In Re: [date] Decision of the Board of Zoning Appeals of [locality name]" specifying the grounds on which aggrieved within 30 days after the ~~filing of the~~ final decision ~~in the Office~~ of the board.

(b) Upon the presentation of such petition, the court shall allow a writ of certiorari to review the decision of the board of zoning appeals and shall prescribe therein the time within which a return thereto must be made and served upon the ~~relator's attorney~~ secretary of the board of zoning appeals, or, if no secretary exists, the chair of the board of zoning appeals, which shall not be less than ten days and may be extended by the court. The allowance of the writ shall not stay proceedings upon the decision appealed from, but the court may, on application, on notice to the board and on due cause shown, grant a restraining order.

(c) Any review of a decision of the board shall not be considered an action against the board and the board shall not be a party to the proceedings; however, the board shall participate in the proceedings to the extent required by this section. The town council, the landowner and the applicant before the board of zoning appeals shall be necessary parties to the proceedings. The court may permit intervention by any other person, or persons, jointly or severally aggrieved by any decision of the board of zoning appeals.

(d) The board of zoning appeals shall not be required to return the original papers acted upon by it, but it shall be sufficient to return certified or sworn copies thereof, or of such portion thereof, as may be called for by such writ. The return shall concisely set forth such other facts as may be pertinent and material to show the grounds of the decision appealed from and shall be verified.

(e) If upon the hearing it shall appear to the court that testimony is necessary for the proper disposition of the matter, it may take evidence or appoint a commissioner to take such evidence as

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[358] Conform to Code of Virginia, § 15.2-2314? Yes.

PROOFS

it may direct and report the same to the court with his findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which the determination of the court shall be made. The court may reverse or affirm, wholly or partly, or may modify the decision brought up for review.

(f) In the case of an appeal from the board of zoning appeals to the circuit court of an order, requirement, decision or determination of a zoning administrator or other administrative officer in the administration or enforcement of any ordinance or provision of state law, or any modification of zoning requirements pursuant to Code of Virginia, § 15.2-2286, the findings and conclusions of the board of zoning appeals on questions of fact shall be presumed to be correct. The appealing party may rebut that presumption by proving by a preponderance of the evidence, including the record before the board of zoning appeals, that the board of zoning appeals erred in its decision. Any party may introduce evidence in the proceedings in the court. The court shall hear any arguments on questions of law de novo.

(g) In the case of an appeal by a person of any decision of the board of zoning appeals that denied or granted an application for a variance, or application for a special exception, the decision of the board of zoning appeals shall be presumed to be correct. The petitioner may rebut that presumption by showing, to the satisfaction of the court, that the board of zoning appeals applied erroneous principles of law, or where the discretion of the board of zoning appeals is involved, the decision of the board of zoning appeals was plainly wrong and in violation of the purpose and intent of the zoning ordinance.

(h) Costs shall not be allowed against the locality, unless it shall appear to the court that it acted in bad faith or with malice. In the event the decision of the board is affirmed and the court finds that the appeal was frivolous, the court may order the person, or persons, who requested the issuance of the writ of certiorari to pay the costs incurred in making the return of the record pursuant to the writ of certiorari. If the petition is withdrawn subsequent to the filing of the return, the locality may request that the court hear the matter on the question of whether the appeal was frivolous.

~~Costs shall not be allowed against the Board unless it shall appear to the Court that it acted in bad faith or with malice in making the decision appealed from.~~

(Code 1972, § 30-148; Code 1992, § 30-170; Ord. No. 2004-4, § 30-148, 9-7-2004)

State law reference—Certiorari review of decision of board. Code of Virginia, § 15.2-2314.

Secs. 42-572--42-590. Reserved.

ARTICLE XX. TOWNHOUSES*

~~***Cross reference**—Subdivisions, ch. 26.~~

Sec. 42-591. Statement of intent.

It is the intent of this section that townhouses, in areas where they are permitted, may be appropriately intermingled with other compatible types of multifamily housing. They shall constitute groupings of not less than three, nor more than ten, efficient, economical, comfortable and convenient arrangements of buildings and yards. Townhouse development shall meet the requirements of the town subdivision ordinance (Chapter 40 of this Code) and of the underlying zoning district, except as otherwise provided for within this article.

(Code 1972, § 30-149; Code 1992, § 30-171; Ord. of 6-20-1989; Ord. of 9-5-1995; Ord. No. 2004-4, § 30-149, 9-7-2004)

Sec. 42-592. Definitions.

~~The following terms, as used in this article, shall have the meanings ascribed to them herein:~~

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

Common area. If a townhouse development includes common areas in addition to the townhouse lots, the common areas shall be maintained by, and be the sole responsibility of, the developer-owner of the townhouse development until such time as the developer-owner conveys such common area to a nonprofit corporate owner whose members shall be all of the individual owners of the townhouses in the townhouse development. Said land shall be conveyed to, and be held by, said nonprofit corporate owner solely for recreational and parking purposes of the owners of the individual townhouse lots in the development. In the event of such conveyance by the developer-owner to a nonprofit corporate owner, deed restrictions and covenants shall provide, among other things, that any assessments, charges for cost of maintenance of such common areas shall constitute a pro rata lien upon the individual townhouse lots. Maintenance to townhouse exteriors, lawns, special lighting and drainage shall be provided in a manner so as to discharge any responsibility for the town.

Lot, townhouse corner, means a townhouse end lot within a development abutting properties not part of the overall townhouse development, or a townhouse lot on the corner of two intersecting streets.

Lot, townhouse end, means an interior lot containing the end townhouse dwelling within a structure containing a group of townhouse units.

Lot, townhouse interior, means any lot other than a townhouse end or corner lot.

Townhouse means one of a series of from three to ten attached single-family dwellings designed to be offered for lease or sale as a unit, separated from one another by continuous vertical walls without openings from foundation through the roof. The lots or assigned land area, utilities and other improvements for each townhouse may be designed to permit individual and separate ownership of such lots and dwelling units.

Townhouse group structure means the structure containing a series of from three to ten townhouses.

(Code 1992, § 30-172; Ord. of 9-5-1995; Ord. No. 2004-4, § 30-150, 9-7-2004)

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

Sec. 42-593. Permitted areas.

Townhouses shall be permitted in the residential zoning district known as Multiple-Family Residential, R-3 district, as defined in this chapter.

(Code 1972, § 30-151; Code 1992, § 30-173; Ord. No. 2004-4, § 30-151, 9-7-2004)

Sec. 42-594. Area and density.

The minimum lot area for a townhouse shall be 1,800 square feet. The maximum density of townhouses shall be ten units per gross acre.

(Code 1972, § 30-152; Code 1992, § 30-174; Ord. No. 2004-4, § 30-152, 9-7-2004)

Sec. 42-595. Front yard.

(a) The minimum setback from any public street right-of-way shall be 30 feet and the minimum building setback from any common area shall be ten feet. The full facades of individual townhouse units within a townhouse group structure shall be varied by changed front yard setbacks and variations in materials or designs so that no more than two abutting townhouses will have the same front yard setback. Variation in setback shall be at least three feet.

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(b) The front yard shall contain a minimum of 20 percent greenspace or landscaped area for all common areas and each individual townhouse lot. For individual townhouse lots, the greenspace or landscaped area in the front yard shall be maintained at a ratio of 20 percent for each dwelling unit on each lot. For this purpose, corner lots shall be deemed to contain a minimum of 20 percent greenspace or landscaped area in each yard fronting a public street.

(Code 1972, § 30-153; Code 1992, § 30-175; Ord. of 9-5-1995; Ord. No. 2002-2, 3-5-2002; Ord. No. 2004-4, § 30-153, 9-7-2004; Ord. No. 2012-6, § 30-175, 6-19-2012)

Sec. 42-596. Frontage and access.

(a) The minimum lot width at the setback line shall be 18 feet for a townhouse interior lot, 30 feet for a townhouse end lot and 40 feet for a townhouse corner lot.

(b) Lots need not abut or adjoin a public street right-of-way, provided vehicular or pedestrian access is provided to a public street right-of-way through a perpetual unobstructed paved easement or parking area of at least 30 feet in width for vehicular access ~~or ten feet in width for pedestrian access~~. These easements shall be in addition to side yard requirements set forth in section 42-597. Other access designs may be approved by the administrator with consideration being given to overall site conditions and traffic patterns in keeping with article XXI, Site Plan Review.

(Code 1972, § 30-154; Code 1992, § 30-176; Ord. of 9-5-1995; Ord. No. 2004-4, § 30-154, 9-7-2004; Ord. No. 2012-6, § 30-176, 6-19-2012)

Sec. 42-597. Side yard.

The minimum side yard setback for each townhouse end lot interior to the townhouse development shall be ten feet for the end residence within each townhouse group structure and the minimum side yard for townhouse corner lots not adjoining a side street shall be 20 feet. An accessory building not exceeding 100 square feet, not exceeding 12 feet in height and not located within any easement or right-of-way may be constructed in any side yard, provided it is located at least three feet from all property lines and no closer to the front than the townhouse structure.

(Code 1972, § 30-155; Code 1992, § 30-177; Ord. of 9-5-1995; Ord. No. 2004-4, § 30-155, 9-7-2004; Ord. No. 2007-1, 4-3-2007)

Sec. 42-598. Rear yard.

There shall be a minimum rear yard of 20 feet or more on all lots. Rear yards shall be screened with a privacy type fence or wall of seven feet minimum height and extending not less than 12 feet from the rear building wall. An accessory building not exceeding 100 square feet, not exceeding 12 feet in height and not located within any easement or right-of-way may be constructed in any rear yard, provided it is at least three feet from all property lines.

(Code 1972, § 30-156; Code 1992, § 30-178; Ord. of 6-20-89; Ord. of 9-5-95; Ord. No. 2004-4, § 30-156, 9-7-2004; Ord. No. 2007-1, 4-3-2007)

Sec. 42-599. Height.

The maximum height of all townhouses shall be limited to 35 feet above street grade or lot grade at the setback line, whichever is greatest.

(Code 1972, § 30-157; Code 1992, § 30-179; Ord. of 9-5-1995; Ord. No. 2004-4, § 30-157, 9-7-2004)

Sec. 42-600. Separation requirements.

Each townhouse shall be structurally separated from adjacent townhouses, as required by all applicable state and/or local fire and building regulations.

(Code 1972, § 30-158; Code 1992, § 30-180; Ord. No. 2004-4, § 30-158, 9-7-2004)

PROOFS

Sec. 42-601. Off-street parking requirements.

(a) Required off-street parking spaces of at least two spaces per townhouse shall be provided on the individual lots or within a common parking area maintained by the nonprofit commons association or the developer-owner, as described in sections 42-592 and 42-596. Parking lots shall have a minimum setback of 15 feet from any street right-of-way.

(b) No individual townhouse driveway shall have direct access onto a public through street, or street serving properties, other than within the development. Such direct access determination shall be made by the administrator in consultation with the town engineer and appropriate highway and street reference sources.

(Code 1972, § 30-159; Code 1992, § 30-181; Ord. of 6-20-1989; Ord. of 9-5-1995; Ord. No. 2002-2, 3-5-2002; Ord. No. 2004-4, § 30-159, 9-7-2004)

~~**Cross reference**—Traffic and motor vehicles, ch. 28.~~

Sec. 42-602. Plats.

Whenever any townhouse is proposed by a developer, and before any permit for the erection of a townhouse shall be granted, the developer, or his agent, shall apply, in writing, to the agent for the approval of the townhouse plat and submit three copies of the plat, including the lot, street and utilities layout to a scale of not less than one inch equals 50 feet. No townhouses shall be sold until a final plat for the townhouse development shall have been approved by council and recorded in the office of the clerk of the county within 60 days after notification of final approval by the agent; otherwise, the approval shall become invalid.

(Code 1972, § 30-160; Code 1992, § 30-182; Ord. No. 2004-4, § 30-160, 9-7-2004)

Secs. 42-603--42-622. Reserved.

ARTICLE XXI. SITE PLAN REVIEW

Sec. 42-623. Site plan review required for certain uses.

(a) For the purposes of assuring careful use of difficult topography and good arrangement, appearance, function and harmony with surroundings and adjacent uses and the objectives of the comprehensive plan, and compliance with the requirements of these regulations, site plans for the following uses shall be submitted and reviewed in accordance with the requirements and procedures of this article:

(1) Uses permitted by approval of a conditional use permit.

(2) Cluster subdivisions or subdivisions which average lot area.

(3) Planned housing developments.

(4) Mobile home parks or subdivisions.

(5) Any other use except detached single-family dwellings and duplexes.

(6) Any parking lot or parking facility which is to contain more than ten spaces.

(b) Unless specifically stated to the contrary, a use noted as subject to site plan review shall be subject to administrative site plan review under the provisions of this article. Where a subdivision is also involved, the review of subdivision plans and site plans will be coordinated under the provisions of this article and the requirements of the subdivision regulations.

(Code 1972, § 30-161; Code 1992, § 30-183; Ord. No. 2004-4, § 30-161, 9-7-2004; Ord. No. 2007-1, 4-3-2007)

PROOFS

Sec. 42-624. Purpose of site plan review.

The purpose of site plan review is to promote the orderly development of the town by means of improved project design which will ensure that new development is appropriately functional, harmonious with its environment and consistent with the comprehensive plan and the intent of these regulations generally, and, to this end, to provide for a review of proposed development plans with respect to:

(1) The compatibility of the development with respect to its environment and the layout and design of features which may affect compatibility, such as building location, project open space, grading and treatment of slopes and stream valleys, screening, lighting and landscaping.

(2) The capacity of the design to provide for convenient and safe internal and external movement of vehicles and pedestrians.

(3) The protection of public safety and the location and adequacy of necessary utilities, drainage and erosion and sediment controls.

(Code 1972, § 30-162; Code 1992, § 30-184; Ord. No. 2004-4, § 30-162, 9-7-2004)

Sec. 42-625. Requirements for site plans, content and form.

(a) *Preliminary site plans.* The preliminary site plans shall be clearly drawn, to scale, as specified below and shall show the following:

(1) The proposed title of the project, owner, or owners, of the land, and name of the engineer, architect, designer or landscape architect, and the developer.

(2) The north point, scale and date.

(3) Location of the project by an insert map indicating the north arrow and such information as the names and numbers of adjoining roads, streams and bodies of water, railroads, subdivisions, towns and magisterial districts or other landmarks sufficient to clearly identify the location of the property.

(4) Existing zoning and zoning district boundaries and proposed changes in zoning, if any, and including floodplain districts.

(5) The boundaries of the property involved, municipal boundaries, the general location of all existing easements and property lines, existing streets, buildings or waterways, major tree masses and other existing physical features in, or adjoining, the project.

(6) Uses of adjoining properties and names of owners.

(7) Topography of the project area with contour intervals of two feet or less, unless waived by the administrator as clearly unnecessary to review the project or proposal.

(8) The approximate location and sizes of sanitary and storm sewers, water mains, culverts and other underground structures, existing and planned, in or near the project.

(9) The general location and character of construction of proposed streets, alleys, driveways, curb cuts, entrances and exits, loading areas (including number of parking and loading spaces), outdoor lighting systems, storm drainage and sanitary facilities.

(10) The general location of proposed lots, setback lines and easements and proposed reservations for parks, parkways, playgrounds, school sites and open spaces.

(11) Location with respect to each other and to lot lines, number of floors, number of dwelling units and approximate height of all proposed buildings and structures, accessory and main, or major excavations.

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(12) Preliminary plans and elevations of the several dwelling types and other buildings, as may be necessary.

(13) General location, height and material of all fences, walls, screen planting and landscaping.

(14) General location, character, size, height and orientation of proposed signs.

(15) A tabulation of the total number of dwelling units of various types in the project and the overall project density in dwelling units per acre, gross or net as required by district regulations.

(16) A traffic impact statement, whenever a proposed site plan substantially affects transportation on town streets through traffic generation of either:

a. 100 vehicles trips per peak hour by residential development;

b. 250 vehicles trips per peak hour by non-residential development; or

c. 2,500 vehicle trips per day by non-residential development.

The data and analysis contained in the traffic impact statement shall comply with VDOT Traffic Impact Analysis Regulations 24 VAC 30-155-60 and all applicable town ordinances.

The administrator may establish additional requirements for preliminary site plans, and, in special cases, may waive a particular requirement if, in his opinion, the inclusion of that requirement is not essential to a proper decision on the project. Site plans may be prepared on one or more sheets to show clearly the information required by this article and to facilitate the review and approval of the plan. If prepared in more than one sheet, match lines shall indicate where the several sheets join. ~~Each plan sheet shall reserve a blank space three inches wide and five inches high for the use of the approving authority.~~ Site plans shall be prepared to a scale of one inch equals 50 feet, or such other scale as may be approved by the administrator, as appropriate to a particular case.

(b) *Final site plans.* The final site plan or final plat shall comply with all laws, regulations and ordinances governing the approval of subdivisions and, in addition, shall show the following:

(1) All of the features required on the preliminary site plan with sufficiently accurate dimensions, construction specifications and computations to support the issuance of construction permits.

(2) All existing and proposed water and sanitary sewer facilities indicating all pipe sizes, types and grades and where connection is to be made to the utility system.

(3) Provisions for the adequate disposition of natural and storm water in accordance with the duly adopted design criteria and standards of the town indicating the location, sizes, types and grades of ditches, catchbasins and pipes and connections to existing drainage system, and provision for the adequate control of erosion and sedimentation, indicating the proposed temporary and permanent control practices and measures which will be implemented during all phases of clearing, grading and construction.

(4) Existing topography with two-foot contour intervals or such intervals, as approved by the administrator. Where existing ground is on a slope of less than two percent, either one-foot contours or spot elevations where necessary, but not more than 50 feet apart in both directions.

(5) Proposed finished grading by contours supplemented where necessary by spot elevations.

(Code 1972, § 30-163; Code 1992, § 30-185; Ord. of 6-2-1998; Ord. No. 2004-4, § 30-163, 9-7-2004; Ord. No. 2012-6, § 30-185, 6-19-2012; Ord. No. 2012-10, § 30-185, 11-20-2012)

PROOFS

Sec. 42-626. Procedures, administrative site plan review.

(a) When these regulations require site plan review for certain uses for which town council action is not required, five copies of a preliminary site plan for any of the specified uses shall be submitted to the administrator for review of the plans for compliance with these regulations and the requirements for preliminary site plans. The administrator shall transmit said plans to such other staff and agencies as he may consider necessary for the review. The applicant is advised to review his plans in general or sketch form with the administrator prior to drafting for submittal.

(b) The administrator shall examine the proposed site plan with respect to the requirements of this chapter, with respect to the traffic and circulation patterns, internal and external, relation to major thoroughfares, utilities, drainage and community facilities, existing or proposed, surrounding development, existing or future, considerations of topography, floodplains and the natural environment, the preservation of trees or historic sites, provision for open space, and in general with the objective of insuring a durable, harmonious and appropriate use of the land in accord with the objectives of the comprehensive plan. The plans shall be returned to the applicant ~~within twenty working days following the submittal, or within twenty working days of a recommendation by the Town Council or Planning Commission as set forth in subsection (d) below, as approved, approved subject to conditions, or disapproved~~ with relevant comments in accordance with Code of Virginia, § 15.2-2259. The applicant is responsible for revising the site plan addressing all relevant comments to the satisfaction of the town manager, town engineer or zoning administrator prior to approval. Unless otherwise specified, approval shall be valid for a period of one year prior to issuance of building permits.

(c) If specified conditions are met in revised plans, the administrator may approve issuance of building permits accordingly, and may approve additional minor changes, if, in the opinion of the administrator, such changes do not substantially affect the original approval or conditions attached thereto.

(d) In any case where the administrator is of the opinion that a proposed project subject to administrative site plan review is of such scale and impact that a decision on the site plan should be reached only after a review by the town council or the planning commission, he may refer the plan to the council or the commission, or both of them, for an advisory recommendation.

(e) Nothing in this section shall be interpreted to permit a grant of a variance or exception to the regulations of this chapter or to abridge the procedures or requirements of the laws and ordinances governing the subdivision of land.

(f) There shall be a charge for the examination and approval or disapproval of every site plan by the administrator. At the time of filing the preliminary site plan, the developer, or his agent, shall deposit with the administrator cash or checks payable to the treasurer in the amount ~~of $200.00 $250.00 plus an additional $40.00 $50.00 per acre rounded up to the nearest whole acre~~ as set forth herein or as established in the latest edition of the town development fee schedule, which may be amended from time to time by town council.

(g) The town may require as-built site plans, if deemed necessary by the town engineer.

(Code 1972, § 30-164; Code 1992, § 30-186; Ord. No. 2004-3, 6-15-2004; Ord. No. 2004-4, § 30-164, 9-7-2004; Ord. No. 2007-1, 4-3-2007; Ord. No. 2009-3, 5-19-2009; Ord. No. 2012-4, § 30-186, 6-5-2012; Ord. No. 2012-6, § 30-186, 6-19-2012)

~~**Cross reference**—Subdivisions, ch. 26.~~

Sec. 42-627. Appeal from administrator's decision.

In any case where the applicant or other party who has a substantial interest in a proposed project is aggrieved by a decision of the administrator regarding a site plan, said applicant or party in interest may file a written notice of appeal with the town manager who shall place the matter

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on the agenda of the next regular meeting of the town council, provided said appeal is filed within ten working days of the decision. Upon hearing the appeal, the town council may reverse or affirm, wholly or partly, or may modify the decision of the administrator and may take such action as it believes appropriate.

(Code 1972, § 30-165; Code 1992, § 30-187; Ord. No. 2004-4, § 30-165, 9-7-2004)

Sec. 42-628. Procedures for approval of site plans for conditional use permits which require approval by the town council.

(a) Five copies of a preliminary site plan, or plans, shall be filed with the town council through the administrator. The preliminary site plan shall comply with section 42-625 and the applicable written requirements of this chapter, and be accompanied by such other written or graphic material as may be necessary or desirable in aiding the decisions of the council. At its option, the town council may refer the application to the planning commission for an advisory recommendation.

(b) Approval by the town council of a preliminary site plan for a conditional use permit shall be valid for a period of one year. Following preliminary approval by the council, a final site plan in the form of a final plat shall be prepared and filed. The final plat may be approved by the administrator and shall comply with the specifications of the council and the requirements of this article and applicable laws, regulations and ordinances governing the subdivision of land. Permits shall be issued in accord with the approved and filed plat.

(Code 1972, § 30-166; Code 1992, § 30-188; Ord. No. 2004-4, § 30-166, 9-7-2004)

Sec. 42-629. Temporary site plan.

(a) A temporary site plan may be approved by the administrator for a proposed development or land use for a period not to exceed one year, where development is in progress and all buildings are of a temporary nature. The drainage, erosion and sediment control practices, parking, screening, fencing, services and utility requirements of this chapter and this article may be modified for the purpose of a temporary plan.

(b) Prior to the approval of such temporary site plan, a cash bond or letter of credit approved by the town attorney may be required to guarantee that all structures erected under the plan will be removed at the expiration of the period for which the permit was issued.

(c) Items to be shown on a temporary site plan shall be the same as required for preliminary site plans above except as these may be waived by the administrator.

(Code 1972, § 30-167; Code 1992, § 30-189; Ord. No. 2004-4, § 30-167, 9-7-2004)

Sec. 42-630. Amendments and additions to site plans approved by the town council.

(a) The procedure for amendment of the boundaries of or the extent of land use for an approved conditional use permit shall be the same as for a new application, except that minor amendments of an approved site plan and conditions attached to an approved conditional use permit, or other site plan approved by the town council, may be approved by the administrator, provided such change or amendment:

(1) Does not alter a recorded plat

(2) Does not conflict with the specific requirements of this chapter;

(3) Does not change the general character or content of an approved development plan or use;

(4) Has no appreciable effect on adjoining or surrounding property;

(5) Does not result in any substantial change of major external access points;

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(6) Does not increase the approved number of dwelling units or height of buildings; and

(7) Does not decrease the minimum specified yards and open spaces or minimum or maximum specified parking and loading spaces.

(b) Amendments to conditions approved with conditional zoning are covered in article I of this chapter.

(Code 1972, § 30-168; Code 1992, § 30-190; Ord. No. 2004-4, § 30-168, 9-7-2004)

Sec. 42-631. Revocation of permits.

No permit shall be issued for any structure in any area covered by a site plan that is required under the provision of this article, except in conformity to such plan which has been duly approved. Permits issued under an approved site plan may be revoked by the administrator for failure to comply with the approved plan, the conditions attached thereto, or other applicable regulations.

(Code 1972, § 30-169; Code 1992, § 30-191; Ord. No. 2004-4, § 30-169, 9-7-2004)

Sec. 42-632. Agreement and bond.

Prior to approval of a building permit, there shall be executed, by the owner or developer, an agreement to construct such required physical improvements as are located within public rights-of-way or easements, or as are connected to any public facility in form and substance as approved by the town; and, the administrator may require a bond with surety or conditions acceptable to the town attorney in the amount of the estimated cost of the required physical improvements as determined by the departments, divisions or agencies responsible for such improvements. The aforesaid agreement, bond or conditions shall be provided for completion of all work covered thereby, maintenance thereof or for subsequent defects therein, within the time to be determined by the administrator, which time may be extended by the administrator upon written application by the owner or developer, signed by all parties (including sureties) to the original agreement. The adequacy, conditions and acceptability of any bond hereunder shall be determined by the town attorney.

(Code 1972, § 30-170; Code 1992, § 30-192; Ord. No. 2004-4, § 30-170, 9-7-2004)

Sec. 42-633. Approval and extension.

Approval of a site plan submitted under the provisions of this article shall expire ~~one year~~ five years after the date of such approval, unless building permits have been obtained for construction in accordance therewith. A single one-year extension may be given upon written request by the applicant to the administrator made within 90 days before the expiration of the approved site plan. The administrator shall acknowledge the request and shall make a decision regarding the requested extension within 30 days after receipt of the request.

(Code 1972, § 30-171; Code 1992, § 30-193; Ord. No. 2004-4, § 30-171, 9-7-2004)

Sec. 42-634. Right of developer to continue project.

Subject to the time limits and conditions specified in this chapter, the rights of an owner or developer to continue a project for which a site plan has been approved shall not be abridged so long as he proceeds toward completion with reasonable care and diligence and in accordance with the terms of the approval.

(Code 1972, § 30-172; Code 1992, § 30-194; Ord. No. 2004-4, § 30-172, 9-7-2004)

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Sec. 42-635. Inspection and supervision of improvements.

(a) The owner or developer shall have one set of approved plans, profiles and specifications available at the site at all times when work is being performed. A designated, responsible employee shall be available for contact by ~~[~~the~~]~~ administrator or inspectors.

(b) Upon satisfactory completion of all installation of the required improvements, the owner shall receive an approval from the administrator, upon application for such approval. Such approval will authorize the release of any bond which may have been furnished for the guarantee of satisfactory installation of such improvements, or parts thereof. Inspection is to be made within a reasonable time of the request, and the bond released as quickly as circumstances will permit.

(c) The installation of improvements, as required in this article, shall, in no case, serve to bind the town to accept such improvements for the maintenance, repair or operation thereof, but such acceptance shall be subject to the existing regulations concerning the acceptance of each type of improvement.

(Code 1972, § 30-173; Code 1992, § 30-195; Ord. No. 2004-4, § 30-173, 9-7-2004)

Secs. 42-636--42-658. Reserved.

ARTICLE XXII. MISCELLANEOUS PROVISIONS

Sec. 42-659. Averaging lot area and cluster subdivision.

(a) *Averaging and clustering permitted.* Averaging of lot areas for detached single-family dwellings or clustering of lots and provision of public or private common open space in a subdivision ~~are [~~is~~]~~ permitted in the A Agricultural and R-1A, R-1 and R-2 Residential Districts by the terms of this chapter. Average lot area in a subdivision and minimum area and dimensions for any lot are specified herein. Use of a design which incorporates averaging or which includes common open space shall be at the option of the owner, or his agent. These design alternatives are intended to encourage permanent reservation of open space and an efficient and improved use of the land to provide good building sites by taking advantage of topography and minimizing grading or destruction of natural vegetation. Plans shall not be approved where the clear purpose of the design is to subvert the purposes of these regulations by inclusion of excessively unbalanced distribution of land among lots or inclusion of open spaces which are inappropriately located or which will not contribute to the future amenity of the subdivision.

(b) *Procedures; site plan required.* A preliminary site plan complying with the requirements of article XXI and the rules of the planning commission, adopted thereunder, shall accompany an application for averaging lot areas or a permitted cluster subdivision under this section. Procedures for review and decision shall be those specified for administrative site plan review under article XXI. In addition, the proposed development shall follow all applicable procedures, standards and requirements governing the subdivision of land.

(c) *Minimum project area.* The minimum area of the subdivision shall be sufficient to accommodate at least five lots of minimum average area.

(d) *Resubdivision.* No resubdivision or sale, by any means, shall be permitted in a subdivision approved under this section, which resubdivision or sale would in any way create a violation of this chapter.

(e) *Floodplain and water areas.* No more than 30 percent of the required minimum area of any lot shall be located in a floodplain area and no part of the area of any lot shall be covered by any body of water, except that no more than 30 percent of the required minimum area of any lot may be covered by the waters of a lake, pond or canal planned and approved as a part of, and wholly, within the subdivision.

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(f) *Reduction of lot area, lot width and yard areas permitted.* Where proposed building site outlines are shown on an application for averaging lot area or cluster subdivision, the minimum lot area, lot width, lot depth and yard dimensions shall be as follows, provided that public water and sewer services are utilized in the R-1A, R-1, R-2 and R-3 Residential Districts and MU-1 and MU-2 Mixed Use Districts:

Zoning District	*Minimum Average Lot Area (in sq. ft.)*	*Minimum Lot Area (in sq. ft.)*	*Minimum in Feet*				
			Lot Width	*Lot Depth*	*Front Yard*	*Side Yard*	*Rear Yard*
A	21,780	18,500	100	175	35	20	40
R-1A	15,000	12,500	80	125	30	12	35
R-1	10,000	8,500	75	100	30	10	30
R-2	10,000	8,500	70	100	25	8	20
R-3	10,000	8,500	70	100	25	8	20
MU-1	10,000	8,500	75	100	30	10	30
MU-2	10,000	8,500	75	100	30	10	30

Minimum lot size in the A Agricultural District is subject to health department approval where either public water or public sewers are not provided.

(g) *Compatibility with developed properties.* An average lot area or cluster subdivision shall be designed to promote harmonious relationships with surrounding adjacent and nearby developed properties, and, to this end, may employ such design techniques as may be appropriate to a particular case, including coordination of yard dimensions, location of lots of various sizes, location of buildings with respect to project boundary lines, location of open spaces and maintenance of vegetation.

(h) *Public facilities and open spaces.* Land or easements for public facilities or open space shall be dedicated, conveyed or granted in accordance with the requirements of this article and laws and ordinances governing the subdivision of land.

(i) *Maintenance of common ownership properties.* Provisions shall be made for the designation, ownership and maintenance of common ownership properties in accordance with the requirements of article XXI.

(j) *Preservation of landscape amenities.* The preservation of natural vegetation, and particularly mature trees, on steep slopes and in stream valleys, should be recognized as a primary design consideration in review and approval of an application under this section. Failure to exercise due care in maintenance of landscape amenities in accordance with approved plans shall be considered a violation of this chapter.

(Code 1972, § 30-174; Code 1992, § 30-196; Ord. of 11-21-1989; Ord. No. 2004-4, § 30-174, 9-7-2004; Ord. No. 2007-1, 4-3-2007)

Sec. 42-660. Reference to Virginia Condominium Act.

(a) Nothing in this chapter shall be interpreted to prohibit condominiums as such by reason of the form of ownership inherent therein. Neither shall any condominium be treated differently under any provision in this chapter which would permit a physically identical project or development under a different form of ownership.

PROOFS

(b) All condominium projects or developments hereafter constructed shall comply with the provisions of this chapter, including the requirements for approval of site plans. Whenever an existing project or development is to be converted to condominium ownership involving certain land areas to be held as common elements, limited or otherwise, a site plan shall be filed showing the extent and ownership of such holdings. Nothing in this requirement shall be interpreted to abridge any rights said project or development may hold as a nonconforming use.

(c) Any declaration of restrictions to be filed in connection with any project covered by the provisions of this chapter shall comply in all respects with the provisions of the Virginia Condominium Act not in direct conflict with the requirements of this chapter.

(Code 1972, § 30-175; Code 1992, § 30-197; Ord. No. 2004-4, § 30-175, 9-7-2004)

State law reference—Condominium Act, Code of Virginia, § 55-79.39 et seq.

Sec. 42-661. Multiunit residential development, street and utility requirements.

Any residential development, whether for sale or rent, consisting of two or more structures which require ingress and egress to a public street shall meet all requirements of the town subdivision ordinance.

(Code 1972, § 30-176; Code 1992, § 30-198; Ord. No. 2004-4, § 30-176, 9-7-2004)

~~**Cross reference**— Subdivisions, ch. 26.~~

Sec. 42-662. Portable storage containers.

Portable storage containers are allowed in all zoning districts subject to the following regulations and restrictions:

(1) *Permits and time limitations.* Permits shall be required for all portable storage containers. Portable storage containers shall be allowed up to 14 days in any one year period with the exception that portable storage containers used in conjunction with an approved permitted construction, reconstruction or remodeling project shall be allowed for a maximum of 180 total days in any one year period.

(2) *Capacity.* Portable storage containers shall not exceed 1,360 cubic feet.

(3) *Permitted areas.* Only one portable storage container shall be permitted per single-family residential structure, duplex or vacant lot. Only one portable storage container shall be permitted per 25 units in multifamily residential developments. Portable storage containers shall not be allowed in required greenspace or parking areas with the exception that portable storage containers utilized for construction, reconstruction or remodeling may be within required parking areas.

(4) *Setbacks.* Portable storage containers are not to be located within public street rights-of-way in any district other than the B-2 Central Business District or on any private property without the permission of the property owner. Portable storage containers are allowed within public street right-of-way in the B-2 Central Business District only with the permission of the town manager. Portable storage containers that are utilized for more than 14 days shall comply with setbacks of the respective zoning district with the exception of the B-2 Central Business District with permission of the town manager.

(5) *Stacking.* Portable storage containers shall not be stacked in any district other than the I-2 General Industrial District.

(6) *Utilities.* Portable storage containers shall not be connected to any utilities with the exception that portable storage containers for an approved development project may be connected to electric.

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(7) *Advertising.* Portable storage containers shall not have any advertisement other than that which identifies the container supplier and their telephone number or advertisements for the business utilizing the container not to exceed six square feet on no more than two sides of the portable storage container.

(8) *Maintenance and aesthetics.* Portable storage containers shall not have any graffiti and be in a condition free from rust, peeling paint and other forms of deterioration.

(9) *Exemptions.* Portable storage containers shall not require a permit located on, and necessary for, an approved development project, however shall still be subject to provisions (3), (4), (5), (6), (7) and (8) of this section. Portable storage containers shall not require a permit for permitted distribution and storage purposes in the B-3 General Business District, I-1 Limited Industrial District and the I-2 General Industrial District, provided that provisions (3), (4) (5), (6), (7) and (8) of this section are met.

(Code 1992, § 30-199; Ord. No. 2007-1, 4-3-2007)

Secs. 42-663--42-682. Reserved.

ARTICLE XXIII. TELECOMMUNICATIONS STRUCTURES

Sec. 42-683. Telecommunications structures.

(a) *Telecommunications facilities.* The guidelines set forth in this section shall govern the location of all communications monopoles and/or towers and the installation of antennas and accessory equipment structures for such; provided, however, that the town council may waive any of the requirements or prescribe such reasonable conditions in connection therewith as to ensure that the installation will conform to sound planning.

(1) *Location.* Communications monopoles and towers, with a related unmanned equipment building, shall be permitted in zoning districts, as indicated in the permitted uses section of each district, subject to obtaining a zoning and use permit as provided herein and subject to public hearing requirements of section 42-11(c), and to the requirements and limitations set forth in this section, and in any zoning district on property owned or controlled by the town.

(2) *Aesthetics; lighting.*

a. The height of monopoles and towers shall not exceed the allowable heights, as specified in the definitions of this chapter. Monopoles shall not exceed ~~70~~ 75 feet in total height, including antennas in residential districts.

b. Monopoles or towers shall either maintain a galvanized steel finish or, subject to any applicable standards of the FCC or FAA, be painted a neutral color.

c. At a facility site, the design of the buildings and related structures shall use materials, colors, textures, screening and landscaping that will blend the facilities to the natural setting and the built environment. The related unmanned equipment structure shall not contain more than 750 square feet of gross floor area or be more than 12 feet in height, and shall be located in accordance with the requirements of the zoning district in which located.

d. Monopoles or towers shall not be artificially lighted, unless required by the FCC or FAA. If lighting is required, the town council may review the available lighting alternatives and approve the design that would cause the least disturbance to surrounding views.

e. No advertising of any type shall be allowed on any monopole or tower.

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f. Satellite and microwave dishes attached to monopoles shall not exceed two feet in diameter and six feet in diameter when attached to towers.

g. Stealth technology may be required, as appropriate.

(3) *Federal requirements.* All monopoles or towers must meet or exceed current standards and regulations of the FAA, the FCC and any other agency of the federal government with the authority to regulate monopoles or towers. If such standards and regulations are changed, then the owners of the monopoles or towers governed by this article shall bring such structures into compliance with such revised standards, as required. Failure to bring monopoles or towers into compliance with such revised standards and regulations shall constitute grounds for the removal of the monopole or tower, at the owner's expense.

(4) *Building codes.* To ensure the structural integrity of monopoles or towers, the owner of such shall ensure that it is constructed and maintained in compliance with standards contained in applicable federal, state and local building codes and regulations.

(5) *Information required.* Each applicant requesting a zoning and use permit for a new monopole or tower shall submit five copies of a scaled site plan and a scaled elevation view and other supporting drawings, calculations and other documentation, signed and sealed by appropriate licensed professionals, showing the location and dimensions of all improvements, including information concerning topography, radio frequency coverage, height requirements, setbacks, drives, parking, fencing, landscaping, easements, adjacent uses and other information deemed necessary to assess compliance with the regulations of this article. Additionally, the applicant shall provide actual photographs of the site from designated relevant views that include a simulated photographic image of the proposed monopole or tower. The photograph with the simulated image shall include the foreground, the midground and the background of the site. An engineering report, certifying that the proposed monopole or tower is compatible for collocation with a minimum of three similar users, including the primary user, must accompany the application. The applicant shall provide copies of their collocation policy. Each applicant shall also submit a copy of their master plan for provisional locations of future monopoles or towers anticipated for future service. ~~The master plan requirement shall be waived for citizens band radio operators or federally licensed amateur radio operators with a single monopole or tower location.~~

(6) *Availability of suitable existing monopoles, towers or other structures.* No new monopole or tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of town council that no existing monopole, tower, or structure can accommodate the proposed antenna. Evidence submitted to demonstrate that no existing monopole, tower or structure can accommodate the applicant's proposed antenna may consist of any of the following:

a. No existing monopoles, towers or structures are located within the geographic area required to meet the applicant's engineering requirements.

b. Existing monopoles, towers or structures are not of sufficient height to meet applicant's engineering requirements.

c. Existing monopoles, towers or structures do not have sufficient structural strength to support applicant's proposed antenna or related equipment.

d. The applicant's proposed antenna would cause electromagnetic interference with the existing antenna, or the antenna on the existing monopole, tower or structure would cause interference with the applicant's proposed antenna.

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e. The applicant demonstrates that there are other limiting factors that render existing monopoles, towers or structures unsuitable.

(7) *Setbacks.* Monopoles, towers, guys and accessory facilities must satisfy the minimum zoning district setback requirements for primary structures as well as setback requirements of chapter 32, Telecommunications. Additionally, monopoles and towers shall have a setback no less than the total height of the structure. Increased setbacks may be required as a condition of the conditional use permit.

(8) *Security fencing.* Monopoles or towers shall be enclosed by security fencing not less than six feet in height and shall be equipped with appropriate anti-climbing device.

(9) *Landscaping.* Monopole or tower facilities shall be landscaped with a buffer of plant materials that effectively screens the view of the support buildings from adjacent property. The standard buffer shall consist of a landscaping strip of at least four feet wide outside the perimeter of the compound. Existing mature tree growth and natural land form on the site shall be preserved to the maximum extent possible. In locations where the visual impact of the monopole or tower would be minimal, the landscaping requirement may be reduced or waived by town council.

(10) *Removal of abandoned monopoles or towers.* Any monopole or tower that is not operational for a continuous period of 90 days shall be considered abandoned, and the owner of such monopole or tower shall remove same within 90 days of receipt of notice from the building official or town manager notifying the owner of such removal requirement. Removal includes the removal of the monopole or tower, all subterranean tower and fence footers, underground cables and support buildings. The buildings may remain with the approval of the landowner. If there are two or more users of a single monopole or tower, then this provision shall not become effective until all users cease using the monopole or tower. If the monopole or tower is not removed per this section, the town may require the landowner to have it removed. In all cases, the site shall be returned as closely as possible to its original condition.

(11) *Bonding.* Every applicant for a zoning and use permit for a monopole or tower shall, as a condition for the issuance of the zoning and use permit, file with the building official a continuing bond in the penal sum of not less than $10,000.00, and conditioned for the faithful observance of the provisions of this chapter and all amendments thereto, and of all the laws and ordinances relating to monopoles and towers.

(12) *Applicant responsibility.* Any applicant for communications structures to be located on property owned by the town assumes responsibility for such structures and indemnifies and saves harmless the town from any and all damages, judgments, costs or expenses which the town may incur by reason of the removal or the causing to be removed any monopole or tower, as provided for in section [359]30-199(c)(10). Any applicant for communications structures on property belonging to the town shall enter into contract with the town for such location of structures.

(b) *Amateur radio towers.* The guidelines set forth in this section shall govern the location of all amateur radio towers and the installation of antennas and accessory equipment structures for such. Any amateur radio towers not meeting the requirements and limitations set forth shall require for a conditional use permit approval.

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[359] This is not the correct cite. Present Code § 30-199 which is now 42-662 is regarding portable storage containers and does not have a (c)? What is the correct section?

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(1) *Location.* Amateur radio towers shall be permitted in zoning districts, as indicated in the permitted uses section of each district, subject to obtaining a zoning and use permit as provided herein, and to the requirements and limitations set forth in this section. Amateur radio towers shall be located in the rear yard.

(2) *Aesthetics; lighting.*

a. The height of amateur radio towers shall not exceed the allowable heights, as specified in the definitions of this chapter.

b. Amateur radio towers shall either maintain a natural metal color or stealth appearance.

c. No advertising of any type shall be allowed on any amateur radio tower.

d. Satellite and microwave dishes attached to amateur radio towers shall not exceed two feet in diameter.

(3) *Federal requirements.* All amateur radio towers must meet or exceed current standards and regulations of the FAA, the FCC and any other agency of the federal government with the authority to regulate amateur radio towers. If such standards and regulations are changed, then the owners of the amateur radio towers governed by this article shall bring such structures into compliance with such revised standards, as required. Failure to bring amateur radio towers into compliance with such revised standards and regulations shall constitute grounds for the removal of the amateur radio tower, at the owner's expense.

(4) *Building codes.* To ensure the structural integrity of amateur radio towers, the owner of such shall ensure that it is constructed and maintained in compliance with standards contained in applicable federal, state and local building codes and regulations.

(5) *Information required.* Each applicant requesting a zoning and use permit for a new amateur radio tower shall submit one copy of a scaled site plan and a scaled elevation view and other supporting drawings, calculations and other documentation, signed and sealed by a licensed surveyor, engineer or other appropriate licensed professional, showing the location and dimensions of all improvements, setbacks and other information deemed necessary to assess compliance with the regulations of this article.

(6) *Setbacks.* Amateur tower guys and accessory facilities must satisfy the minimum zoning district setback requirements for primary structures. Amateur radio towers greater than 25 feet in height while collapsed shall utilize the zoning district setback requirements for primary structures as well as setback requirements of chapter 32, Telecommunications. Amateur radio towers less than 25 feet in height while collapsed shall utilize the zoning district setback requirements for accessory structures as well as setback requirements of chapter 32, Telecommunications.

(Code 1992, § 30-200; Ord. No. 2000-2, 4-18-2000; Ord. No. 2004-4, § 30-177, 9-7-2004; Ord. No. 2007-1, 4-3-2007; Ord. No. 2007-1, § 30-199, 4-3-2007; Ord. No. ~~2010-9~~ 2010-8, 12-21-2010; Ord. No. 2012-10, § 30-200, 11-20-2012)

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[360]ARTICLE XXIV. SEVERABILITY, CONFLICT, EFFECTIVE DATE

Sec. 30-201. Severability.

If any section, paragraph, subdivision, clause, phrase, or provision of this chapter shall be adjudged invalid or held unconstitutional, the same shall not affect the validity of this chapter as a whole or any part or provision thereof, other than the part so decided to be invalid or unconstitutional.

(Code 1972, § 30-177; Code 1992, § 30-201; Ord. No. 2000-2, 4-18-2000; Ord. No. 2004-4, § 30-178, 9-7-2004; Ord. No. 2007-1, § 30-200, 4-3-2007)

Sec. 30-202. Repeal of conflicting ordinances.

All ordinances or parts of ordinances in conflict herewith are hereby repealed.

(Code 1972, § 30-178; Code 1992, § 30-202; Ord. No. 2000-2, 4-18-2000; Ord. No. 2004-4, § 30-179, 9-7-2004; Ord. No. 2007-1, § 30-201, 4-3-2007)

Sec. 30-203. Effective date.

The effective date of the ordinance from which this chapter was derived shall be 20 November 1987.

(Code 1972, § 30-179; Code 1992, § 30-203; Ord. No. 2000-2, 4-18-2000; Ord. No. 2004-4, § 30-180, 9-7-2004; Ord. No. 2007-1, § 30-202, 4-3-2007)

Sec. 30-204. [filing of certified copies.]

A certified copy of the foregoing zoning chapter of the Town of Christiansburg, Virginia shall be filed in the Office of the Zoning Administrator of the Town of Christiansburg, Virginia and in the Office of the Clerk of the Circuit Court of Montgomery County, Virginia.

(Code 1972, § 30-180; Code 1992, § 30-204; Ord. No. 2000-2, 4-18-2000; Ord. No. 2004-4, § 30-181, 9-7-2004; Ord. No. 2007-1, § 30-203, 4-3-2007)

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[360] Delete this article as unnecessary to codify? I do not mind.

[361]Appendix A

FRANCHISES*

***Editor's note**—Printed herein are the franchises of the town.

ARTICLE I. GAS FRANCHISE*

***Editor's note**—Printed herein is the gas franchise with Commonwealth Gas Services, Inc. adopted on August 26, 1981. Amendments have been included as indicated in the history note following the amended section.

[362]AMENDED GAS FRANCHISE ORDINANCE AND PUBLICATION OF NOTICE

At a meeting of the Council of the City of Buena Vista, Virginia, held the 25th day of July 1996, there being present Mayor Harold Kidd, Vice Mayor Debbie Garrett, councilmen James Jefferies, Archie Beverly, Harmonson Floyd, Steve Lowder and Sam Mays it was moved by council member Debbie Garrett and seconded by council member Steve Lowder and approved by council with council member Sam Mays casting the only descending vote.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF BUENA VISTA, VIRGINIA:

~~1.~~ That there shall be granted in the mode prescribed by the laws of the State of Virginia for the amendment of franchise grants, and upon the conditions hereinafter specified, the rights and privileges embodied in the following draft of Ordinance entitled:

"An Ordinance granting to Commonwealth Gas Services, Inc., it's successors or assigns, an Amended Gas Franchise."

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BUENA VISTA, VIRGINIA:

1. That there be, and there is, hereby granted to Commonwealth Gas Services, Inc., it's successors or assigns, hereinafter called the Grantee, an amendment to the gas franchise previously granted by this Council to Columbia Gas of Virginia, Inc., it's successors or assigns by Ordinance dated August 26, 1982.

2. This amendment to franchise is granted subject to the following conditions, restrictions and limitations:

(A) Paragraph 2(o) of the August 26, 1982 franchise shall be deleted in its entirety and Grantee shall immediately be released from any obligation to maintain in the City of Buena Vista a business and service office and to staff such an office to attend to the business and service needs of the Grantees customers.

(B) Within thirty (30) days of final passage of an ordinance adopting this amended gas franchise, Grantee shall pay to the City of Buena Vista the amount of Fifty Thousand Dollars ($50,000).

(C) On or before the Thirty-first (31st) day of July in each year of the five year period beginning in the year 1997 and continuing until the year 2001, Grantee shall pay to the City of Buena Vista the amount of Two Thousand Dollars ($2,000.00).

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[361] Does the town want to include any franchises? If so, please return all franchises in effect in the town with the proofs.

[362] This is an amendment to a 1982 franchise which we did not receive. Is the franchise still in effect? If it is to be included in this appendix, we will need the ordinance adopted in 1982.

PROOFS

(D) All other terms and conditions contained in the August 26, 1982 franchise adopted by the City Council of the City of Buena Vista shall remain unaltered and in full force and effect.

(E) This franchise ordinance shall be in force from, and after, the 25th day of July, 1996;

(F) The cost of the advertising required for publication of the notice of the proposed amendment of the August 26, 1982 gas franchise shall be paid by the said City and said City shall be reimbursed by the Grantee the cost of such advertising.

July 25, 1996

PROOFS