VIRGINIA: A CONTINUTED MEETING OF THE SURRY COUNTY BOARD OF SUPERVISORS HELD IN THE GENERAL DISTRICT COURTROOM OF THE COUNTY GOVERNMENT CENTER ON SEPTEMBER 16, 2010 AT 7:00 P.M.

PRESENT: SUPERVISOR REGINALD O. HARRISON, CHAIRMAN
SUPERVISOR M. SHERLOCK HOLMES
SUPERVISOR ERNEST L. BLOUNT
SUPERVISOR JUDY S. LYTTLE

ALSO PRESENT: MR. TYRONE W. FRANKLIN, COUNTY ADMINISTRATOR
MS. RHONDA R. MACK, COMMUNITY DEVELOPMENT DIRECTOR

ABSENT: SUPERVISOR JOHN M. SEWARD, VICE-CHAIRMAN

CALL TO ORDER/MOMENT OF SILENCE/PLEDGE OF ALLEGIANCE

The meeting was called to order by Chairman, Reginald Harrison. Mr. Harrison asked for a moment of silence. Following the moment of silence, he asked the citizens to stand and say the pledge of allegiance.

WORK SESSION – LAND USE CONSIDERATIONS/DRAFT ZONING ORDINANCE

Chairman Harrison began by stating that the purpose of the work session tonight was to gain a greater appreciation for the process and direction employed by the Planning Commission, Zoning Ordinance Steering Committee and Staff in drafting the Zoning Ordinance. The work session also provides for the clear communication of ideas and concerns of Board members to the Planning Commission during the document drafting process. ***(A copy of the draft Zoning Ordinance is attached as an integral part of these minutes.)***

Mr. Jonathan Hartley of Brandon Currence Architects gave a brief introduction to the draft Zoning Ordinance by stating that it was the first step in a two step process which would establish land use standards and eventually determine how land could be divided and what improvements would be required to support subdivision of property. Zoning considerations essentially infringe upon property rights and therefore, need to be very specific and applied uniformly. Mr. Hartley explained that both the County's current ordinance and the draft ordinance address land use considerations in an exclusionary manner. They attempt to specifically identify acceptable uses and exclude all other uses of property.

Mr. Hartley went on to review the outline of the draft document and point out some of the objectives of the document. The draft Zoning Ordinance is aimed at preserving the rural and agricultural nature of Surry County. Discussion ensued with regard to the restrictions on large areas of development and what effect those restrictions would have on the development and subdivision of family estates.

Discussion continued to include subdivision requirements regarding roads, sewage disposal, water supply, erosion control and wetlands regulations. Consideration was given to the need for infrastructure to support planned future development.

Specific examples of draft text language were given and concerns raised regarding the limitations being placed on property owners and their ability to develop all or portions of the land they owned. Several times Board members questioned the apparent decision to maintain Surry County's rural and agricultural nature by creating burdensome limitations on development. Discussion continued with regard to development touching on the density allowed, visual appearance of businesses, and proximity of businesses to housing.

The issue of vacation homes, which rent on a weekly basis, was raised. Mr. Hartley informed the Board that the current Zoning Ordinance does not regulate this activity, nor does language in the draft document. Following a brief discussion, it was stated that deed restrictions or subdivision regulations may apply in this case, but it would not be considered an issue that the County should regulate.

Chairman Harrison concluded the meeting by stating that the draft Zoning Ordinance was a lot to enforce. There is no way to know, at this point, what affect these regulations would have on County staff. Perhaps, he suggested, it would be wisest to adopt fewer regulations that could be well enforced rather than to adopt extensive regulations that would result in the addition of several staff to effectively enforce.

There was brief discussion among the Board members regarding the need for continued work sessions in consideration of the draft Zoning Ordinance and the format for such work sessions.

ADJOURNMENT

Supervisor Lyttle made a motion that the Board adjourn; the motion was seconded by Supervisor Holmes. All members voted in favor of the motion.

Schedule for Completion of Draft Zoning Provisions

Steps		Completion Date
Step #10: Preparation of Draft Zoning Ordinance Provisions		**February 1, 2009**
A.	Definitions and Uses	Completed
B.	District Regulations	Completed
C.	Administrative Provisions	Completed
D.	Supplementary Use Regulations	August 30, 2010
E.	Development Standards & Site Plan Review	September 30, 2009
F.	Signs	October 15, 2009
G.	Maps & Transitional Provisions	December 1, 2010
Step #11: Preparation of Final Draft Zoning Ordinance		**December 30, 2010**
Step #12: Presentation of the Final Draft Zoning Ordinance to the Planning Commission and Board of Supervisors		**January 30, 2011**
Step #13: Public Forum #2		**February 28, 2011**
Step #14: Finalize Draft Zoning Ordinance for Public Hearing		**March 15, 2011**
Step #15: Planning Commission Public Hearing		**April 30, 2011**
Step #16: Revisions from Public Hearing		**May 15, 2011**
Step #17: County Board of Supervisors Public Hearing		**June 30, 2011**
Step #18: Produce Final Zoning Ordinance and Maps		**July 30, 2010**
Step #19: Training on Benefiting the Most from the Ordinances		**August 30, 2010**

SURRY COUNTY

ZONING ORDINANCE

PARTIAL DRAFT

August 23, 2010

A COPY OF PROVISIONS REVIEWED BY THE
ZONING ORDINANCE STEERING COMMITTEE

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SURRY COUNTY ZONING ORDINANCE

ARTICLE I GENERAL PROVISIONS

Section 1-100 Title

This ordinance shall be known and cited as the Zoning Ordinance of Surry County or the Surry County Zoning Ordinance.

Section 1-101 Authority

This ordinance is adopted pursuant to the provisions of Title 15.2, Chapter 22, Article 7, of the Code of Virginia, as amended.

Section 1-102 Purpose

The purpose of this ordinance is to implement the Surry Comprehensive Plan and promote and protect the health, safety, and general welfare of the present and future residents and businesses of the county by:

A. Giving effect to policies, objectives and proposals of the Surry County Comprehensive Plan;

B. Dividing the unincorporated area of the county into districts of distinct community character according to the use of land and buildings, the intensity of such use (including bulk and height), and surrounding open space;

C. Preserving and enhancing the county's rural and agricultural character and resources;

D. Preserving and protecting the county's natural resources and protecting the waters of the James River, Chesapeake Bay and Blackwater River and their tributaries;

E. Regulating the location and use of buildings, structures, and land for trade, industry, residences, and other uses;

F. Lessening the danger and congestion of traffic on the road and highways; limiting excessive numbers of intersections, driveways, and other friction points; minimizing other hazards; and insuring the continued usefulness of all elements of the existing highway system for their planned function;

G. Encourage good civic design and arrangement to facilitate the creation of a convenient, attractive and harmonious community;

H. Securing safety from fire, panic, flood, and other dangers;

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I. Providing adequate light and air, and protecting against the overcrowding of land and undue density of population in relation to the community facilities existing or available;

J. Protecting the tax base by facilitating cost-effective development within the county;

K. Promoting economy in local government expenditures;

L. Protecting the values of property throughout the county;

M. Protecting landowners from adverse impacts of adjoining development;

N. Providing future land uses with adequate public facilities;

O. Protecting against the destruction of or encroachment upon historical buildings and areas;

P. Promote the creation and preservation of affordable housing suitable for meeting the current and future needs of the County.

Each purpose listed above serves to balance the interest of the general public of the county and those of individual property owners. They have been made with reasonable consideration, among other things, for the existing use and character of property, the existing land use plan, to the character of the district and its peculiar suitability for particular uses, to trends of growth and change, and with a view to conserving natural resources and the value of land and buildings and encouraging the most appropriate use of land throughout the unincorporated territory of Surry County, Virginia.

Section 1-103 Jurisdiction

This ordinance shall apply to all properties within the unincorporated areas of Surry County, Virginia, including any property within the County that may be assessed in an adjoining jurisdiction.

Section 1-104 Application of Regulations

A. No person may use or occupy any land, building, or structure, or authorize or permit the use or occupancy of any land, building, or structure under his or her control except in accordance with all of the applicable provisions of this ordinance.

B. It is not intended for this Ordinance to interfere or affect any easements, covenants, or other agreements between parties, provided, however, that where this Ordinance imposes greater requirements or restrictions than are imposed by other resolutions, ordinances, rules, regulations, or by easements, covenants, or agreements, the provisions of this Ordinance shall govern.

Section 1-105 Effective Date

This ordinance was adopted on, _____, 2010 and shall become effective at 12:01 A.M. _____, 2010.

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Section 1-106 Conflicting Ordinances and Provisions

A. All ordinances and parts of ordinances in conflict with the provisions of this Ordinance, except as hereinafter provided, are hereby repealed; provided, however, that the Surry County Zoning Ordinance adopted September 4, 1975, as amended, shall not be considered repealed as to any violation thereof existing on the effective date of this ordinance, unless such violation conforms to the provisions of this ordinance.

B. Where there are standards imposed in this ordinance, which are more restrictive than other standards contained in this or other County ordinances, the more restrictive standards shall apply.

C. Where there is a conflict between the text of the ordinance and any tables attached to the ordinance, the text of the ordinance shall govern.

Section 1-107 Relationship to Comprehensive Plan

It is the intention of the Board of Supervisors that this ordinance implements the planning policies and objectives for the county as reflected in the Comprehensive Plan. While the Board of Supervisors reaffirms the commitment that this ordinance and any amendment to it be in conformity with adopted plans, the Board of Supervisors hereby expresses the intent that neither this ordinance nor any amendment to it may be challenged on the basis of any nonconformity with any planning document.

Section 1-108 Copies on File

A certified copy of the Surry County Zoning Ordinance shall be filed in the Department of Planning and Zoning of Surry County and in the Office of the Clerk of the Circuit Court of Surry County, Virginia.

Section 1-109 Fees

A. Fees shall be set by the Board of Supervisors for the various procedures, permits, hearings and applications established by this ordinance as may be reasonably necessary from time to time to cover the costs incurred by the County. No fee shall be required for actions initiated by the Board of Supervisors or the Planning Commission.

B. If in the discretion of the Board of Zoning Appeals, Planning Commission or Board of Supervisors, a review of any application is deemed necessary by any outside engineering firm or other consultant expert in a field related to the request, the landowner/applicant shall be required to pay the fee for such review. The purpose of the review will be to ensure that the request complies with all regulations.

C. The Administrator may refund fees submitted with an application upon written request when no costs, direct or indirect, have been incurred by the County in processing, evaluating, or advertising the matter.

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Section 1-110 Severability

Should any section or provision of this ordinance be decided by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the ordinance as a whole, or any part thereof other than the part so held to be unconstitutional or invalid.

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SECTION 1-200 ADMINISTRATOR

Section 1-201 Powers and Duties of the Administrator

A. The Administrator shall have the following powers and duties:

1. Zoning permit. To issue or deny a zoning permit for the erection, construction, reconstruction, moving, adding to, or alteration of any structure, or the establishment of any land use. The Administrator shall also have the authority to revoke any zoning permit if violations of the provisions of this ordinance occur.

2. Certificate of Zoning Compliance. To issue or deny a certificate of zoning compliance.

3. Enforcement. To enforce this ordinance and take all necessary steps to remedy any condition found in violation of the provisions of this ordinance.

4. Collect fees. To collect any fees required or set forth in this ordinance.

5. Making and keeping records. To make and keep all records required by state law or necessary and appropriate for the administration of this ordinance.

6. Inspection of buildings or land. To inspect any building or land to determine if violations of this chapter exist or have been committed.

7. Request assistance. To request the assistance of other local and state officials or agencies in the administration and enforcement of this ordinance.

8. Interpretation. To interpret the official zoning map and provisions of this ordinance, and offer written opinions on their meaning and applicability.

Section 1-202 General Permit Requirements

A. Permit Authorization

1. Zoning permits and certificates of zoning compliance issued on the basis of required plans and applications approved by the Administrator shall authorize only the use, arrangement and construction set forth in such permits, plans, and no other. The use, arrangement, or construction significantly deviating with that authorization shall be deemed a violation of this ordinance.

2. All departments, officials and public employees of Surry County, which are vested with the duty or authority to issue permits or licenses shall do so in conformance with the provisions of this ordinance. Such departments and personnel shall issue permits for uses, buildings or purposes only when they are in harmony with the

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provisions of this ordinance. Any such permit, if issued in conflict with the provisions of this ordinance, shall be null and void.

B. Who May Submit Permit Applications

1. Applications for permits will be accepted only from the property owner or the property owner's authorized representative. The Administrator may require an applicant to provide evidence of his authority to submit the application.

2. All real estate taxes and any outstanding fees or charges must be current and up-to-date at such time an application is submitted for any activity regulated under this ordinance.

C. Applications to be Complete

1. All applications for permits listed in this article must be complete before the application is to be considered. An application is complete when it contains all of the information that is necessary, in the opinion of the Administrator, to decide whether or not the development will comply with all requirements of this ordinance if completed as proposed.

2. All prescribed application or permit fees must be paid in accordance with any and all corresponding fees established by the Board of Supervisors.

D. Compliance with the Erosion and Sediment Control Ordinance

No excavation or land disturbance associated with any structure or use shall begin until such time as an erosion and sediment control plan is reviewed and approved by the Department of Planning and Zoning and a permit for such disturbance is issued.

E. Compliance with Subdivision Ordinance

Any newly created parcel, lot or tract shall comply with the provisions of this ordinance and the Subdivision Ordinance of Surry County.

Section 1-203 Zoning Permits

A. A zoning permit shall be required for the erection, construction, reconstruction, moving, adding to, or alteration of any structure, or the establishment of any land use, except as listed below:

1. Silvicultural, and agricultural uses of land associated with the conduct of a farm

2. Patios

3. Fences

4. Streets

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5. Electric power, telephone, cable television, gas, water, and sewer lines, street lights, wires or pipes, together with supporting, poles or structures, and traffic control signs located within a public right-of-way.

B. It shall be the responsibility of the applicant to provide any information necessary for the Administrator to determine that the proposed use, building, or structure complies with all provisions of this ordinance.

C. For any use, building, or structure requiring an approved site development plan, no zoning permit shall be issued, until such time as a site development plan is submitted, reviewed and approved in accordance with Section ???? of this ordinance.

D. For uses or structures not requiring an approved site development plan, the Administrator shall determine, in accord with this ordinance, the type of information necessary to review the permit. At a minimum, a plot plan shall be required meeting the standards contained in Section ???? of this Ordinance.

E. All zoning permits issued shall be valid for a period of six months, unless the structure, use or activity for which the permit was issued has commenced. If, after some physical alteration to land or structures begins to take place, such work is discontinued for a period of six (6) months, then the permit authorizing such work shall immediately expire. The Administrator may reissue any expired permit provided the structure, use and or activity complies with all applicable provisions of the ordinance at the time of reissuance.

F. The Administrator shall have the authority to approve the form and content of zoning permit applications. The zoning permit may be a separate document or may be part of the building permit provided evidence of separate approval by the Administrator is maintained.

Section 1-204 Certificates of Zoning Compliance

A. A certificate of zoning compliance shall be required for any of the following:

1. Occupancy or use of a building hereafter erected, enlarged or structurally altered.

2. Change in the use or occupancy of an existing building.

3. Occupancy or change in the use of vacant land except for the raising of crops, and other agricultural uses not involving structures. Forestry Operations shall not require a certificate if such operations comply with the provisions of Section ????.

4. Any change in use of a nonconforming use, or any alteration of a nonconforming building or structure.

B. No such occupancy, use, or change in use shall take place until a certificate of zoning compliance has been issued by the County. Such certificate shall certify that the building or use complies with the provisions of this ordinance. Upon application of the owner or an

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authorized agent, the County shall issue the certificate of zoning compliance for any building, structure or lot; provided, that the County finds such building, structure or lot is in conformity with all applicable provisions of this ordinance, and all other applicable County laws.

C. The County shall issue or deny any application for a certificate of zoning compliance within 7 days of an application being filed. If denied, the County shall advise the owner or owner's agent the reasons for the denial, and the specific actions required on the part of the owner before the certificate of zoning compliance can be issued.

Section 1-205 Temporary or Partial Certificates of Zoning Compliance

A. In situations where a building, structure or property, must be occupied or used prior to completion of all improvements required by County law, the County may issue a temporary or partial certificate of zoning compliance for the property upon application by the owner or authorized agent. Temporary or partial certificates of zoning compliance shall be valid for a period not to exceed eight months, during which time all improvements required by County law must be made.

B. The County shall not issue any temporary or partial certificate of zoning compliance unless:

1. The site and building is in a safe and usable condition, free from conditions that might endanger the health, safety or welfare of persons using the site, and,

2. The owner or authorized agent provides to the County a performance guarantee, requiring corrective action. This guarantee shall be payable to the County, in an amount determined by the County to be sufficient to insure satisfactory completion of all improvements required and related to the development within eight months from the date of issuance of the temporary or partial certificate of zoning compliance. The performance guarantee may be in the form of a corporate surety bond, cash account, or irrevocable letter of credit. The county attorney shall approve the form and language of any instrument submitted.

3. The Administrator shall have the authority to waive the performance guarantee if the unfinished improvements have an estimated value of less than $500.00

4. The Administrator shall have the authority to grant an extension to the temporary certificate of zoning compliance, provided all performance guarantees remain in effect.

Section 1-206 Enforcement

A. The Administrator shall have the responsibility for enforcing the provisions of this ordinance and is authorized and directed to institute any appropriate action to put an end to such violation. The Administrator may, as necessary, solicit the assistance of other local and state officials and agencies to assist with this enforcement.

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B. The owner, tenant, or occupant of any building or land or part thereof and any architect, builder, contractor, agent, or other person who participates in, assists, directs, creates, or maintains any situation that is contrary to the requirements of this ordinance may be held responsible for the violation and suffer the penalties and be subject to the remedies herein provided.

C. Where there is reasonable cause to believe that a violation of this ordinance has occurred, the Administrator or his authorized representatives may, with written consent of the owner or of occupier of the premises in question on a form provided by the Administrator, enter the premises for the purposes of inspection. Where permission to enter is withheld, the Administrator shall seek a court order from the General District Court of Surry County or a search warrant from a magistrate of the jurisdiction as may be appropriate.

D. Property owners, permit applicants, and/or establishment owners/managers, as applicable, shall be notified in writing of violations of the provisions of this ordinance. The Administrator shall state the nature of the violation, the date that it was observed, and the remedy or remedies necessary to correct the violation in the notice of violation. The Administrator may establish a reasonable time period for the correction of the violation, based on the nature and extent of the violation and the actions necessary to remedy the violation.

E. Any written notice of a zoning violation or a written order of the Zoning Administrator 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 thirty (30) days in accordance with this section, and that the decision shall be final and unappealable if not appealed within thirty (30) days. The appeal period shall not commence until such statement is given. The written notice shall also contain the applicable appeal fee and where additional information may be obtained regarding an appeal.

F. If the violation is not corrected within the time period specified in the first notification, a second written notice shall be sent. The second notification shall request compliance with these provisions within a reasonable period not to exceed 30 days.

G. If the Administrator is not able to obtain compliance with these provisions in accordance with the procedures outline above, civil and/or criminal procedures may be initiated in consultation with the County Attorney.

H. In cases when delay would seriously threaten the effective enforcement of this ordinance or pose a danger to the public health, safety, or welfare, the Zoning Administrator may seek enforcement without prior written notice by posting an order to "Cease and Desist", and by invoking any of the penalties or remedies authorized in this ordinance.

I. The Zoning Administrator in consultation with the County Attorney may pursue other legal remedies as may be necessary. Any violation or attempted violation of this chapter may be restrained, corrected or abated as the case may be by injunction or other appropriate relief.

<u>Section 1-207 Penalties</u>

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A. Any violation of any provision of this ordinance shall be a misdemeanor punishable upon conviction by a fine of not less than ten dollars nor more than one thousand dollars, as may be amended in Section 15.2- 2286 of the Code of Virginia.

B. Each day a violation exists shall constitute a separate offense, unless otherwise provided by law.

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SECTION 1-300 BOARD OF ZONING APPEALS

Section 1-301 Creation and Organization

A. The Board of Zoning Appeals (hereinafter called the BZA) shall consist of five members, each to be a resident of the County, who shall be appointed by the Circuit Court of Surry County. Each member shall be appointed for a five-year term. Vacancies shall be filled by the Court for the unexpired portion of the term. A member may be removed by the Court for cause, upon written charges and after a public hearing. Each member shall receive such compensation as the Board of Supervisors may authorize for attendance at each regular or called meetings of the BZA.

B. The BZA shall develop, adopt and maintain written by-laws that govern its operation consistent with this ordinance and the Code of Virginia. Such by-laws shall address, at a minimum, the following:

1. The selection of one of its members as Chairman and in his absence a member designated acting chairman shall preside.

2. The BZA shall meet at such times as determined by the BZA, at least once a year, and as may established in the by-laws at the call of the Chairman, after proper notice.

3. The Chairman, or in his absence the acting Chairman, may administer oaths and compel the attendance of witnesses.

4. All meetings of the BZA shall be open to the public, except as otherwise permitted by law.

5. Minutes of the BZA's proceedings shall be maintained, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be filed, after approved by the BZA, in the office of the Administrator and shall be a public record.

6. The concurring vote of three members of the Board shall be necessary to reverse any order, requirement, decision or determination of the administrative officer or to decide *in* favor of the applicant on any matter upon which it is required to pass under the ordinance, or to effect any variance from the Ordinance.

7. The BZA shall submit a report of its activities to the Board of Supervisors at least once each year.

Copies of the by-laws shall be available from the Administrator and the Secretary to the BZA.

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C. The County shall provide a Secretary whose duty it shall be to keep the minutes and other records of the actions and deliberations of the BZA and perform such other ministerial duties as the BZA shall direct. The Secretary shall be a salaried County employee and shall perform the duties of Secretary of the BZA in addition to his other regular duties.

Section 1-302 General Powers and Duties

A. The Board of Zoning Appeals (BZA) shall have the following powers and duties:

1. To hear and decide appeals from any written order, requirement, decision, or determination made by any administrative officer in the administration or enforcement of this ordinance, including interpretation of the Zoning District Map.

2. To hear and decide on applications for special exceptions upon which the BZA is specifically authorized to act upon under this Ordinance.

3. To authorize upon appeal or original application in specific cases a variance from the terms of this ordinance in accordance with Section 1-305 below.

Section 1-303 Administrative Appeals

A. An appeal to the BZA may be taken by any person aggrieved or by any officer, department, board or bureau of the County affected, by any decision of the Administrator.

B. Any appeal shall be submitted on forms provided by the Administrator within 30 days of the decision appealed from by filing with the Administrator, and with the BZA, an application specifying the grounds of the appeal.

C. The Administrator shall provide to the Secretary of the BZA all the papers constituting the record upon which the action appealed from was taken.

D. An appeal stays all proceedings in the furtherance of the action appealed from, unless the Administrator certifies to the BZA after the notice of appeal shall have been filed with him that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril of life or property. In such case proceedings shall not be stayed otherwise than by a restraining order which may be granted by a court of record.

E. In any case where the Administrator has certified conformity with the provisions of this Ordinance and a building permit has been issued and construction of the building for which such permit was issued is subsequently sought to be prevented, restrained, corrected or abated as a violation of the zoning ordinance, suit may be filed within 30 days after the start of construction by a person who had no actual notice of the issuance of such permit. The Court may hear and determine issues raised in the litigation even though no appeal was taken from the decision of the Administrator to the Board of Zoning Appeals. [Consult with County Attorney]

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F. The BZA shall hold a public hearing on the administrative appeal within 60 days of receipt of a completed application, after due notice as required by Section 1-600 of this ordinance.

G. The BZA shall make a determination based on the provisions of this ordinance and the Code of Virginia. Decisions of the BZA shall be binding on the application of the ordinance unless modified by a court of law or amended by the Board of Supervisors.

Section 1-304 Special Exceptions

A. This category of uses known as special exception is established in recognition that in addition to uses permitted by right, certain uses may be compatible with existing and future uses in a district, depending upon their scale, design, location, and conditions imposed by the BZA, as specified in Article III, District Regulations, of this ordinance. In addition, the following uses and activities may be allowed with approval of a special exception:

1. A garage or other building accessory to a single-family dwelling which building does not comply with the regulations of the district in which it is located.

2. Extension of a nonconforming use in a building so as to increase floor area by not more than 25 percent.

3. Temporary uses and structures *in* any district not specifically listed *in* the regulations for and determined by the Board to be *in* the public interest for the district in which located; provided that such uses be of a temporary nature and do not involve the erection of substantial buildings. Such use or structure shall be authorized by the issuance of a temporary and revocable permit for not more than a 24 month period subject to such conditions as will safeguard the public health, safety and welfare..

B. The BZA shall hold a public hearing on the special exception within 60 days of receipt of a completed application, after due notice as required by Section 1-600 of this ordinance. The procedures and standards contained in this section shall apply to all uses specifically permitted as special exceptions as specified in the district regulations.

C. No special exception permit shall be issued except upon a finding of the BZA that the proposed special exception conforms with the following general standards:

1. The proposal shall have a minimum adverse impact on the surrounding neighborhood or community. Adverse impact shall be evaluated with consideration to items such as, but not limited to, traffic congestion, noise, lights, dust, drainage, water quality, air quality, odor, fumes and vibrations. In considering impacts, due regard shall be given to the timing of the operation, site design, access, screening, or other matters which might be regulated to mitigate adverse impact.

2. The proposal complies with the purposes of this ordinance, as stated in Section 1-102, and all of the requirements of this ordinance including any standards set forth in Article IV Use and Design Standards; and,

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3. The proposal generally conforms to the comprehensive plan of the County;

D. In those instances where the BZA finds that the proposed use may be likely to have an adverse effect, the BZA shall determine whether such effect can be avoided by the imposition of any special requirements or conditions with respect to location, design, construction, equipment, maintenance or operation, in addition to those expressly stipulated in this Ordinance. Any such special requirements or conditions may require a guarantee or bond to ensure that the conditions imposed are met

E. Where, in the opinion of the BZA, the adverse effect cannot be avoided, the BZA shall deny the requested special exception.

F. A special exception shall expire after two years from the date of approval if no substantial construction has taken place in accordance with the plans for which such special exception was granted, unless the BZA grants a longer period of time for good cause shown.

Section 1-305 Variances

A. Applications for variances may be made by any property owner, tenant, government official, department, board or bureau of the County. All applications shall be submitted to the Administrator in accordance with rules adopted by the BZA. All applications and accompanying maps, plans or other information shall be transmitted promptly to the secretary of the BZA who shall place the application on the agenda to be acted upon by the BZA, within ninety (90) days of the filing of the application. The Administrator may, and at the direction of the Commission shall, transmit notice of the variance application to the Commission, which may send a recommendation to the BZA, or appear as a party at the hearing.

B. The Board of Zoning Appeals (BZA) shall have the power to grant variances in the yard lot area and other dimensional requirements in any district so as to relieve practical difficulties or particular hardships in cases, when a property owner can show that his property was acquired in good faith and where, by reason of exceptional narrowness, shallowness, size, or shape of a specific piece of property at the time of the effective date of this ordinance, or where by reason of exceptional topographic conditions of other extraordinary situation, or condition of such piece of property, or the use or development or property immediately adjacent thereto, the strict application of the terms of this Ordinance would effectively prohibit or unreasonably restrict the use of the property, or where the BZA is satisfied, upon the evidence heard by it, that the granting of such variance will alleviate a clearly demonstrable hardship as distinguished from a special privilege or convenience sought by the applicant, provided, that all variances shall be in harmony with the intended spirit and purpose of this Ordinance.

C. No variance shall be authorized by the BZA unless it finds:

1. That the strict application of the Ordinance would produce undue hardship.

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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 substantial detriment to adjacent property and that the character of the district will not be changed by the granting of the variance.

4. That the condition or situation of the property concerned is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the Ordinance.

D. The BZA shall hold a public hearing on the variance request within 90 days of receipt of a completed application, after due notice as required by Section 1-600 of this ordinance.

E. Variances for a use, principal or accessory, shall be prohibited.

F. In authorizing a variance the BZA 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 met.

G. Variance shall expire after two years from the date of approval if no substantial construction has taken place in accordance with the plans for which such variance was granted, unless the BZA grants a longer period of time for good cause shown.

Section 1-306 Amendment of Special Exception or variance

The procedure for amendment of a special exception or variance already approved, or a request for a change of conditions attached to an approval, shall be the same as for a new application except that where the Administrator determines the change to be minor relative to the original approval the administrator may transmit the same to the BZA with the original record without requiring that a new application be filed.

Section 1-307 Certiorari to Review Decision of BZA

A. Any person jointly or separately aggrieved by any decision of the BZA, or any taxpayer or any officer, department, board or bureau of the County, may present to the circuit court of the County a petition specifying the grounds on which aggrieved. This petition must be filed within 30 days of the BZA's decision.

B. Upon the presentation of such petition, the court shall allow a writ of certiorari to review the decision of the BZA and shall prescribe therein the time within which a return thereto must be made and served upon the relator's attorney, which shall not be less than ten days and may be extended by the court. The allowance of the writ shall not stay proceedings upon the decision appealed from, but the court may, on application, on notice to the BZA and on due cause shown, grant a restraining order.

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C. The BZA 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 portions thereof as may be called for by such writ. The return shall concisely set forth such other facts as may be pertinent and material to show the grounds appealed from and shall be verified.

D. If upon the hearing, it shall appear to the court that testimony is necessary for the proper disposition of the matter, it may take evidence or appoint a commissioner to take such evidence as 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 in part, or may modify the decision brought up for review.

E. Costs shall not be allowed against the BZA, unless it shall appear to the court that it acted in bad faith or with malice in making the decision appealed from. In the event the decision of the BZA 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 a return of the record pursuant to the writ of certiorari.

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SECTION 1-500 PLANNING COMMISSION & BOARD OF SUPERVISORS

Section 1-501 Conditional Use Permit

A. The procedures and standards contained in this section shall apply to all uses specifically permitted as conditional uses in the district regulations found elsewhere in this ordinance.

B. This category of uses known as conditional uses is established in recognition that in addition to uses permitted by right, certain uses may, depending upon their scale, design, location, and conditions imposed by the Board, be compatible with existing and future uses in a district.

C. The review and subsequent approval or disapproval of a conditional use permit by the Board shall be considered a legislative act, and shall be governed by the procedures thereof.

Section 1-502 General Standards

A. The Administrator shall not accept a Conditional Use Permit application for a lot or parcel that does not comply with the minimum requirements contained in the Use and Design Standards for that use. In such situations, the applicant shall first seek a variance from the Board of Zoning Appeals. If a variance is granted, the Administrator shall thereafter accept the Conditional Use Permit application for the consideration of the Commission and Board.

B. No conditional use permit shall be issued except upon a finding of the Board that in addition to conformity with any standards set forth in Article IV Use and Design Standards, the proposed conditional use conforms with the following general standards. These standards shall be met either by the proposal made in the original conditional use permit application, or by the proposal as modified or amended as part of the review of the application by the Commission and the Board:

1. The proposal as submitted or modified shall conform to the comprehensive plan of the County and to the purposes of the zoning ordinance.

2. The proposal as submitted or modified shall have a minimum adverse impact on the surrounding neighborhood or community. Adverse impact shall be evaluated with consideration to items such as, but not limited to, traffic congestion, noise, lights, dust, drainage, water quality, air quality, odor, fumes and vibrations. In considering impacts, due regard shall be given to the timing of the operation, site design, access, screening, or other matters which might be regulated to mitigate adverse impact.

Section 1-503 Application Requirements

A. An application for a conditional use permit may be initiated by:

1. Resolution of the Board, or;

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2. Motion of the Commission, or;

3. Petition of the owner, contract purchaser with the owner's written consent, or the owner's agent, of the property for which a conditional use permit is requested.

B. The applicant for a conditional use permit shall provide at the time of application, information and or data to demonstrate that the proposed use will be in harmony with the purposes of the specific zoning district in which it will be located. Further, the applicant shall have the responsibility to demonstrate that the proposed use will have minimum adverse impact on adjoining property and the surrounding neighborhood in terms of public health, safety, or general welfare.

C. All applications submitted for conditional use permits shall show the nature and extent of the proposed use and development. If the proposed development is to be constructed in phases, all phases shall be shown at the time of the original application.

Section 1-504 Review and Action

A. The Commission shall review and make recommendations to the Board concerning the approval or disapproval of any conditional use permit. No such recommendation shall be made until after a public hearing is held in accordance with Section 15.2-2204 of the Code of Virginia, as amended. Posting of the property shall be in accord with Section 1-600 of this ordinance. The Commission shall base its recommendation upon the review of the submitted application materials, the specific and general criteria for the conditional use, public comment received at the hearing, and any additional provided by the Administrator. In making a recommendation to the Board, the Commission may recommend any conditions necessary to insure that the proposal meets the specific and general standards for the proposed use. Any such conditions shall be related to the design, scale, use, or operation of the proposed conditional use. Where warranted, for the purpose of compliance with the general standards for conditional uses, such conditions may exceed the specific standards for the use found elsewhere in this ordinance.

B. The Board may grant or deny any applicant a conditional use permit after notice is given and a public hearing is held in accordance with Section 15.2-2204 of the Code of Virginia, as amended. No action on any conditional use permit shall be taken until the Board has received the recommendation of the Planning Commission. In granting a conditional use permit, the Board may attach any conditions necessary to insure that the proposal meets the specific and general standards for the proposed use. Any such conditions shall be related to the design, scale, use, or operation of the proposed conditional use. Where warranted, for the purpose of compliance with the general standards for conditional uses, such conditions may exceed the specific standards for the use found elsewhere in this ordinance.

Section 1-505 Time Limitations

A. Within ninety days from the date that the proposed conditional use permit application is referred to the Commission, unless a longer period shall have been established by mutual agreement between the Board and the Commission in a particular case, the Commission shall

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review the proposed application and report its findings and recommendation to the Board along with any appropriate explanatory materials. Failure of the Commission to report to the Board within ninety days shall be deemed a recommendation of approval. If the Commission does not report within ninety days, the Board may act on the application without the recommendation of the Commission.

B. The Board shall hold a public hearing and approve, approve with conditions imposed by the Board or deny any conditional use permit application within twelve months after receiving the Commission's recommendation. Failure to act on any permit within this twelve month period shall be deemed denial of the permit.

C. Any conditional use permit approved under this ordinance shall expire after two years from the date of approval if no substantial construction has taken place in accordance with the plans for which such variance was granted, unless the Board grants a longer period of time for good cause shown.

D. If any conditional use permit application is withdrawn at the request of the applicant subsequent to the Commission's recommendation on the permit, or if the Board denies any application submitted for its review, the County shall not consider any application for the same conditional use, on the same property, within one year of the permit withdrawal or the Board's action.

Section 1-506 Existing Conditional Uses

Any use listed as requiring approval of a conditional use legally existing at the effective date of the regulations of this Article shall be considered a nonconforming use unless it has been approved as a conditional use by the Board of Supervisors. Any use approved as a conditional use under previous ordinances shall remain in place and full force unless an alternative use is made of the property at which time the conditional use permit shall be void.

Section 1-510 Amendments to Ordinance

A. Whenever the public necessity, convenience, general welfare, or good zoning practice require, the Board may, by ordinance, amend, supplement, or change these regulations, district boundaries, or classifications of property. Any such amendments may be initiated by:

1. Resolution of the Board, or;

2. Motion of the Commission, or;

3. Petition of the owner, contract purchaser with the owner's written consent, or the owner's agent thereof, of the property which is the subject of the proposed zoning map amendment.

Any petition submitted shall be in writing and shall be addressed to the Administrator, Board or Commission.

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B. The Administrator shall establish and maintain the amendment application materials. These application materials shall, at a minimum, include any information the Administrator deems necessary for the Commission and Board to adequately evaluate the amendment request.

C. The Administrator shall not accept any amendment application for a lot or parcel that does not comply with the minimum lot area, width, or frontage requirements of the requested zoning district. In such situations, the applicant shall first seek a variance from the Board of Zoning Appeals. If a variance is granted, the Administrator shall thereafter accept the amendment application for the consideration of the Commission and Board.

D. Applications for a change in zoning shall not be allowed to be withdrawn from consideration after first notice of a public hearing thereon has been published.

E. If any amendment application is withdrawn at the request of the applicant subsequent to the Commission's recommendation on the application, or if the Board denies any amendment application submitted for its review, the County shall not consider substantially the same application for the same property within one year of the application's withdrawal or the Board's action. The Administrator shall have the authority to determine whether new applications submitted within this one-year period are substantially the same. In making any such determination the Administrator shall have the authority to consider any items pertaining to the proposed use or development of the site such as, but not limited to, the uses proposed, densities, access, building locations, and overall site design.

Section 1-511 Commission Study and Action

A. All proposed amendments to the zoning ordinance shall be referred by the Board to the Commission for study and recommendation. The Commission shall study proposals to determine:

1. The need and justification for the change.

2. When pertaining to a change in the district classification of property, the effect of the change, if any, on the property, surrounding property, and on public services and facilities. In addition, the Commission shall consider the appropriateness of the property for the proposed change as related to the purposes set forth at the beginning of each district classification.

3. The relationship of the proposed amendment to the purposes of the general planning program of the County, with appropriate consideration as to whether the change will further the purposes of this ordinance and the general welfare of the entire community.

4. Whether the proposed amendment conforms to the general guidelines and policies contained in the County comprehensive plan.

B. Prior to making any recommendation to the Board on a proposed amendment to the zoning ordinance, the Commission shall advertise and hold a public hearing in accord with the

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provisions of Section 15.2-2204 of the Code of Virginia, as amended. The cost of all public advertisements shall be the responsibility of the applicant.

C. The Commission shall review the proposed amendment and report its findings and recommendations to the Board along with any appropriate explanatory materials within ninety days from the date that the proposed zoning ordinance amendment is referred to the Commission, unless an extension of time is approved by the applicant in writing and approved by motion of the Board. Failure of the Commission to report to the Board within ninety days without an extension shall be deemed a recommendation of approval. If the Commission does not report within ninety days without an extension, the Board may act on the amendment without the recommendation of the Commission.

D. Any recommendation of the Commission shall be deemed advisory, and shall not be binding on the Board.

Section 1-512 Board Study and Action

A. Before enacting any proposed amendment to the zoning ordinance, the Board shall hold a public hearing as required by Section 15.2-2204 of the Code of Virginia, as amended. The cost of all public advertisements shall be the responsibility of the applicant. After holding this hearing, the Board may make appropriate changes to the proposed amendment; 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 notice as required by Section 15.2-2204.

B. The Clerk of the Board shall transmit to the Administrator official notice of any Board action modifying the zoning ordinance. The Administrator shall thereafter have the responsibility to make any necessary and appropriate changes to the zoning ordinance text or map.

C. Any zoning amendment approved by the Board of Supervisors shall be recorded in accordance with Section 1-515 A. Records of Conditions below.

Section 1-513 Conditional Zoning; Generally

A. In accordance with the authority granted to Surry County pursuant to 15.2-2298 of the Code of Virginia, as amended, the owner of property for which an amendment is requested may voluntarily proffer in writing reasonable conditions, in addition to the applicable regulations for the requested zoning district. All proffered conditions must be signed by the owner of the property.

B. Surry County's acceptance of proffers pursuant to this authority shall be in accord with the procedures and standards contained in 15.2-2298 of the Code of Virginia, as amended.

C. All conditions proffered by the owner shall meet the following standards:

1. The rezoning itself must give rise for the need for the conditions.

2. The conditions shall have a reasonable relation to the rezoning.

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3. The conditions shall be in conformity with the comprehensive plan.

4. The conditions must be clearly understood and enforceable.

5. The conditions must not require or allow a design or standard that is less restrictive than the general provisions of this ordinance.

D. Any such conditions should be submitted prior to the start of the Commission's public hearing on the amendment. All conditions shall be submitted prior to the start of the Board's public hearing, and shall also be submitted in accord with any adopted Board policy pertaining to the submittal of proffers. If proffered conditions which substantially modify the nature or impact of the proposed use, are made by the owner after the Commission's recommendation on the amendment, the Board may refer the request back to the Commission for further review and action. The Commission shall have the authority to schedule a new public hearing for any request so referred. The applicant shall be responsible for all advertising costs associated with the new public hearing.

E. The Commission and the Board shall not be obligated to accept any or all of the conditions made by the property owner.

Section 1-514 Enforcement of Conditions

A. The Administrator shall be vested with all necessary authority on behalf of the Board to administer and enforce conditions attached to a rezoning or amendment to a zoning map, including:

1. The ordering in writing of the remedy of any noncompliance with such conditions.

2. The bringing of legal action to insure compliance with such conditions.

3. Requiring a guarantee, satisfactory to the Administrator 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 Administrator upon the submission of satisfactory evidence that construction of such improvements has been completed in whole or in part.

B. Failure of a property owner to meet all conditions accepted by the Board shall constitute cause to deny approval of a site development plan, or deny issuance of a zoning permit, building permit, or certificate of zoning compliance, as may be appropriate.

Section 1-515 Records of Conditions

A. An official copy of the proffered conditions signed by the property owner(s) and as approved by the Board of Supervisors shall be recorded within 180 days of approval in the land records

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in office of the Clerk of Court in a form approved by the County Attorney. Failure to record the proffered conditions within this time period shall automatically nullify the zoning action of the Board of Supervisors and shall require reinitiating of the amendment process.

B. The zoning map shall show by an appropriate symbol on the map the existence of conditions attached to the zoning on the map. The Administrator shall keep and make available for public inspection a conditional zoning index. The index shall provide ready access to the proffered conditions in addition to the regulations provided for in a particular zoning district or zone.

Section 1-516 Review of Administrator's Decisions

Any zoning applicant, or any other person aggrieved by a decision of the Administrator made pursuant to the provisions of Section 1-513, may petition the Board for the review of the decision of the Administrator. All such petitions for review shall be filed with the Administrator within thirty days from the date of the decision for which review is sought. All such petitions shall specify the grounds upon which the petitioner is aggrieved.

Section 1-517 Amendments and Variations of Conditions

A. Any request by an applicant to amend conditions that were voluntarily proffered and accepted by the Board shall be considered an amendment to the zoning ordinance.

B. There shall be no amendment or variation of conditions created pursuant to the provisions of this ordinance until after a public hearing by the Commission and Board advertised pursuant to the provisions of Section 15.2-2204 of the Code of Virginia, as amended. The cost of all public advertisements shall be the responsibility of the applicant.

D. In determining the reasonableness and acceptability of voluntary proffers, the Board of Supervisors of Surry County, Virginia, will consider the most recent resolution and its supporting study pertaining to cash proffers, as a guide together with the most current capital improvements plan of Surry County, Virginia.

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SECTION 1-600 PUBLIC NOTICES AND PUBLIC HEARINGS

Section 1-601 Public Notification for Amendment Applications, Use Permits, Plan Amendments, and Variances

A. Publication of Notice

The Zoning Administrator, upon acceptance of any completed application, shall cause a notice of the public hearing to be published. Public newspaper notice of the time and place of such hearing, together with a summary describing the proposed application shall be published in at least one (1) newspaper of general circulation in Surry County once each week for two (2) successive weeks in accordance with Section 15.2-2204 (A) of the Code of Virginia (1950), as amended.

B. Written Notice to Adjoining and Surrounding Property Owners

1. Before an application may be heard at any public hearing, a complete and accurate list of the names and addresses of the owners of all the lands adjoining and within a radius of two hundred (200) feet of the property affected by such application shall be prepared by the Administrator. This list shall be based on the latest available ownership information available from the Commissioner of Revenue's Office.

2. The Zoning Administrator shall send, by mail, to each owner shown on said list, at least ten (10) days before the date set for a hearing upon such application, a notice addressed to such owners generally, identifying the property affected thereby, the nature of the proposed application, and the date, hour and place fixed by the for the public hearing.

C. Other Written Notices

1. When any proposed amendment of a zoning district boundary, special exception or conditional use permit application lies within one half mile feet of a County or municipal boundary, notice of the proposal, together with the date, time, and place of the public hearing thereon, if such hearing has been scheduled, shall be forwarded to the Planning commission, if such exists, or the governing body of the adjacent county or municipality in order to give such jurisdiction an opportunity to appear at the hearing or express its opinion on the effect of said boundary change.

2. In the case of a condominium or a cooperative, the written notice shall be mailed to the unit owners' association or proprietary lessees' association, respectively, in lieu of each individual unit owner.

3. All other written notice requirements contained in 15.2-2204 of the Code of Virginia shall be met, where applicable.

D. Posting of Signs

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1. In addition to notice of public hearings as required by the applicable statues of the Commonwealth of Virginia, the applicant for rezoning of property, conditional use or special exception permits and variances, shall erect on or immediately adjacent to such property a sign or signs as specified herein giving public notice of the zoning action required.

2. The sign must meet the following criteria:

   a. The wording, size and color of such sign shall be as specified by the Zoning Administrator and approved by the Board of Supervisors.

   b. One (1) sign shall be erected so as to be visible and legible to each abutting public street. Where the property has extensive road frontage, one (1) sign shall be erected for each five hundred (500) feet of frontage. When a property has no frontage directly on a public street, it shall be posted adjacent to the nearest public street from which future access is contemplated.

   c. Such signs shall be erected not less than seven (7) calendar days before any public hearing of which they give notice and removed by the applicant within two (2) days after the final public hearing before the action of the Board of Supervisors on said application

3. Such signs shall be required for each public hearing at which the application is considered. It shall be unlawful for any person to pull down, write on, cut or otherwise injure or deface such public notice, which will constitute violation of this ordinance.

   a. The applicant shall be responsible for the maintenance or replacement of signs obliterated or destroyed during the posting period.

   b. The Zoning Administrator may require the applicant to deposit with the County a cash bond equal to the replacement value of the sign(s).

4. The following exemptions shall apply to the provisions for posting of signs:

   1. The posting of property shall not be required for any action initiated by a resolution of the Board, if the action encompasses more than twenty-six parcels of land.

   2. Vandalism or unauthorized removal of the signs prior to the Commission hearing shall not violate the public notice intent of Section 30-14-3. The Administrator shall have the responsibility for determining whether or not the signs have been vandalized.

E. The additional requirements for public notice and posting on the property is for the benefit of the public to identify the location of the property in question only and to have advanced

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knowledge of a hearing and is not a legal requirement of notice and the failure to comply with the provisions herein shall not defeat the action of the Board of Supervisors concerning the application. The only legal notice requirements shall be those provided by the statutes of the Commonwealth of Virginia.

Section 1-602 Disclosure

A. The, Board of Supervisors, Planning Commission or Board of Zoning Appeals may require any applicant for a special exception, or a conditional use permit, amendment to the zoning ordinance or variance to make complete a disclosure of the equitable ownership of the real estate to be affected including, in the case of corporate ownership, the name of the stockholders, officers, and directors, and in any case the names and addresses of all the real parties of interest. However, the requirement of listing names of stockholders, officers and directors, shall not apply to a corporation whose stock is traded on a national or local stock exchange or having more than 500 shareholders.

B. The Board of Supervisors, Planning Commission or Board of Zoning Appeals may require petitions brought by property owners or their agents, (including contract purchasers) shall be sworn to before a Notary Public or other official before whom oaths may be taken stating whether or not any member of the local Planning Commission or governing body has any interest in such property, either individually, by ownership or stock in a corporation owning such land, partnership, as the beneficiary or a trust, or the settlor of a revocable trust, or whether a member of the immediate household of any member of the Planning Commission or governing body has any such interest.

Section 1-603 Conflict of Interest

A. No member of the Board of Supervisors, Planning Commission, Board of Zoning Appeals, or Board of Historic and Architectural Review shall participate in the deliberations or vote on any ordinance, resolution, motion, or other proceedings involving any matter in which he, a member of his immediate family, his partner or agent has a financial interest other than as an owner of not more than five percent of the stock of a corporation, or as a citizen of the County.

If such interests exist, it shall be the duty of such member to take no part in the deliberations with regard to such matters.

B. The provisions of this section do not apply to adoption of a comprehensive zoning plan or ordinance applicable throughout the County.

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SECTION 1-700 NONCONFORMING SITUATIONS

Section 1-701 Nonconforming Uses and Structures; Generally

A. Within the zoning districts established by this ordinance, or by future amendments which may later be adopted, there exist, or may exist lots, parcels, structures, uses of land and structures, and characteristics of site design and/or use, which were lawful before this ordinance was adopted or amended, but which would be prohibited under the terms of this ordinance, or future amendment. Such structures, uses, and characteristics, or any combination thereof, are considered nonconformities, and are hereby declared by the Board to be inconsistent with the character of the districts in which they occur.

B. Nonconformities are permitted to remain until removed, discontinued, or changed to conform to the provisions of this ordinance. It is the intent of this ordinance that the continuance of nonconformities should not be indefinite, and that the nonconforming uses, structures, or characteristics should gradually be removed.

C. Nothing shall be construed to grant conforming status to uses or structures that existed as legal nonconforming uses prior to the adoption of this section or amendment thereto, unless such uses and structures now conform to all applicable provisions of this ordinance.

Section 1-702 Establishment of Vested Rights

A. Nothing in this ordinance shall be deemed to require a change in the plans, construction or designated use of any building on which actual construction was lawfully begun prior to the effective date of this ordinance, or amendments thereto, and upon which actual building construction was carried out diligently. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner. Where excavation or demolition or removal of an existing building has begun in preparation for rebuilding, such activities shall be deemed actual construction provided the work has been carried out diligently.

Section 1-703 Nonconforming Uses of Buildings, Structures or Land

A. Where, at the effective date of this ordinance, or amendment thereto, lawful use exists of buildings, structures or land, individually or in combination, which use is no longer permissible under the terms of this ordinance as enacted or amended, such use may be continued provided:

1. The use is not discontinued for more than two years, or;

2. The use is not converted or replaced, in whole or in part, by a use permitted in the district regulations, or;

3. The buildings or structures containing the nonconforming use are maintained in their then structural condition.

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If buildings or structures containing a nonconforming use are enlarged, extended, reconstructed, or structurally altered, or if a nonconforming use of land is enlarged or expanded in area, the use of the building, structure or land shall legally conform to the regulations of the zoning district in which they are located.

B. No nonconforming use shall be enlarged, intensified or increased, nor intensified to occupy a larger structure or building than was occupied at the effective date of adoption or subsequent amendment of this ordinance.

C. No nonconforming use shall be moved in whole or in part to any portion of the lot or parcel unoccupied by such use at the time of the adoption or subsequent amendment of this ordinance.

D. No building or structure not conforming to the requirements of this ordinance shall be erected in connection with the nonconforming use of land.

E. Where nonconforming use status applies to a building or structure, removal of the building or structure, or damage from any cause to an extent of more than fifty percent of replacement cost at the time of the damage shall eliminate the nonconforming status of the building or structure or land.

F. Any legally established use which existed prior to the adoption of this ordinance, or any subsequent amendments, shall <u>not</u> be considered a nonconforming use where a special exception or conditional use permit is now required for establishment of such use. The use shall be allowed to continue operation, as well as reconstruct or structurally alter the building or structure without the necessity of obtaining a special exception or conditional use permit. However, approval of a conditional use permit shall be required, in accordance with Section 1-501, when either of the conditions below are present, in the opinion of the Zoning Administrator.

1. There is a 10 percent or greater <u>net increase</u> in the square footage of the use or structure proposed for expansion or enlargement; <u>OR,</u>

2. The expansion or enlargement will substantially alter the site design and layout as it relates to circulation, parking or other site characteristics so as to adversely effect surrounding properties.

G. Nothing in this section shall be construed to prevent the land owner or home owner from removing a valid nonconforming manufactured home from a mobile or manufactured home park and replacing that home with another comparable manufactured home that meets the current HUD manufactured housing code. In such mobile or manufactured home park, a single-section home may replace a single-section home and a multi-section home may replace a multi-section home. The owner of a valid nonconforming mobile or manufactured home not located in a mobile or manufactured home park may replace that home with a newer manufactured home, either single- or multi-section, that meets the current HUD manufactured housing code. Any such replacement home shall retain the valid nonconforming status of the prior home.

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Section 1-704 Nonconforming Buildings and Structures

A. Where a lawful building or structure exists at the time of passage or amendment of this ordinance, which could not be built under the terms of this ordinance by reason of restrictions on area, bulk, lot coverage, height, yards, or other characteristics of the building or structure, or its location on a lot, such building or structure may be continued so long as it remains otherwise lawful provided:

1. No building or structure shall be enlarged in any way which increases or extends its nonconformity.

2. Any building or structure which is damaged by any means to an extent of less than fifty percent of its replacement cost at the time of damage, may be reconstructed to eliminate or reduce the nonconforming features to the extent possible, without the need to obtain a variance as required in Section 1-305 of this ordinance.

3. Any building or structure which is damaged by any means to an extent of more than fifty percent of its replacement cost at the time of damage, shall be reconstructed only in conformity with the provisions of this ordinance as permitted by law, and in particular the requirements of the Flood Plain District and the requirements of the Uniform Statewide Building Code.

4. Any building or structure which is moved for any reason or for any distance, shall thereafter conform to the regulations for the district in which it is located after it is moved.

Section 1-705 Nonconforming Site Designs

A. If a zoning permit is requested for any type of modification to an existing structure or site, no legal non-conforming site design planned, approved and constructed prior to the adoption of this ordinance shall be required to comply in full with the provisions of this ordinance. Only those site improvements directly related to or affected by the modified use, structure or activity shall be required to comply in full with the provisions of this ordinance.

Section 1-706 Nonconforming Lots of Record

A. A lot of record that is nonconforming due to lack of adequate frontage, width, depth, or area may be developed, provided the development proposed on the lot is in accordance with the applicable use and design standards contained in the district regulations.

B. Any lot of record that is nonconforming because it has no public street frontage may be developed, or an existing structure on the lot may be expanded, provided the County reviews and grants a special exception permit for the proposed development, expansion, and use in accord with the standards and procedures contained in Section 1-304 of this ordinance. This provision shall not apply to the use and development of such parcels for any agricultural and forestry use type.

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Section 1-707 Nonconforming Signs

A. In a residence district where any sign does not comply with the provisions of this ordinance, such sign and any supporting structures may be maintained but shall not be replaced, reconstructed, moved, structurally altered, or relighted except in compliance with the provisions of this Ordinance and may continue in use unless subject to removal under other provisions of this Ordinance. Removal, replacement, reconstruction, moving or structural alteration for any cause whatsoever shall be considered as loss of nonconforming status.

B. Supporting structures for nonconforming signs may continue in use for a conforming sign if said support structures comply in all respects to the applicable requirements of these regulations and other codes and ordinances.

C. No permits for additional signs shall be issued for any premises on which there are any nonconforming signs.

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Section 1-800 TRANSITIONAL PROVISIONS

A. Approved or pending zoning permits, building permits or site plans

1. The requirements of this ordinance shall not apply to any structure or use established pursuant to a building permit issued prior to the effective date of this ordinance.

2. No building permit which was lawfully issued prior to the original effective date of this ordinance and which is in full force and effect at said date shall be invalidated by the passage of this ordinance, provided that all such permits shall expire not later than six (6) months from the effective date of this ordinance, unless actual construction has begun pursuant to the terms of said permit. See Section 1-203 E. for further explanation of permit expiration.

3. The requirements of this ordinance shall not apply to any structure or use proposed to be established pursuant to a site plan or building permit application pending as of the effective date of the ordinance, provided the following conditions are met:

   a. The requirements of the former Surry County Zoning Ordinance adopted and amendments thereof shall be met ;

   b. The building permit is issued within ninety (90) days after the effective date of this ordinance.

   c. For the purpose of this section, a pending site plan or building permit application that does not contain all of the required information for a site plan approval shall not meet the intent of this section.

B. Approved and pending preliminary subdivision plats

1. The requirements of this ordinance shall not apply to lots shown on a preliminary subdivision plat approved by the Board of Supervisors as of the effective date of this ordinance, provided the subdivider submits a final subdivision plat for all or a portion of the property within one (1) year of such approval and thereafter diligently pursues approval of the final subdivision plat.

2. The requirements of this ordinance shall not apply to lots shown on a preliminary subdivision plat pending approval as of the effective date of this ordinance, provided the following conditions are met :

   a. The requirements of the former Surry County Zoning Ordinance and amendments thereof shall be met .

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b. The preliminary subdivision plat is approved by the Board of Supervisors or the subdivision agent, as may be required, within ninety (90) days from the effective date of this ordinance. This time period may be extended by the Board of Supervisors upon written request.

c. A final subdivision plat is submitted for all or a portion of the property within one (1) year of such approval and thereafter the subdivider diligently pursues approval of the final subdivision plat.

C. Board of zoning appeals approvals

1. The requirements of this ordinance shall not apply to any variance granted by the Board of Zoning Appeals pursuant to the former ordinance as amended, provided any activity or development authorized by such approval shall commence within six (6) months of the effective date of this ordinance.

2. The requirements of this ordinance shall not apply to any case pending before the Board of Zoning Appeals or courts of this state, provided that any activity or development authorized by the approval of any case shall commence within six (6) months of the effective date of the board or court decision.

D. Zoning in effect prior to effective date of this ordinance

All zoning district classifications and maps, variances and conditional uses, special exception, and all applications for such approvals, including the particular zoning district applicable to a lot, parcel, or tract of land, established under the prior ordinance, as amended, and as applied by legislative or administrative action, shall, as of the effective date of this ordinance, be of no further effect or validity, except to the extent specific continuing rights are granted by the terms of this ordinance.

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ARTICLE II DEFINITIONS AND USES

SECTION 2-100 DEFINITIONS

Section 2-101 General Rules of Construction

A. The following general rules of construction shall apply to the regulations of this Ordinance:

1. The singular number includes the plural and the plural the singular, unless the context clearly indicates the contrary.

2. Words used in the present tense include the past and future tenses, and the future the present.

3. The word "shall" is always mandatory. The word "may" is permissive.

4. The word "building" or "structure" includes any part thereof, and the word "building" includes the word "structure".

5. Words and terms not defined herein shall be interpreted in accord with their normal dictionary meaning and customary usage.

6. The terms "main" and "principal" as used herein are synonymous.

7. Any words pertaining to gender shall be interchangeable. The word "he" shall mean "she", and "she" shall mean "he".

8. The word "person" includes a "firm, association, organization, partnership, trust, company," as well as an "individual."

9. The word "county" shall mean Surry County, Virginia

Section 2-202 Definitions

For the purpose of this ordinance, the following terms and words are hereby defined:

Accessory Building or Structure. A building or structure detached from a main building on the same lot (except as otherwise provided in this Ordinance) and customarily incidental and subordinate to the main building or use. Where an accessory building or structure is attached to the principal building in a substantial manner, as by a wall or roof, such accessory building shall be considered a part of the principal building.

Accessory Use. A use customarily incidental and subordinate to, and (except as otherwise provided in this Ordinance) on the same lot as a principal use. When the term "accessory" is used in this Ordinance, it shall have the same meaning as "Accessory Use".

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Act. Means the Chesapeake Bay Preservation Act found in Chapter 21 (§ 10.1-2100 et seq.) of Title 10 1 of the Code of Virginia. (CBPA)**

Administrator. The Zoning Administrator of Surry County, or their duly authorized designee. The Director of Planning shall serve as the Administrator unless an alternate position or individual is specifically appointed by the Board of Supervisors.

Alley. A public or private way less than 30 feet in width and affording secondary means of access to abutting property.

Alteration. (See Structural Alteration).

Animal Unit. A unit of measure used to determine the total number of single animal types or combination of animal types which are fed, confined, maintained or stabled in an animal feeding operation. An animal unit equals 1,000 pounds of live weight. Combination of animal types for this district shall not 300 units.

Base Flood(One-Hundred Year Flood). A flood that, on the average, is likely to occur once every 100 years (i.e., that has a one (1) percent chance of occurring each year, although the flood may occur in any year).

Base Flood Elevation (BFE). The Federal Emergency Management Agency designated 100 year water surface elevation.

Basement - Any area of the building having its floor subgrade (below ground level) on all sides. (NFIP)

Basement. That portion of a building that is partly or completely below grade. A basement shall be counted as a story if its ceiling is over six (6) feet above the average level of the finished ground surface adjoining the exterior walls

Best Management Practice (BMPs). Means a practice, or combination of practices, that is determined by a state or designated area-wide planning agency to be the most effective, practicable means of preventing the amount of pollution generated by nonpoint sources to a level compatible with water quality goals.

Block. That property fronting on one side of a street or road and lying between two intersecting streets or roads or otherwise limited by a railroad right-of-way, a live stream, or un-subdivided tract, or other physical barrier of such nature as to interrupt the continuity of development.

Board. The term Board shall refer to the Board of Supervisors of Surry County, Virginia, unless otherwise specifically indicated.

Board of Zoning Appeals (BZA). The term shall refer to the Surry County Board of Zoning Appeals.

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Buffer Area. Means an area of natural or established vegetation managed to protect other components of a Resource Protection Area and state waters from significant degradation due to land disturbances.

Buildable Area. The area of that part of the lot not included within the yards or "open spaces" herein required.

Buildable width. The width of that part of a lot not included within the open spaces herein required.

Building. A structure with a roof designed to be used as a place of occupancy, storage, or shelter.

Building, Completely Enclosed. Any building having no outside openings other than ordinary doors, windows, and ventilators.

Building Coverage. That percentage of a lot which when viewed from above, would be covered by a structure or any part thereof excluding roof eaves.

Building, Height of. The vertical distance from the average" established curb grade or from the average level of the finished grade at the front building line, if higher, to the highest point of the coping of a flat roof, or to the deck line or highest point of coping or parapet of a mansard roof, or to the mean height level between eaves and ridge for gable, hip, shed, and gambrel roofs. When the highest wall of a building with a shed roof is within 35 feet of a street, the height of such building shall be measured to the highest point of coping or parapet. (For exemptions, see Section 4-????.)

Building, Main. The principal building or buildings on a lot housing the principal use on the lot.

Caliper. A horticultural method of measuring the diameter of nursery stock. For trees less than four (4) inches in diameter, the measurement shall be taken at six (6) inches above ground level. For trees greater than four (4) inches in diameter up to and including twelve (12) inches, the caliper measurement must be taken at twelve (12) inches above the ground level. For trees greater than twelve (12) inches in diameter, the trunk is measured at breast height (diameter at breast height or DBH), which is 4.5 feet above the ground.

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

Cellar. A story entirely underground or partly underground, with at least one half of its height below grade.

Chesapeake Bay Preservation Area (CBPA). Means any land designated by Surry County pursuant to Part III (9 VAC 1020-70) et seq.) the Chesapeake Bay Area Designation and Management Regulations and § 10.1-2107 of the Act. A Chesapeake Bay Preservation Area shall consist of a Resource Protection Area and a Resource Management Area.

Commission. The Planning Commission of Surry County, Virginia.

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Conditional Use. A conditional use is a use that, because of special requirements or characteristics, may be allowed in a particular zoning district only after review and recommendation by the Planning Commission and the granting of conditional use approval by the Board of Supervisors imposing such conditions as necessary to make the use compatible with other uses permitted in the same zone or vicinity.

Construction Footprint. The area of all impervious surface, including but not limited to, buildings, roads and drives, parking areas, and sidewalks and the area necessary for construction of such improvements. (Amended, December 19, 1991) (CBPA)

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

Deck. A structure, without a roof or walls, directly adjacent to a principal building, which has an average elevation of 30 inches or greater from finished grade.

Density. The number of dwelling units that may be constructed per acre based upon the lot area.

Development. Any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, the placement of manufactured homes, streets, and other paving, utilities, filling, grading, excavation, mining, dredging, drilling operations, or storage of equipment or materials.

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

Diameter at Breast Height (DBH). See caliper.

District. Any section of Surry County in which the zoning regulations are uniform and so designated on the Zoning District Map.

Dripline. A vertical projection to the ground surface from the furthest lateral extent of a tree's leaf canopy. (Amended, December 19, 1991) (CBPA)

Dwelling. A building or portion thereof, designed or used exclusively for residential occupancy, but not including boats, recreational vehicles, manufactured homes, hotels, motels, motor lodges, tourist courts, or tourist homes.

Dwelling Unit. A room or group of rooms occupied or intended to be occupied as separate living quarters by a single family or other group of persons living together as a household or by a person living alone and having its own permanently installed cooking and sanitary facilities.

Family. One or more persons related by blood, marriage, or adoption, or under approved foster care, or a group of not more than five persons (including servants) living together as a single dwelling unit.

Flood. A general and temporary inundation of normally dry land areas.

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Floodplain. (a) a relatively flat or low land area adjoining a river, stream or watercourse which is subject to partial or complete inundation; (b) an area subject to the unusual and rapid accumulation of runoff of surface water from any source. [Floodplain means all lands that would be inundated by flood water as a result of a storm event of a 100-year return interval.

Flood-Prone Area. Any land area susceptible to being inundated by water from any source.

Floodway. 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.

Frontage. The linear measurement in feet of the front property line abutting a street.

Garage, Private. A building, accessory or attached, used for storage purposes only and having a capacity of not more than four (4) automobiles and a floor area of not more than 900 square feet or not more than two (2) automobiles per family housed in the building to which the garage is accessory, whichever is the greater.

Grade. Grade or grade elevation shall be determined by averaging the elevations of the finished ground adjacent to all the corners of the building.

Ground Floor Area. The area of lowest floor or floors, whether or not on the same level, comprised primarily of livable floor area.

Hazardous Material. Any item or agent (biological, chemical, physical) which has the potential to cause harm to humans, animals, or the environment, either by itself or through interaction with other factors as further defined by the U.S. Occupational Safety and Health Administration (OSHA).

Highly erodible soils. Means soils (excluding vegetation) with an erodibility index (EI) from sheet and rill erosion equal to or greater than eight. The erodibility index for any soil is defined as the product of the formula RKLS/T, where K is the soil susceptibility to water erosion in the surface layer; R is the rainfall and runoff; LS is the combined effects of slope length and steepness; and T is the soil loss tolerance.

Highly permeable soils. Soils with a given potential to transmit water through the soil profile. Highly permeable soils are identified as any soil having a permeability equal to or greater than six inches of water movement per hour in any part of the soil profile to a depth of 72 inches (permeability groups "rapid" and "very rapid") as found in the "National Soils Handbook" of July, 1983 in the "Field Office Technical Guide" of the U.S. Department of Agriculture Soil Conservation Service."

Historic structure. Any structure that is:

(a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminary determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

(b) Certified or preliminary determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminary determined by

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the Secretary to qualify as a registered historic district;
(c) 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
(d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified by the Secretary of Interior, and/or as listed in the County's Comprehensive Plan.

Hydric Soil. Soil that are saturated, flooded or ponded long enough during the growing season to develop anaerobic conditions in the upper part, which are saturated for usually one week or more during the growing period and have the capacity to support hydrophytic vegetation.

Impervious cover. A surface composed of any material that significantly impedes or prevents natural infiltration of water into the soil. Impervious surfaces include, but are not limited to: roofs, buildings, streets, parking areas, and any concrete, asphalt, or compacted gravel surface.

Inoperative Motor Vehicles. A motor vehicle or major part thereof not displaying a current license which, from examination, appears not to be in use and not, because of age or condition, likely to be again made operative.

Infill. Means utilization of vacant land in previously developed areas.

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

Land disturbance/land disturbing activity. [Insert definition] as defined in Section 4.10 of the Erosion and Sediment Control Ordinance for Surry County.

Loading Space. The area on a lot designated for bulk pickup and deliveries of merchandise and materials directly related to the main use on the lot.

Lot. A parcel of land intended to be separately owned, developed, or otherwise used as a unit, established by plat, subdivisions or as otherwise permitted by law. The word "lot" shall include the words "piece," "tract", "parcel" and "plot."

Lot, Corner. A lot abutting on two (2) or more streets at their intersection.

Lot, Depth of. The average horizontal distance between the front and rear lot lines.

Lot, Double Frontage. A lot, other than a corner lot, which has a frontage on two streets.

Lot, Flag. A lot not fronting on or abutting a public roadway or having limited frontage necessary for access and where access to the public roadway is essentially limited to a narrow private right-of-way.

Lot, Interior. Any lot other than a corner lot.

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Lot Line, Front. The line separating the lot from a street on which it fronts. On a corner lot, the front shall be deemed to I be along the shorter dimension of the lot; and where the dimensions are equal, the front shall be on that street on which a majority of the other lots in the block front.

Lot Line, Rear. The lot line opposite and most distant from the front lot line.

Lot Line, Side. Any lot line other than a front or rear lot line.

Lot of Record. A lot which has been legally recorded in the Clerk's Office of the Circuit Court of Surry County.

Lot, Through. A lot having its front and rear yards each abutting on a street.

Lot width. The horizontal distance between the side lot lines measured at the front building setback line.

Lowest Floor -The lowest floor of the lowest enclosed area (including basement).

Manufactured Homes. A structure, transportable in one or more sections, which in the traveling mode is 8 body feet or more in width or 40 body feet or more in length, or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation. A manufactured home shall contain one dwelling unit. Some manufactured homes are also referred to as mobile homes and does not include a "recreational vehicle."

Modular Home. A dwelling unit constructed on-site in accordance with the Virginia One and Two Family Dwelling Code and composed of components substantially assembled in a manufacturing plant and transported to the building site for final assembly on a permanent foundation.

Motor Vehicles. Automobile, trucks, tractors, trailers and semitrailers and motorized cycles required to be licensed by the Division of Motor Vehicles for operation on the highways of Virginia and/or any major parts thereof.

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

Nonconforming Use. A use or activity which was lawful when originally established, but which fails to conform to the current standards and regulations due to the adoption, revision or amendment of this ordinance.

Nonconforming Lot. An otherwise legally platted lot that does not conform to the minimum area or width requirements of this Ordinance for the district in which it is located due to the adoption, revision or amendment of this ordinance.

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Nonconforming Structure. Any building the size, dimensions or location of which was lawful when erected or altered, but which fails to conform to the current standards and regulations due to the adoption, revision or amendment of this ordinance.

Nonpoint Source Pollution. Pollution consisting of constituents such as sediment, nutrients, and organic and toxic substances from diffuse sources, such as runoff from agriculture and urban land development and use.

Non Tidal Wetlands. Means those wetlands other than tidal wetlands that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, as defined by the U.S Environmental Protection Agency pursuant to § 404 of the federal Clean Water Act, in 33 CFR 328.3b.

Noxious Weeds. Weeds that are difficult to control effectively, such as Johnson Grass, Kudzu, and multiflora rose.

Open Space. Any parcel or area of land or water essentially unimproved and set aside, dedicated or reserved for public or private use or enjoyment, or for the use and enjoyment of owners and occupants of land adjoining or neighboring such open space.

Parking Lot, Public. An area containing one or more parking spaces for self-propelled passenger vehicles, designed for and available to the public as an accommodation for patrons, customers or employees, either with or without charge.

Parking Space Off-Street. Space provided for vehicular parking outside the dedicated street right-of-way.

Patio - A level surfaced area directly adjacent to a principal building which has an average elevation of not more than 30 inches from finished grade, and without walls or a roof. A patio may be constructed of any materials.

Plan of Development. Means any process for site plan review in local zoning and land development regulations designed to ensure compliance with § 10.1-2109 of the Act and this chapter, prior to issuance of a building permit.

Premises. A lot, together with all buildings and structures thereon.

Primary Highway. A highway designated as a Virginia Primary Highway or U.S. Highway by the Virginia Department of Transportation.

Public road. Means a publicly owned road designed and constructed in accordance with water quality, protection criteria at least as stringent as requirements applicable to the Virginia Department of Transportation, including regulations promulgated pursuant to (i) the Erosion and Sediment Control Law (§10.1-560 et seq. of the Code of Virginia) and (ii) the Virginia Stormwater Management Act (§10 .1603.1 et seq. of the Code of Virginia). This definition includes those roads

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where, the Virginia Department of Transportation exercises direct supervision over the design or construction activities, or both, and cases where secondary roads are constructed or maintained, or both, by Surry County in accordance with the standards of Surry County.

Public Water and Sewer Systems. A water or sewer system owned" and operated by a municipality or county, or owned and operated by a corporation approved by the governing body and properly chartered and certified by the State Corporation Commission, and subject to special regulations as herein set forth.

Recreational Vehicles. A vehicle which can be towed, hauled or driven, designed and used as temporary living accommodations for recreational, camping or travel uses only. Recreational vehicles shall include travel trailers, pick-up campers, motor homes, tent trailers or similar devices used for temporary mobile housing and shall also include boats.

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

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

Resource Management Area (RMA). Means that component of the Chesapeake Bay Preservation Area that is not classified as the Resource Protection Area.

Resource Protection Area. Means that component of the Chesapeake Bay Preservation Area comprised of lands adjacent to water bodies with perennial flow that have an intrinsic water quality value due to the ecological and biological processes they perform or are sensitive to impacts which may result in significant "degradation to the quality of state waters.

Resource Protection Area (RPA) Buffer. A 100-foot wide area of existing or established vegetation within the RPA that protects other components of the RPA and state waters from significant degradation associated with land disturbances.

Resource Protection Management Area Delineator (RPA RMA Delineator). A person trained in wetland ecology, botany, agronomy, hydrology and/or related fields with experience delineating tidal and non tidal wetlands.

Secondary Highway. A highway designated as a Virginia Secondary Highway by the Virginia Department of Transportation.

Setback - The minimum distance by which any building or structure must be separated from a street right-of-way or lot line.

Shipping Container - Primarily a metal container used to pack, ship and store goods. On land they are kept in shipping or storage yards.

Sign. Any identification, description, illustration, color, or device which is affixed to or represented directly or indirectly upon a building, structure, or land and which directs attention to a product, place, activity, person, institution, or business.

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Sign Area. 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 be 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 which more than one face, each side shall be included in a computation of sign area. The area of a cylindrical sign shall be computed by multiplying one-half, of the circumference by the height of the sign. [The standards above generally exceed a "definition" and should be moved to another section of the ordinance.]

Sign, Accessory. 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. [On-premises sign?]

Sign, Detached or Ground Sign. A sign not attached to or painted on a building, but which is affixed to the ground. A sign attached to a flat surface such as a fence or wall not a part of a building, shall be considered a detached sign.

Sign, Double-Faced. A sign with two parallel, or nearly parallel, faces, back to back, and located not more than 24 inches from each other. [If it is more than 24 inches apart, what is it?]

Sign, Flashing. An illuminated sign on which the artificial or reflected light is not maintained stationary and constant in intensity and color at all times when in use. Any sign which revolves or moves, whether illuminated or not, shall be considered a flashing sign. A clock or thermometer or similar instrument with moving hands or a sign which has letters or numbers which change at intervals of not less than one minute shall not be considered a flashing sign.

Sign, Flat or Wall Sign. Any sign attached to, and erected parallel to the face of, or erected or painted on the outside wall of, a building and supported throughout its length by such wall or building and not extending more than 18 inches from the building wall.

Sign, General Advertising. Any sign which is not an accessory sign or which is not specifically limited to a special purpose by these regulations. [Off-premises sign?]

Sign, Height. 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, Illuminated. Any designed to give forth artificial light or designed to reflect light from one or more sources of artificial light erected for the purpose of providing light for the sign.

Sign, Indirectly Illuminated. A sign which does not produce artificial light from within but which is opaque and backlighted or illuminated by spotlights or floodlights not a part of or attached to the sign itself, or a sign of translucent nontransparent material illuminated from within but with no exposed or exterior bulbs, tubes, or other light source.

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Sign, Marquee. Any sign attached to or hung from a marquee. For the purpose of this Article, a marquee is a covered structure projecting from and supported by the building with independent roof and drainage provisions and which is erected over a doorway or doorways as protection against the weather.

Sign, Projecting. A sign which is attached to and projects more than 18 inches from the face of a wall of a building. The term projecting sign includes a marquee sign.

Silvicultural activities. Means forest management activities, including but not limited to the harvesting of timber, the construction of roads and trails for forest management purposes, and the preparation of property for reforestation that are conducted in accordance with the silvicultural best management practices, developed and enforced by the State Forester pursuant to § 10.1-1105 of the Code of Virginia and are located on property defined as real estate devoted to forest use under § 58.1-3230 of the Code of Virginia.

Site Plan. A drawing illustrating a proposed development and prepared in accordance with the specifications of Article 8.

Special Exception. A special exception is a use that, because of special requirements or characteristics, may be allowed in a particular zoning district, as allowed by this ordinance, only after review and approval by the Board of Zoning Appeals, imposing such conditions allowed by this ordinance as necessary to make the use compatible with other uses permitted in the same zone or vicinity.

Specified Anatomical Area. Such areas include less than completely and opaque covered human genitals, pubic region, buttocks, female breasts below a point immediately above the top of the areola, and human male genitals in a discernibly turgid state, even if completely and opaquely covered.

Specified Sexual Activity. Such activity includes human genitals in a state of sexual stimulation or arousal, an act of human masturbation, sexual intercourse or sodomy, and fondling or other erotic touching of human genitals, pubic region, buttocks or female breasts.

Start of Construction. The date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab of footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation.

Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for ·a basement; footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration on any wall, ceiling, floor, or other structural part of a building, whether or not the alteration affects the external dimensions of the buildings.

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

Story, Half. A partial story under a gable, hip or gambrel roof, the wall plates of which on at least two opposite exterior sides are not more than two feet above the floor of such story, provided, however, that any such story used as a separate dwelling unit, by other than a janitor or other employee and his family, shall be counted as a full story.

Street (Road). A public or private thoroughfare which affords the principal means of access to abutting properties.

Street, Centerline. The center line of a street shall mean the center line thereof as shown in any of the official records of the County or as established by the Virginia Department of Transportation. If no such center line has been established, the center line of a street shall be a line lying midway between the side lines of the right-of-way thereof.

Street Line.(Right-of-way) The line between a lot, tract or parcel of land and a contiguous street.

Structural Alteration. Any change in the supporting members of a building or structure, including bearing walls, partitions, columns, beams, girders or similar parts of a building of structure, and any substantial change in the roof of a building.

Structure. Anything constructed or erected, the use of which requires permanent location on the ground, or attachment to something having a permanent location on the ground, including, but without limiting the generality of the foregoing, buildings, manufactured homes, signs, swimming pools, backstops for tennis courts, gazebos, and pergolas.

Substantial alteration. Means expansion or modification of a building or development that would result in a disturbance of land exceeding an area of 2,500 square feet in the Resource Management Area only.

Substantial Damage. Damage of any original 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. Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equal or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures, which incurred substantial damage regardless of the actual repair work performed. The term does not, however include either: (1) any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions or (2) any alteration of a "historic structure", provided that the alteration will not preclude the structures continued designation as a "historic structure."

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

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

Tributary stream. Any perennial stream that is so depicted on the most recent U.S. Geological survey 7-1/2 minute topographic quadrangle map (scale 1:24,000).

Use. Means an activity on the land other than development including, but not limited to, agriculture, horticulture and silviculture.

Variance. A waiver of the dimensional and numeric requirements of this Ordinance which may be granted in a specific case by the Board of Zoning Appeals under the terms of this Ordinance and applicable state law.

Visible. Capable of being seen without visual aid by a person or normal visual acuity. 6-19-69. Code section 1.

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

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

Yard, Front. A yard lying between the front lot line and the nearest part of the building or use not hereinafter excepted, and extending across the full width of the lot. The front yard depth shall mean the distance, measured horizontally, between any part of the building or use and the front lot line.

Yard, Rear. A yard lying between the rear lot lines and the nearest part of the building not hereinafter excepted, and extending across the full width of the lot. The rear yard depth shall mean the distance, measured horizontally, between any part of the building and the rear lot line.

Yard, Side. A yard lying between a side lot line and the nearest part of the building or use not hereinafter excepted, and extending from the front yard to the rear yard, or if there be no front or rear yard, to the front or rear lot lines side yard width shall mean the shortest distance, measured horizontally, between any part of the building or use and the nearest side lot line.

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SECTION 2-200 USE TYPES

Section 2-201 Use Types; Generally

A. The purpose of the Use Types is to establish a classification system for land uses and a consistent set of terms defining uses permitted within various zoning districts. The Use Types section also facilitates the process of determining the applicable use type of any activity not clearly within any defined use type.

B. Where more than one use or a combination of uses is proposed on a single site, then the use shall comply with all of the district, use, and site design requirements for that use.

C. In the event of any question as to the appropriate use type of any existing or proposed use or activity, the Administrator shall have the authority to determine the appropriate use type. In making such determination, the Administrator shall consider the operational and physical characteristics of the use in question and shall consider the classification contained in the most recent edition of the North American Industry Classification System (NAICS) published by the National Technical Information Service. In addition, the Administrator shall consider the specific requirements of the use in common with those included as examples of use types. Those examples, when included in use type descriptions, are intended to be illustrative, as opposed to exclusive lists. The Administrator may also determine that a proposed use or activity is sufficiently different from any use type listed below and will require an amendment to the text of this ordinance.

D. The Administrator shall make such determinations of appropriate use types in writing, which shall include an explanation of the reasons for the determination.

E. A determination of the Administrator may be appealed to the Board of Zoning Appeals pursuant to the procedures for administrative appeals outlined in Section 1-303.

Section 2-202 Use Type Descriptions

AGRICULTURAL USES

Agriculture - The use of land for the production of food and fiber, including general farming, truck gardens, horticultural, cultivation of field crops, orchards, groves, farm wineries and viticulture, nurseries for growing or propagation of plants, turf, trees, and shrubs, as well as keeping or raising for sale of large or small animals, fish, or poultry and in general all uses commonly classed as agricultural. Included with this use are a wide range of accessory activities including, the operation of heavy cultivating machinery, spray planes, irrigating machinery, wheelwright or blacksmith, storage of fertilizer, the storage of petroleum, the repair of personal farming equipment, and including structures for processing and sale of products raised on the premises. Excluded from this use is the commercial slaughtering and processing of large animals such as horses, cows, pigs, sheep, or goats, and any and all residential uses associated with the property.

Confined Animal Feeding Operation (CAFO) - Any enclosure, pen, feedlot, building or group of buildings used to feed, confine, maintain or stable the following animal types or combination of

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animal types and numbers to produce 300 animal units, together with any associated treatment, where both of the following conditions are met:

1. Animals have been, are, or will be stabled of confined and fed or maintained for a total of 45 days or more in any 12 month period, and

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

Three hundred (300) animal units is equivalent to the following singly or in combination:

(a) 300 slaughter and feeder cattle.
(b) 200 mature dairy cattle (whether milked or dry cows).
(c) 750 swine.
(d) 150 horses.
(e) 2,000 sheep or lambs.
(f) 16,500 turkeys.
(g) 30,000 laying hens or broilers.

This use shall include any operation determined to be a concentrated confined animal feeding operation by the Virginia Department of Environmental Quality.

Farm Employee Housing - A Manufactured Home, Class B, as defined under Residential Use Types, located on a farm for the purpose of housing an employee of that farm operation and his/her family. Also included in this use type would be multi-family dwelling(s) for seasonal employees in connection with an agricultural use, which relies on seasonal employees who must be housed.

Silvicultural activities - Forest management activities, including but not limited to the harvesting of timber, the construction of roads and trails for forest management purposes, and the preparation of property for reforestation.

Greenhouse, Commercial - See Garden Center listed under Commercial Use Types.

Greenhouse, Private - The growing and storage of garden plants, shrubs, trees, flowers, vegetables, and other horticultural and floricultural products within a building whose roof and sides are made of glass or other transparent or translucent material. Items grown are used and/or consumed by the occupants of the premises.

Roadside Stand - A use established or structure erected on the occupant's property used for the seasonal sale of agricultural or horticultural produce, livestock or merchandise produced on the farm by the owner or his family. This use type shall include agricultural products picked by the consumer.

Sawmill - A facility used on a temporary or permanent basis where logs or partially processed cants are sawn, split, shaves, stripped, chipped or otherwise processed to produce wood products.

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Stable, Commercial - The boarding, breeding or raising of horses or ponies not owned by the owner or occupant of the property or riding of horses by other than the owner or occupant of the property and their non-paying guests. Included in this definition are riding academies. A stable/tack shop is also included in this use type as an accessory use.

Stable, Private - The keeping, breeding or raising of horses or ponies exclusively for the personal use and enjoyment of the owner or occupant of the property or the riding of horses or ponies by the owner or occupant of the property and their guests.

RESIDENTIAL USES

Accessory Apartment - An accessory dwelling unit on the same lot as a single-family detached dwelling or a commercial use that is clearly incidental and subordinate to the main use or a separate, complete housekeeping unit that is substantially contained within the structure of, and clearly secondary to, a single-family dwelling.

Apartment - See Multifamily Dwelling

Boarding House - A single-family dwelling unit, or part thereof, with three (3) or more rooms that are rented individually or collectively by long-term residents (at least month-to-month tenants) as opposed to overnight or weekly guests. A boarding house may make provisions for serving meals.

Condominium - A building or group of buildings containing three or more residential units in which the units are owned individually and the structure, common areas and facilities are owned by all of the owners on a proportional, undivided basis and which has been created by the recordation of condominium instruments pursuant to the provision of Chapter 4.2 of Title 55 of the Code of Virginia.

Dwelling, Multifamily Conversion - A multi-family dwelling containing not more than four (4) dwelling units and results from the conversion of a single building containing at least two thousand (2,000) square feet of floor area that was in existence on the effective date of this ordinance and that was originally designed, constructed and occupied as a single-family residence.

Dwelling, Single Family, Attached - Two single-family dwellings sharing a common wall area, each on its own individual lot.

Dwelling, Single Family, Detached - A one-family dwelling unit, other than a single- family farm dwelling, which is surrounded on all sides by yards or other open space located on the same lot and which is not attached to any other dwelling by any means. This use includes cabins, cottages and vacation homes.

Dwelling, Single Family, Farm - A one-family dwelling unit which is surrounded on all sides by yards or other open space located on the same lot and which is not attached to any other dwelling by any means, and is located on a lot or parcel containing at least ten (10) acres.

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Dwelling, Two-Family - A structure arranged or designed to be occupied by two (2) families, the structure having only two (2) dwelling units on the same lot. This use also includes duplexes.

Family Day Care Home - A child day care program offered in the residence of the provider or in the residence of any of the children being cared for and serving six (6) through twelve (12) children under the age of thirteen (13), exclusive of the provider's own children and any children who reside in the home, when at least one (1) child receives care for compensation. Caring for five (5) or less children shall be considered babysitting as a home occupation.

Group Home - A residential facility, as defined in Section 15.2-2291 of the Code of Virginia, in which no more than eight mentally ill, mentally retarded, or developmentally disabled persons reside, with one or more resident counselors or other staff persons, and licensed by the Virginia Department of Mental Health, as residential occupancy by a single family. Mental illness and developmental disability shall not include current illegal use or addiction to a controlled substance as defined in 54.1-3401 of the Code of Virginia. Any use not meeting the definition of "group home" as herein stated, shall require a Special Use Permit pursuant to Section 1-1018 of this ordinance.

Guest House - Dwelling or lodging units for a temporary nonpaying guest or guests in a separate accessory building.

Home Occupation, Community - An accessory use of a residence for gainful employment involving the provision of goods and/or services in accordance with Section _____, and which affords the greatest degree of protection to surrounding residents in those areas which are developing and becoming more suburban in nature.

Home Occupation, Rural - An accessory use to a residence for gainful employment involving the provision of goods and/or services in accordance with Section _____, and which are associated with the more traditional agricultural and forestry related activities found in the rural areas.

Kennel, Private - The keeping, breeding, raising, showing or training of five (5) or more dogs over the age of six (6) months for personal enjoyment of the occupants of the property, and for which commercial gain is not the primary objective.

Manufactured Home, Class A - A manufactured home, commonly referred to as a "doublewide," constructed after July 1, 1976, that meets or exceeds the construction standards promulgated by the U.S. Department of Housing and Urban Development that were in effect as the time of construction.

Manufactured Home, Class B - A manufactured home, commonly referred to as a "single-wide," constructed after July 1, 1976, that meets or exceeds the construction standards promulgated by the U.S. Department of Housing and Urban Development that were in effect at the time of construction.

Manufactured Home, Class C - Any manufactured home, usually consisting of a "single-wide" but also includes "double-wide", constructed before July 1, 1976.

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Manufactured Home, Family Member Residence - A Manufactured Home, Class B located on a lot or parcel with an existing single-family dwelling. The inhabitant of the manufactured home is a family member of the owner of the existing single-family dwelling.

Manufactured Home Park - A residential use in which more than one (1) manufactured home is located on a single lot or tract of land.

Manufactured Home Subdivision - A subdivision especially designed and improved to accommodate manufactured homes and in which lots are sold for occupancy by manufactured homes.
[Example already in community is on Day's Point Rd., Mr. Davis' property.]

Manufactured Home, Temporary Residence - A Manufactured Home, Class B used temporarily during the construction, repair, or renovation of a permanent residential structure on a single lot or parcel.

Multifamily Dwelling - A building or portion thereof, which contains three or more dwelling units for permanent occupancy, regardless of the method of ownership. Included in the use type would be garden apartments, low and high-rise apartments, and apartments for elderly housing.

Temporary Emergency Housing - A Manufactured Home, Class B or Recreational Vehicle used temporarily for a period of reconstruction or replacement of an uninhabitable dwelling lost or destroyed by fire, acts of nature or used temporarily as housing relief to victims of declared disaster.

Townhouse - A grouping of two or more attached single family dwellings in a row in which each unit has its own front and rear access to the outside, no unit is located over another unit, and each unit is separated from any other unit by one or more common fire-resistant walls.

CIVIC USE TYPES

Camp - A use that primarily provides recreational opportunities of an outdoor nature on a daily or overnight basis. Included in this use type would be scout camps, religious camps, children's camps, wilderness camps, and similar uses which are not otherwise specifically described in this ordinance.

Cemetery - A place used for interment of human or animal remains or cremated remains, including a burial park for earth interments, a mausoleum for vault or crypt interments, a columbarium for cinerary interments, or a combination thereof.

Child Care Institution - Any institution maintained for the purpose of receiving children for full-time care, maintenance, protection and guidance separated from their parents or guardians. This shall not include primary or secondary educational facilities or summer camps.

Club - A use providing meeting, or social facilities for social clubs, fraternal/sororal organizations, lodge, and similar organizations and associations, primarily for use by members and guests.

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Recreational facilities, unless otherwise specifically cited in this section, may be provided for members and guests as an accessory use. This definition excludes hunt clubs and dance halls, which are defined separately.

Community Center - A place, structure, or other facility used for providing civic and/or recreational programs generally open to the public and designed to accommodate and serve significant segments of the community. This use can also be referred to as a convention or civic center.

Community Recreation - A recreational facility for use solely by the residents and guests of a particular residential development, planned unit development, or residential neighborhood, including indoor and outdoor facilities. These facilities are proposed or planned in association with development and are usually located within or adjacent to such development. Such uses may include clubhouses, swimming pools, work out facilities, and tennis courts.

Correctional Facility - A public or privately operated use providing housing and care for individuals legally confined, designed to isolate those individuals from the community.

Crisis Center - A facility providing temporary protective sanctuary for victims of crime or abuse, and homelessness including emergency housing during crisis intervention for individuals, such as victims of rape, child abuse, or physical beatings.

Cultural Service - A library, museum, or similar public or quasi-public use displaying, preserving and exhibiting objects of community and cultural interest in one or more of the arts or sciences. Such uses shall include, but are not limited to libraries, museums, art galleries, and art centers.

Day Care Center - A facility that provides care to: (i) two (2) or more children under the age of thirteen (13) in a facility that is not the residence of the provider or of any of the children in care; and/or (ii) two or more adults during part of the day only and which includes personal supervision of the adults and promotes social, physical, and emotional well-being through companionship, self-education and leisure time activities.

Educational Facility - An educational institution, whether it is public, private or parochial, recognized or authorized by the Commonwealth of Virginia (or a similar reputable accreditation institution) to offer instruction in the branches of learning and study typical of primary, secondary, or collegiate institutions and authorized to award diplomas, or associate, baccalaureate or higher degrees. This shall include publicly supported vocational schools, but shall not include Business and Trade Schools described as a commercial use type.

Halfway House - An establishment providing accommodations, rehabilitation, counseling, and supervision to persons suffering from alcohol or drug addiction or similar disorders, and/or to persons re-entering society after being released from a correctional facility or other institution.

Nursing Home - A facility whose primary function is to provide nursing, assisted living, and health-related services for the treatment and inpatient care of two or more unrelated individuals, including facilities known as convalescent homes, skilled nursing facilities or skilled care facilities, intermediate care facilities, extended care facilities and nursing or nursing care facilities. A hospice is also included in this use. Excluded from this use type is any facility providing surgical or

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emergency medical services and facilities providing care for alcoholism, drug addiction, mental disease, or communicable disease.

Park and Ride Facility - A publicly owned, short-term parking facility for commuters.

Post Office - Postal services directly available to the consumer operated by the United States Postal Service.

Public Facilities - Facilities owned and operated by a government or quasi-government agency accommodating offices, safety and emergency services, and places of public assembly. Typical uses include federal, state and county offices, auditoriums, sports auditorium, convention facilities, fairgrounds, and police, fire and ambulance services.

Public Maintenance Facility - A government owned or operated facility supporting maintenance, repair, vehicular or equipment servicing, material storage, and similar activities.

Public Park and Recreational Area - Government owned and operated park, picnic area, playground, indoor or outdoor athletic facility, game preserve and open space.

Religious Assembly - A use providing regular organized religious worship and related incidental activities within or out of a structure including accessory uses, such as daycare facilities, but not including educational facilities, primary and secondary.

Rehabilitation Service - A use providing recuperative or similar services for persons requiring rehabilitation assistance as a result of physical, mental illness, alcoholism, detention, drug addiction, or similar conditions for only part of a twenty-four hour day.

Utility Service/Major - A service of a regional nature which normally entail the construction of new buildings or structures such as switching facilities and stations or substations, community waste water treatment plants, and water supply and production in excess of 50,000 gallons per day. Included in this definition is also electric, gas and other utility transmission lines of a regional nature that are not otherwise reviewed and approved by the Virginia State Corporation Commission.

Utility Service/Minor - A services which is necessary to support development within the immediate vicinity and involve only minor structures. Included in this use type are distribution lines and small facilities that are underground or overhead, such as transformers, relay and booster devices, remote switching stations well, water, and sewer pump stations.

COMMERCIAL USE TYPES

Adult Entertainment Establishment - An establishment having a substantial or significant portion of its stock-in-trade books, magazines and other periodicals which are distinguished or characterized by their emphasis on matter depicting, describing or related to "specified sexual activities" or "specified anatomical areas," or an establishment with a segment or section devoted to the sale or display of such material. This use includes any adult bookstore, adult mini-motion picture theater, adult picture theater, cabaret, gentleman's club, massage parlor, drug paraphernalia store, or tattoo parlor.

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Agricultural Service - An establishment primarily engaged in providing services specifically to the agricultural community which is not directly associated with a farm operation. Included in this use type would be servicing of agricultural equipment, independent equipment operators, and other related agricultural services.

Antique Shop - A place offering primarily antiques for sale. An antique for the purposes of this ordinance shall be a work of art, piece of furniture, decorative object, or the like, of or belonging to the past, at least 30 years old.

Auction Establishment - A structure or enclosure where goods and/or livestock are sold by auction on a recurring basis.

Bank - Provision of financial and banking services to consumers or clients. Walk-in/drive-in services to consumers are generally provided on site. Typical uses include banks, savings and loan associations, saving banks, credit unions and lending establishments.

Bed and Breakfast - A dwelling or portion thereof, in which no more than seven (7) lodging units are provided by the owner or operator who resides on the premises. This use offers short term lodging rooms and meals for transient guests, none of who remain for more than fourteen (14) consecutive nights each. This definition shall include the term tourist home.

Boat Repair Yard - See Marina listed under Commercial Use Types

Business Support Service - Establishment or place of business engaged in the sale, rental or repair of office equipment, supplies and materials, or the provision of services used by office, professional and service establishments. Typical uses include office equipment and supply firms, small business machine repair shops, convenience printing and copying establishments, mail and packaging stores, as well as temporary labor services.

Business or Trade School - A use providing education or training in business, commerce, language, or other similar activity or occupational pursuit, and not otherwise specifically defined as an educational facility.

Campground - Any site, lot, parcel or tract of land on which accommodations for temporary occupancy are located or may be placed, including cabins, tents, and recreational equipment, recreational vehicles, and which is primarily used for recreational purposes and retains an open air or natural character.

Car Wash - Washing and cleaning of vehicles. Typical uses include automatic conveyor machines and self- service car washes.

Commercial Indoor Recreation - Establishments which provide recreational activities for participants and/or spectators within an enclosed building. Typical uses include game rooms, pool halls, video arcades, bingo parlors, off-track betting, motion picture theaters, drama theaters, concert or music halls, bowling alleys, ice and roller skating rinks, indoor racquetball, squash courts, swimming, and/or tennis facilities, archery and indoor shooting ranges and similar uses.

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Commercial Outdoor Recreation - Predominantly spectator uses conducted in open or partially enclosed or screened facilities. Typical uses include motor vehicle, boat, motorcycle or animal racing facilities/complexes, drive-in movies, miniature golf, golf driving range, amphitheaters and outdoor amusement parks, motorized cart and motorcycle tracks, motorized model airplane flying facilities, and swimming pools and tennis facilities. Professional and semi-professional athletic fields shall also be included in this use.

Construction Office, Temporary - A trailer used as a temporary office during a construction operation. This use includes construction office trailers occupied in conjunction with residential or non-residential development.

Convenience Store - Establishments primarily engaged in the provision of frequently or recurrently needed goods for household consumption, such as prepackaged food and beverages, limited household supplies and hardware.

Crematorium - A location used for cremation containing properly installed, certified apparatus for this process.

Dance Hall - Any establishment open to the general public where dancing is permitted and a cover charge is directly or indirectly required for entry into the establishment.
[Check County Code requirements and permitting.]

Equipment Sales and Rental - Establishments primarily engaged in the sale or rental of tools, trucks, tractors, construction equipment, and similar industrial equipment. Included in this use type is the incidental storage, maintenance, and servicing of such equipment.

Farmer's Market - A public market place where fresh foods from the County and adjoining communities area are sold directly to consumers by the people who have grown, gathered, raised or caught them.

Bank - Provision of financial and banking services to consumers or clients. Walk-in/drive-in services to consumers are generally provided on site. Typical uses include banks, savings and loan associations, saving banks, credit unions and lending establishments.
[Banks]

Flea Market - Occasional or periodic commercial activities held in an open area or enclosed structure where groups of sellers rent space on a short term basis to display, barter, or sell goods to the general public. A fee may be charged for expected buyers for admission, or a fee may be charged for the privilege of offering or displaying such merchandise. A flea market is composed of semi-closed or outdoor stalls, stands, or spaces

Funeral Home - Establishments engaged in undertaking services such as preparing the dead for burial, and arranging and managing funerals. This use excludes crematorium, which is defined separately.

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Garden Center - Establishments engaged primarily in the retail sale of trees, shrubs, seeds, fertilizers, pesticides, plants, plant materials, and garden supplies, primarily for agricultural, residential and commercial consumers.

Gasoline Station - A facility for the retail sale of motor vehicle fuels, oils, and accessories, where repair is incidental, where no more than two abandoned vehicles or other motor vehicles shall be stored on the premises. May include the sale of propane or kerosene as an accessory use.

General Service and Repair An establishment engaged in the maintenance and repair of household appliances and equipment.

Golf Course - A tract of land for playing golf, improved with tees, greens, fairways, hazards, and which may include clubhouses and shelters. Included would be executive or par 3 golf courses.

Hospital - A building or group of buildings having room facilities for one (1) or more patients, used for providing services for the in-patient medical or surgical care of sick or injured humans and which may include related facilities such as laboratories, out-patient departments, training facilities, central service facilities and other incidental and subordinate uses integral to hospital operations.

Hospital, Special Care - A special care hospital shall mean an institution rendering care primarily for patients with mentally-related illness, or under treatment for alcoholism, substance abuse, etc.

Hotel/Motel/Motor Lodge/Inn - A building or group of attached or detached buildings containing more than seven (7) lodging units intended primarily for rental or lease to transients and the traveling public by the day or week. Such uses generally provide additional services such as daily maid service, restaurants, taverns, or public banquet halls, ballrooms, and meeting rooms and/or recreation facilities.
[What about extended stay places? Also make sure all levels, forms and numeric limits are covered by ordinance.]

Kennel, Commercial - The boarding, breeding, raising, grooming or training of two or more dogs, cats, or other household pets of any age not owned by the owner or occupant of the premises.
[Check County Code on the number]

Laundry - Establishments primarily engaged in the provision of laundering, cleaning or dyeing services other than those classified as Personal Services. Typical uses include bulk laundry and cleaning plants, diaper services, or linen supply services.

Livestock Auction Market - A commercial establishment wherein livestock is collected for sale and auction.

Lumber Yard - Establishments or places of business primarily engaged in retail or wholesale sale, from the premises, of materials used in the construction of buildings or other structures, but specifically excluding motor vehicle or equipment supplies otherwise classified herein. Typical uses include building material stores and home supply establishments.

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Manufactured Home Sales - Establishment primarily engaged in the display, retail sale, rental, and minor repair of new and used manufactured homes, parts, and equipment.

Marina - A use for docking or mooring of more than four (4) boats (excluding paddle or rowboats) or providing services to boats, including servicing and repair, sale of fuel and supplies, and provisions of lodging, goods, beverages. A yacht or boat club shall be considered a marina.

Medical Office - Use of a site for facilities which provide diagnoses, minor surgical care and outpatient care on a routine basis, but which does not provide overnight care or serve as a base for an ambulance stop. Medical offices are operated by doctors, dentists, or similar practitioners licensed by the Commonwealth of Virginia.

Mini Warehouse - A building designed to provide rental storage space in cubicles where each cubicle has a maximum floor area of 400 square feet. Each cubicle shall be enclosed by walls and ceiling and have a separate entrance for the loading and unloading of stored goods.

Motor Vehicle Sales - Any lot or establishment where two (2) or more new or used motor vehicles, including automobiles, trucks, and motorcycles are displayed at one time for sale, lease, or rent including warranty repair work and other major and minor repair service conducted as an accessory use.

Motor Vehicle/ Outdoor Storage - The outdoor storage of motor vehicles, and boats. Motor vehicles in this use shall include cars, trucks, sports utility vehicles, motorcycles, boats, motor homes or RV's.

Motor Vehicle Parts/ Supply, Retail - Retail sales of automobile parts and accessories. Typical uses include automobile parts and supply stores which offer new and factory rebuilt parts and accessories, and include establishments which offer minor automobile repair services.

Motor Vehicle Repair Service/ Major - Repair of construction equipment, commercial trucks, agricultural implements and similar heavy equipment, including automobiles, where major engine and transmission repairs are conducted. Typical uses include automobile and truck repair garages, transmission shops, radiator shops, body and fender shops, equipment service centers, machine shops and other similar uses where major repair activities are conducted.

Motor Vehicle Repair Service/ Minor - Repair of automobiles, noncommercial trucks, motorcycles, motor homes, recreational vehicles, or boats, including the sale, installation, and servicing of equipment and parts. Typical uses include tire sales and installation, wheel and brake shops, oil and lubrication services, automobile glass repair and similar repair and service activities where minor repairs and routine maintenance are conducted.

Office, General - Use of a site for business, professional, or administrative offices, excluding medical offices. Typical uses include real estate, insurance, management, travel or other business offices; organization and association offices; or law, architectural, engineering, accounting or other professional offices.

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Pawn Shop - A use engaged in the loaning of money on the security of property pledged in the keeping of the pawnbroker and the incidental sale of such property.

Personal Improvement Service - Establishment primarily engaged in the provision of informational, instructional, personal improvements and similar services. Typical uses include driving schools, health fitness centers or gyms, reducing salons, dance studios, handicraft and hobby instruction facilities.

Personal Service - 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; grooming of pets; seamstresses, tailors, or shoe repairs; florists; and Laundromats and dry cleaning stations serving individuals and households.

Real Estate Office, Temporary - A Class A or B manufactured home, single family home or other structure used on a temporary basis as a real estate sales office in conjunction with residential development.

Recreational Vehicle Sales and Service - Retail sales of recreational vehicles and boats, including service and storage of vehicles and parts and related accessories.

Restaurant, Drive-In Fast Food - An establishment primarily engaged in the preparation of food and beverages, for either take-out, delivery or table service, primarily served in disposable containers at a counter, a drive-up or drive through service facility or offers curb service.

Restaurant, General - An establishment engaged in the preparation of food and beverages. This use in characterized by table service to customers in non-disposable containers and includes catering services.

Retail Sales - Sale or rental with incidental service of commonly used goods and merchandise for personal or household use which is not otherwise specifically described in the listing of commercial use types contained herein. Such uses include bakeries, drug stores, bookstores, furniture, gifts, hardware, grocery stores, clothing stores, and floral retail shops.

Studio, Fine Arts - A building, or portion thereof, used as a place of business for visual art, which may include sculptors, artists or photographers.

Taxidermy - A building where animal skins are prepared, stuffed and mounted for sale.

Truck Stop - An establishment containing a mixture of uses which cater to the traveling public and in particular motor freight operators. A truck stop might include such uses as fuel pumps, restaurants, overnight accommodations, retail sales related to the motor freight industry, and similar uses.

Truck Terminal - See Warehousing and Distribution listed under Industrial Use Types

Veterinary Hospital/Clinic - Any establishment rendering surgical and medical treatment of animals. Boarding of animals shall only be conducted indoors, on a short-term basis, and shall

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only be incidental to such hospital/clinic use, unless also authorized and approved as a commercial kennel.

INDUSTRIAL USE TYPES

Asphalt Plant - An establishment engaged in manufacturing or mixing of paving materials derived from asphaltic mixtures of tar.

Contractor's Yard - Establishments housing facilities of businesses primarily engaged in construction activities, including outside storage of materials and equipment. Typical uses are building construction yards.

Convenience Center - A government operated facility used for the collection of trash, garbage, and rubbish, including receptacles for the collection and storage of recyclable materials.

Custom Manufacturing - Establishments primarily engaged in the on-site production of goods by hand manufacturing, within enclosed structures, involving the use of hand tools, and the use of mechanical equipment commonly associated with residential or commercial uses or a single kiln. Typical uses would include pottery, cabinet or woodwork shops.

Industry, Type I - Enterprises engaged in the processing, manufacturing, compounding, assembly, packaging, treatment or fabrication of materials and products, from processed or previously manufactured materials. Included would be assembly of electrical appliances, bottling and printing plants, and the manufacturing of paint, oils, pharmaceuticals, cosmetics, solvents and other chemical, production of items made of stone, metal or concrete.

Industry, Type II - Enterprises in which goods are generally mass produced from raw materials on a large scale through use of an assembly line or similar process, usually for sale to wholesalers or other industrial or manufacturing uses. Included in this use type are industries involved in processing and/or refining raw material such as chemicals, rubber, wood or wood pulp, forging, casting, melting, refining, extruding, rolling, drawing, and/or alloying ferrous metals, and the production of large durable good such as automobiles, manufactured homes, or other motor vehicles.

Industry, Type III - An establishment which has the potential to be dangerous or pose an extreme risk to public health, safety and general welfare and is not identified as another industrial use type. Included are those in which explosives are stored, petroleum is refined, natural and liquid and other petroleum derivatives are stored and/or distributed in bulk, radioactive materials are compounded, pesticides, fertilizers and certain acids are manufactured, and hazardous waste is treated or stored as the establishment's principal activity.

Laboratory - Establishment primarily engaged in performing research or testing activities into technological matters. Typical uses include engineering and environmental laboratories, medical, optical, dental and forensic laboratories, x-ray services, and pharmaceutical laboratories only involved in research and development. Excluded are any laboratories which mass produce one or more products directly for the consumer market.

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Landfill, Industrial - The use of land for the legal disposal of specific industrial waste which is a by-product of a manufacturing or production process.

Landfill, Rubble - The use of land for the legal disposal of construction and demolition wastes consisting of lumber, wire, sheetrock, broken brick, shingles, glass, pipes, concrete, metals and plastic associated with construction and wastes from land clearing operations consisting of stumps, wood, brush, and leaves.

Landfill, Sanitary - The use of land for the legal disposal of municipal solid waste derived from households, business and institutional establishments, including garbage, trash, and rubbish, and from industrial establishments, other than hazardous wastes as described by the Virginia Hazardous Waste Regulations.

Meat Packing - The processing of meat products and byproducts directly from animals or offal from dead animals.

Power Plant – An establishment that produces electricity for offsite distribution to the consumer. This use shall include all storage, handling, maintenance, use, and disposal of materials otherwise permitted by law.

Recycling Center - A privately operated facility for the collection and storage of recyclable materials designed and labeled separately for citizens to voluntarily take source materials for recycling.

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

Scrap and Salvage Service - Any lot or place engaged in the storage, sale, dismantling or other processing or uses of waste materials which are not intended for reuse in their original forms. Typical uses include paper and metal salvage yards, automotive wrecking yards, junk yards, used tire storage yards, or retail and/or wholesale sales of used automobile parts and supplies. (See also the definitions of Automobile Wrecking Yard and Junkyard in Section 2-1002.)

Shipping Container - Primarily a metal container used to pack, ship and store goods. On land they are kept in shipping or storage yards.

Transfer Station - Any storage or collection facility which is operated as a relay point for municipal solid waste which ultimately is transferred to a landfill.

Warehousing and Distribution - Uses including storage, warehousing and dispatching of goods within enclosed structures, or outdoors. Typical uses includes wholesale distributors, storage warehouses, truck terminals and moving/storage firms.

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MISCELLANEOUS USE TYPES

Alternate Discharge Sewage System - Any device or system which results in a point source surface discharge of treated sewage with flows less than or equal to 1,000 gallons per day on a yearly average. These systems are regulated by the Virginia Department of Health and under a general Virginia Pollution Discharge Elimination System (VPDES) permit issued by the Virginia Department of Environmental Quality (DEQ).

Amateur Radio Tower - A structure on which an antenna is installed for the purpose of transmitting and receiving amateur radio signals erected and operated by an amateur radio operator licensed by the FCC (Federal Communications Commission).

Aviation Facility, Commercial - Any area of land or water designated for the landing and take-off of scheduled aircraft flights or the operation, service, fueling, repair, storage, charter, sales, and rental of aircraft, and including activities directly associated with the operation and maintenance of airport facilities and the provision of safety and security. This use includes both commercial and general aviation facilities. Aircraft includes helicopters, gyrocopters/planes, powered and non-powered fixing-wing aircraft, hang gliders and paragliding and hot air balloons.

Aviation Facility, Private - Any area of land used or intended for the landing and taking-off of aircrafts for personal use of the tenant or owner of the site, not available for public use or commercial operations. Aircraft includes helicopters, gyrocopters/plane, powered and non-powered fixing-wing aircraft, hang gliders and paragliding and hot air balloons.

Communication Tower - A structure on which an antenna or dish is installed for the transmission, broadcasting or receiving of radio, television, radar, or microwaves, and similar types of devices. Included under this use type are aviation radio towers, and cellular phone towers. Excluded are amateur radio towers, which are described separately.

Hunt Club - Uses and structures which serve as social organization gathering spots for persons engaged in hunting and fishing. Dog kennels may be considered an accessory use.

Hunting Preserve – An area of land that is enclosed by fence where propagated wild animals and wildlife are released and hunted.

Outdoor Gathering - Any temporary organized gathering expected to attract 500 or more people at one time in open spaces outside an enclosed structure. Included in this use type would be music festivals, church revivals, carnivals and fairs, and similar transient amusement and recreational activities not otherwise listed in this section.

Parking Facility - Use of a site for surface parking unrelated to a specific use or a parking structure which provides parking spaces together with driveways, aisles, turning and maneuvering areas, incorporated landscaped areas, and similar features meeting the requirements established by this ordinance. This use type shall not include parking facilities accessory to a permitted principal use.

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Reconstructed Wetland - A wetland constructed in a designated area which has not previously been a wetland and is isolated from existing wetlands to replace a wetland destroyed by human activity as required by a state or federal governmental authority.

Shooting Range, Outdoor - The use of land for archery and the discharging of firearms for the purposes 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 unstructured and nonrecurring discharging of firearms on private property with the property owner's permission.

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ARTICLE III ZONING DISTRICTS AND BOUNDARIES

Section 3-101 Establishment of Districts

A. In order to accomplish the purposes of this ordinance the following base zoning districts are established:

A-R	Agricultural-Rural Residence District
A-L	Limited Agricultural District
R-1	Urban Residence District
R-2	Vacation Residence District
B-1	Local Business District
B-2	General Business District
M-1	Light Industrial District
M-2	General Industrial District
PD	Planned Development District

B. The following districts are created as special overlay districts to be superimposed on the base districts established in A. above. Special overlay zoning districts are designed to provide an additional layer of zoning regulations beyond those restrictions provided for in the base zoning district. Such regulations are intended to address a particular and unique aspect of land use as stated in the Purpose of the District and serve to supplement the base zoning standards.

The permitted uses, density, lot requirements, height, bulk and yard requirements and other requirements maximum height, and accessory uses and accessory signs shall be determined by those base districts except as may be modified by the regulations of these special overlay districts.

HP	Historic Preservation District
CB	Chesapeake Bay Preservation District
FP	Flood Plain District

Section 3-102 Establishment of District Map

The district classification shall be as shown on the map or maps designated as the "Zoning Map of Surry County, Virginia", dated, and signed by the Chairman of the Board of Supervisors and attested by the County Clerk, upon adoption. This Zoning Map or maps, and all notations, dimensions, references, and symbols shown thereon, pertaining to such districts shall be as much a part of this Ordinance as if fully described in this ordinance.

This map together with subsequent applicable amendments shall be conclusive as to the current zoning status of land.

Section 3-103 Information Copies of District Map

Information copies of the Zoning Map(s) shall be made available for inspection at the office of the Administrator and such other locations as may be necessary or convenient. These maps shall be revised as described above, to show changes in zoning district boundaries as officially approved. New streets,

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highways, subdivisions, major governmental installations, public lands, and other major features shall be shown.

Drafting errors or omissions may be corrected, but no changes in zoning district boundaries may be made except to show amendments properly adopted by the Board of Supervisors.

Any person desiring a copy of any sheet of said Zoning District Map shall pay a reasonable fee as established by' the Administrator for each copy thereof, to the appropriate County official. Such fees shall be applied to defray the cost of revising and printing of the District Map.

Section 3-104 Interpretation of District Boundaries

A. A district name or letter-number combination shown on the district maps indicates that the regulations pertaining to the district designated by that name or letter-number combination extend throughout the whole area in the county bounded by the district boundary lines within which such name or letter-number combination is shown or indicated, except as otherwise provided by this section.

B. Where uncertainty exists with respect to the boundaries of the various districts as shown on the map accompanying and made a part of these regulations, the following rules apply:

1. In cases where a boundary line is within a street or alley, navigable or non-navigable stream, it shall be deemed to be in the center of the right-of-way of the street, alley, or stream, and if the actual location of such street, alley, or stream varies slightly from the location as shown on the district map, then the actual location shall control.

2. In cases where a boundary line is shown as being located a specific distance from a street line or other physical feature, this distance shall control.

3. Where the district boundaries as shown on the Zoning District Maps approximately coincide with lot lines or county limit line, the lot lines or county limit line shall be construed to be the district boundary line unless otherwise indicated.

4. In cases where district boundaries as shown on the Zoning District Maps do not coincide or approximately coincide with street lines, alley lines or lot lines, and no dimensions are shown, the location of such district boundary lines shall be determined by the use of the scale appearing on the map.

Section 3-104 Regulation of Areas Under Water

All areas within Surry County that are under water are considered to be within a zoning district and controlled by applicable district regulations. District boundaries over water areas are located by noted or scaled dimensions, by relation to physical features, by coincidence with County limits, or by a straight line

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projection of the district boundaries as indicated on the district maps. Straight-line district boundaries over water areas shall be assumed to continue as straight lines until they intersect with each other or with the county boundary.

Section 3-105 New or Existing Undesignated Lands

If, because of error or omission in the Zoning District Map or any adjustments in boundary lines or areas designated as unincorporated, any property in the jurisdiction of this Ordinance is not shown as being in a zoning district, such property shall be classified A-R, Agricultural-Rural Residence District until changed by the Board of Supervisors in accordance with this ordinance.

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Section 3-200 A-L AGRICULTURAL LIMITED DISTRICT

Sec. 3-201 Purpose of the District

The purpose of this district is to establish an exclusive district for agriculture and forestry where few other unrelated uses are permitted or encouraged, including residential uses. This district, unlike traditional agriculture districts, is intended primarily for agriculture and forestry uses recognizing that modern agriculture and forestry practices are heavily mechanized with usage of a variety of chemicals during production and harvesting and are therefore not desirable places for residential uses, just as an industrial park is undesirable for a residence. As such, agriculture and forestry in this district is 'king" and the "right to farm" is clearly established as public policy. However, certain standards are established to protect and buffer other property owners in this district and owners in adjoining districts from particularly intensive farm operations.

While preserving the more valuable, productive and intensive operations, it is important to allow a landowner to make some reasonable economic return from the use and sale of their land. However, land divisions for residential use are substantially limited and buffers with adjoining farm and forestry properties are further emphasized. In addition, basic community objectives such as preserving prime agricultural lands and discouraging strip residential development along the primary and secondary roads in the County continue to be important objectives.

Finally, it is the purpose of this district to be applied to areas in the County where the Board of Supervisors has established other programs that are supportive of agriculture and forestry. This might include adoption of Agricultural and Forestal Districts, Use Value Taxation, designation by the state of Century Farms and similar programs that are a benefit to the farm community.

Sec. 3-202 Permitted Uses

A. The following uses are permitted by right subject to all other applicable requirements contained in this Ordinance. An asterisk (*) indicates additional, modified or more stringent standards are listed in Article IV, Use and Design Standards, for those specific uses.

AGRICULTURAL USES

Agriculture *
Confined Animal Feeding Operation (CAFO)*
Farm Employee Housing *
Greenhouse, Private
Roadside Stand *
Sawmill *
Silvicultural activities *
Stable, Commercial *
Stable, Private *

RESIDENTIAL USES

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Accessory Apartment *
Dwelling, Single Family, Detached
Dwelling, Single Family, Farm
Family Day Care Home
Group Home
Guest House
Home Occupation, Community *
Home Occupation, Rural *
Kennel, Private
Temporary Emergency Housing *

CIVIC USE TYPES
Cemetery *
Public Park and Recreational Area
Religious Assembly *
Utility Service/Minor

COMMERCIAL USE TYPES
Agricultural Service *
Studio, Fine Arts
Taxidermy *

MISCELLANEOUS USE TYPES
Amateur Radio Tower *
Hunt Club
Hunting Preserve
Outdoor Gathering *
Shooting Range, Outdoor *

B. The following uses are allowed only by Special Exception from the Board of Zoning Appeals pursuant to Section 1-304. An asterisk (*) indicates additional, modified or more stringent standards are listed in Article IV, Use and Design Standards, for those specific uses.

RESIDENTIAL USES
Manufactured Home, Family Member Residence *
Manufactured Home, Temporary Residence *

COMMERCIAL USE TYPES
Veterinary Hospital/Clinic

INDUSTRIAL USE TYPES
Convenience Center
Custom Manufacturing *

C. The following uses are allowed only by Conditional Use Permit from the Board of Supervisors pursuant to Section 1-501. An asterisk (*) indicates

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additional, modified or more stringent standards are listed in Article IV, Use and Design Standards, for those specific uses.

COMMERCIAL USE TYPES
Kennel, Commercial *
Livestock Auction Market *

INDUSTRIAL USE TYPES
Mining*

MISCELLANEOUS USE TYPES
Alternate Discharge Sewage System *
Aviation Facility, Private
Communication Tower*
Reconstructed Wetland*

Section 3-202 Maximum Density of Subdivisions

A. The maximum density of a subdivision shall be as follows:

1. The residential density shall be based on a sliding scale where the number of new lots created from a parcel is determined by the size (in acres) of the parent parcel. The parent parcel is the parcel from which the new lot or lots are created. The basis for calculating the number of lots allowed shall be the size of the parent parcel of record as of [adoption date].

Minimum Acres of Parent Parcel	Maximum Acres of Parent Parcel	Maximum Number o Lots Permitted
20.00	39.99	1
40.00	59.99	2
60.00	99.99	3
100.00	139.99	4
140.00	199.99	5
200.00	279.99	6
280.00	379.99	7
380.00	529.99	8
530.00	729.99	9
Over 730.00		10

2. The overall size of the parent parcel shall be based on the following sources, listed in order from least to most binding:

a. On the parcel shown on the latest County Tax Maps with the acreage indicated in the Real Estate records of the

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Commissioner of Revenue's Office, excluding street or road rights-of-way.

b. On documents of record in the Office of the Clerk of the Court, which shall take precedent over the Tax Map information.

c. On a new or modern survey of the property by a licensed surveyor.

3. Properties divided by a public secondary road shall be considered to be undivided unless specifically described in a deed description as separate parcels.

Section 3-203 Criteria for Residential Subdivisions

A. Requirements for Clustering

All lots being subdivided shall be clustered on only a portion of the parcel. The remaining acreage (80%) shall be retained in open space. This open space and subsequent ownership is primarily intended to perpetuate continued use of property in the rural economy and not just as an amenity for the lots created from the parent parcel. This should not prevent access and amenities on the open space for future residents, but such use is not automatically required.

B. General Design Criteria

1. All floodplains, wetlands, and steep slopes shall be protected from clearing, grading, filling, or construction, except as may be approved by the zoning administrator for essential infrastructure.

2. Lots shall be designed to preserve and maintain existing tree lines between fields or meadows, pastures, meadows, orchards, and mature woodlands.

3. Lots shall be designed to minimize development on open fields and pastures, and building sites shall be located on the least productive agricultural lands.

4. Existing views from public thoroughfares shall be preserved.

5. Lots shall be designed to avoid important historic, archaeological, or cultural sites.

C. Required Open Space

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1. Eighty percent (80%) of the parent parcel shall be set aside as open space.

2. Sensitive environmental features on the property, such as floodplains, wetlands, and steep slopes, shall be included in the required open space on the basis of having particular value in the context of preserving rural character.

3. Natural features shall be maintained in their natural condition, and any modifications and/or improvements made shall be consistent with generally accepted land preservation and land stewardship principles.

D. Ownership of Open Space

1. Prior to or concurrently with final subdivision approval for any property within a Rural Cluster subdivision, the property owner shall record documents conveying a conservation easement applicable to the open space lot to a legal organization or entity approved by the County, with content approved by the County, requiring preservation of features so designated on the subdivision plat in perpetuity and prohibiting further division of the open space lot.

2. Open Space may be owned by one or more of the following methods:

   a. Common ownership as undivided proportionate interests by the members of a homeowners (property owners) association.

   b. Single ownership by the original owner or subsequent owner with a conservation easement conveyed to a political entity or non-profit organization approved by the County.

   c. Fee simple dedication with a conservation easement to a political entity or recognized nonprofit land conservation organization.

3. The conservation easement shall prohibit further division of the open space, shall be in a form acceptable to the Zoning Administrator and the County Attorney and shall be in perpetuity.

4. When ownership of open space is to be retained by a homeowners association, the association shall conform to the following requirements:

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a. The property owner or developer must establish the organization prior to the sale of any lots within the subdivision.

b. Membership in the organization shall be mandatory for all residential property owners, present or future, within the subdivision.

c. The organization shall manage all common and open spaces, and recreational and cultural facilities, shall provide for the maintenance, administration and operation of said land and improvements and any other land within the development and shall secure adequate liability insurance on the land.

d. The organization shall conform to the Property Owners Association Act, Code of Virginia, effective July 1, 2004, as amended, and/or to any other laws and regulations of the Commonwealth of Virginia as may be applicable.

E. Buffer and Access to Lots

1. Lots created in open space or cluster subdivisions must access an internal road system. No lots may directly access existing public streets. Where lots abut an existing public street, a restricted access easement extending the entire distance shall be established and recorded concurrently with the record plat of the subdivision.

2. In no case shall residential structures be located within one hundred (100) feet of an existing public road right-of-way. Fifty (50) feet of the one hundred (100) foot buffer yard between the lots and the public road right-of-way shall be landscaped to maintain or enhance the rural image or left in a natural setting, as prescribed in Section ??????.

Section 3-204 Lot Requirements

The following standards shall apply to the creation of new lots under this ordinance:

A. Minimum lot area: 30,000 square feet, unless a greater area is required by the Health Department for well and septic.

B. Minimum lot width

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1. On existing public roads: 150 feet

2. On new subdivision roads: 100 feet

C. Minimum Lot Depth: 200 feet

D. Minimum lot frontage

1. On existing public roads: 150 feet

2. On new subdivision roads: 100 feet

3. On a cul-de-sac: 75 feet

E. Maximum lot size: 10 acres

Section 3-205 Height, Bulk, and Yard Requirements

The following standards shall apply to the building of any structure on lots within this district:

A. Maximum building height:

1. All principle buildings: 2 1/2 stories but not to exceed 35 feet

2. Buildings Accessory to a Single Family Residence: No more than the height of the principle building.

B. Minimum Front Yard Setbacks

1. On existing public roads: 100 feet

2. On new subdivision roads: 50 feet

3. Accessory structures shall only be allowed in the rear yard (behind the rear face of the principle building)

C. Minimum side yard setback:

1. On existing public roads: 25 feet

2. On new subdivision roads: 20 feet

3. Accessory structures: 20 feet

D. Minimum rear yard setback:

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1. Principle structures: 50 feet
2. Accessory structures: 20 feet

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SECTION 3-300 A-R AGRICULTURAL-RURAL DISTRICT

Sec. 3-301 Purpose of the District

The purpose of this district is to protect and conserve agricultural and forest lands in large enough tracts that will have the greatest probability of preserving the rural character and heritage of the community and serve as a working-and-living landscape in perpetuity. These agricultural and forest lands, and in particular the family farms, have framed the way of life and local economy for generations and should continue to play an important role in the County.

While preserving the rural heritage is critical, it is also important to enable each landowner with the ability to make a reasonable economic return from the use and future use and sale of their land. This should be accommodated without compromising basic community objectives such as preserving prime agricultural lands and discouraging strip residential development along the primary and secondary roads in the County. And while some uses might best be located in a rural area due to their characteristics, not all uses are necessarily appropriate throughout the community or this district. Therefore, many uses require additional approvals from the County before they can be established. In addition, large residential developments are prohibited. Ultimately, however, those areas devoted to residential and other non-rural uses should meet the needs and desires of those who choose to live and work in a rural area.

Sec. 3-302 Permitted Uses

A. The following uses are permitted by right subject to all other applicable requirements contained in this Ordinance. An asterisk (*) indicates additional, modified or more stringent standards are listed in Article IV, Use and Design Standards, for those specific uses.

AGRICULTURAL USES
Agriculture *
Farm Employee Housing *
Greenhouse, Private
Roadside Stand *
Sawmill *
Silvicultural activities *
Stable, Commercial *
Stable, Private *

RESIDENTIAL USES
Accessory Apartment *
Dwelling, Single Family, Detached
Dwelling, Single Family, Farm
Family Day Care Home
Group Home
Guest House *

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Home Occupation, Community*
Home Occupation, Rural *
Kennel, Private *
Manufactured Home, Class A
Manufactured Home, Class B
Temporary Emergency Housing *

CIVIC USE TYPES
Camp *
Cemetery
Club
Community Center
Community Recreation
Cultural Service
Day Care Center
Park and Ride Facility
Post Office
Public Facilities
Public Maintenance Facility *
Public Park and Recreational Area
Religious Assembly
Utility Service/Minor

COMMERCIAL USE TYPES
Agricultural Service *
Antique Shop
Construction Office, Temporary
Golf Course
Real Estate Office, Temporary
Studio, Fine Arts
Taxidermy*

MISCELLANEOUS USE TYPES
Amateur Radio Tower *
Hunt Club
Hunting Preserve
Outdoor Gathering *
Parking Facility
Shooting Range, Outdoor *

B. The following uses are allowed only by Special Exception from the Board of Zoning Appeals pursuant to Section 1-304. An asterisk (*) indicates additional, modified or more stringent standards are listed in Article IV, Use and Design Standards, for those specific uses.

RESIDENTIAL USES
Manufactured Home, Family Member Residence *
Manufactured Home, Temporary Residence *

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COMMERCIAL USE TYPES
Office, General
Taxidermy
Veterinary Hospital/Clinic

INDUSTRIAL USE TYPES
Contractor's Yard *
Convenience Center *
Custom Manufacturing *

C. The following uses are allowed only by Conditional Use Permit from the Board of Supervisors pursuant to Section 1-501. An asterisk (*) indicates additional, modified or more stringent standards are listed in Article IV, Use and Design Standards, for those specific uses.

RESIDENTIAL USES
Manufactured Home Park *
Manufactured Home Subdivision *

CIVIC USE TYPES
Child Care Institution
Correctional Facility
Crisis Center
Educational Facility
Halfway House
Nursing Home
Rehabilitation Service
Utility Service/Major *

COMMERCIAL USE TYPES
Auction Establishment
Bed and Breakfast *
Campground *
Commercial Outdoor Recreation
Kennel, Commercial
Livestock Auction Market *
Lumber Yard
Marina
Motor Vehicle Repair Service/ Minor
Motor Vehicle Repair Service/ Major

INDUSTRIAL USE TYPES
Landfill *
Mining*
Power Plant
Scrap and Salvage Service *

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Transfer Station

MISCELLANEOUS USE TYPES
Alternate Discharge Sewage System *
Aviation Facility, Commercial *
Aviation Facility, Private *
Communication Tower*
Reconstructed Wetland*

Section 3-302 Limitation on Subdivisions

No more than 15 lots of less than three (3) acres in area in a proposed subdivision shall be permitted from any parcel of record as of September 4, 1975. The creation of a series of subdivisions of 15 lots or less shall not be used as a device to subvert the intent of this section. (Originally Adopted 9/4/1975)

Section 3-303 Criteria for All Residential Uses

A. All Residential Uses, including those in a cluster development, shall comply with the following additional requirements:

1. The building site shall comply with the following general standards:

   a. All floodplains, wetlands, and steep slopes shall be protected from clearing, grading, filling, or construction, except as may be approved by the zoning administrator for essential infrastructure.

   b. The layout shall be designed to preserve and maintain existing tree lines between fields or meadows, pastures, meadows, orchards, and mature woodlands.

   c. The layout shall be designed to minimize development on open fields and pastures, and building sites shall be located on the least productive agricultural lands.

   d. Existing views from public thoroughfares shall be preserved.

   e. The layout shall be designed to avoid important historic, archaeological, or cultural sites.

2. A residential use on a lot of less than ten (10) acres and located in an agricultural field or pasture, shall meet the following additional criteria:

   a. That the property has not been in the Agricultural Use Value program during the past five years. If the property has been in such a program all penalties and interest payments that

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may be due the County have been paid by the owner/applicant.

b. The layout shall meet at least one of the following criteria:

i. That the crop land has not historically produced high agricultural yields relative to other soils in the County in the opinion of a qualified public agency based upon factual information such as crop yield reports; or,

ii. The slope of the land is 10 percent or more and generally not suitable for best agricultural use, yet is not in excess of 25 percent so as to be unsuitable for construction without extensive grading; or,

iii. That the location of the dwelling, the shape of the lot, and the irregular shape of the field is such that the pattern of cultivation would not be seriously disrupted; or,

iv. That land of equal area and agricultural quality has been or will be cleared and placed in agricultural use on the same farm prior to issuance of an occupancy permit; or,

v. That no reasonable alternatives exist for placement of a dwelling on the property in question, either because of physical conditions of the property or the size and dimensions of the property.

If creation of a new lot or lots is involved for placement of said non-farm dwelling, said lot or lots shall be subjected to the same review as for the dwelling and shall not be sold or recorded until approved under his section.

B. In the event that administrator denies an application based upon any of the criteria above, the applicant may appeal the decision to the Board of Zoning Appeals in accordance with the procedures of an administrative appeals as described in Section 1-303 of this ordinance.

Section 3-304 Lot Requirements

The following standards shall apply to the creation of new lots under this ordinance:

A. Minimum lot area:

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1. On existing public roads: One acre (43,560 square feet), unless a greater area is required by the Health Department for well and septic.

2. On new subdivision roads: 30,000 square feet, unless a greater area is required by the Health Department for well and septic.

B. Minimum lot width

1. On existing public roads: 150 feet

2. On new subdivision roads: 100 feet

C. Minimum Lot Depth: 200 feet

D. Minimum lot frontage

1. On existing public roads: 150 feet

2. On new subdivision roads: 100 feet

3. On a cul-de-sac: 75 feet

Section 3-305 Height, Bulk, and Yard Requirements

The following standards shall apply to the building of any structure on lots within this district:

A. Maximum building height:

1. All principle buildings: 2 1/2 stories but not to exceed 35 feet

2. Buildings Accessory to a Single Family Residence: No more than the height of the principle building.

B. Minimum Front Yard Setbacks

1. On existing public roads: 100 feet

2. On new subdivision roads: 50 feet

3. Accessory structures shall only be allowed in the rear yard (behind the rear face of the principle building)

C. Minimum side yard setback:

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1. On existing public roads: 25 feet

2. On new subdivision roads: 20 feet

3. Accessory structures: 25 feet

D. Minimum rear yard setback:

1. Principle structures: 50 feet

2. Accessory structures: 5 feet

Section 3-306 Cluster Development Option

An owner/developer may, at their option elect to utilize the following cluster provisions in the development of property in this district.

A. Maximum Density

The maximum density allowed in a cluster development shall not exceed the permitted density otherwise allowed, excluding densities bonuses further described below. The maximum density shall be calculated by subtracting from the parent parcel the minimum lot size acreage for the first 15 lots and dividing the remaining acreage by three (3 acres). Greater areas may be required by the Health Department for on-site sewer, water, and building development.

B. Required Open Space

1. Where the parent parcel being subdivided contains 40 acres or more at least 50 percent (50%) of the total acreage shall be retained in open space, based on the following principles:

a. Sensitive environmental features on the property, such as floodplains, wetlands, and steep slopes, shall be included in the required open space on the basis of having particular value in the context of preserving rural character.

b. Natural features shall be maintained in their natural condition, and any modifications and/or improvements made shall be consistent with generally accepted land preservation and land stewardship principles.

2. Ownership of Open Space

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a. Prior to or contemporaneous with final subdivision approval for any property within a Rural Cluster subdivision, the property owner shall record documents conveying a conservation easement applicable to the open space lot to a legal organization or entity approved by the County, with content approved by the County, requiring preservation of features so designated on the subdivision plat in perpetuity and prohibiting further division of the open space lot.

b. Open Space may be owned by one or more of the following methods:

   i. Common ownership as undivided proportionate interests by the members of a homeowners (property owners) association.

   ii. Single ownership by the original owner or subsequent owner with a conservation easement conveyed to a political entity or non-profit organization approved by the County.

   iii. Fee simple dedication with a conservation easement to a political entity or recognized nonprofit land conservation organization.

c. The conservation easement shall prohibit further division of the open space, shall be in a form acceptable to the Zoning Administrator and the County Attorney and shall be for perpetuity.

d. When ownership of open space is to be retained by a homeowners association, the association shall conform to the following requirements:

   i. The property owner or developer must establish the organization prior to the sale of any lots within the subdivision.

   ii. Membership in the organization shall be mandatory for all residential property owners, present or future, within the subdivision.

   iii. The organization shall manage all common and open spaces, and recreational and cultural facilities, shall provide for the maintenance, administration and operation of said land and improvements and any

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other land within the development and shall secure adequate liability insurance on the land.

iv. The organization shall conform to the Property Owners Association Act, Code of Virginia, effective July 1, 2004, as amended, and/or to any other laws and regulations of the Commonwealth of Virginia as may be applicable.

C. Density Bonus for Workforce Housing

1. A density bonus of one lot for every three lots allowed by the maximum density can be added, not to exceed 20% of the maximum density, provided that those additional units meet the County's criteria for workforce housing (to be formulated).

2. The additional lots provided under this density bonus may reduce the required percentage of open space provided the reduction is the minimum necessary to accomplish the public objective of this section.

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SECTION 3-400 RURAL VILLAGE CENTER (RVC) DISTRICT

Sec. 3-401 Purpose of the District

The purpose of this district is to provide for residential, civic and commercial development in those crossroad communities around the county that are unincorporated and have historically served the surrounding rural areas or will serve the rural areas in he future.

These areas may not currently have public water and sewer and other public facilities available or planned for in the immediate future. Therefore providing a configuration of new development into reasonable and effective service areas for the proper and efficient provision of water, sewerage, fire and police protection, and other public services becomes particularly critical in considering and approving new development in these areas.

The Village Centers are as follows and are more specifically shown on the Zoning Maps:

Bacon's Castle
Cabin Point
California Crossroads
Elberon
Poolesville
Runnemede
Spring Grove
Scotland

Sec. 3-402 Permitted Uses

A. The following uses are permitted by right subject to all other applicable requirements contained in this Ordinance. An asterisk (*) indicates additional, modified or more stringent standards are listed in Article IV, Use and Design Standards, for those specific uses.

AGRICULTURAL USES
Greenhouse, Private
Roadside Stand *
Stable, Private *

RESIDENTIAL USES
Accessory Apartment *
Dwelling, Single Family, Detached
Family Day Care Home
Group Home
Guest House

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Home Occupation, Community *
Temporary Emergency Housing *

CIVIC USE TYPES
Cemetery *
Club
Community Center
Community Recreation
Cultural Service
Day Care Center
Post Office
Public Facilities
Public Park and Recreational Area
Religious Assembly
Rehabilitation Service
Utility Service/Minor

COMMERCIAL USE TYPES
Bank
Business Support Service
Business or Trade School *
Construction Office, Temporary
Medical Office
Personal Improvement Service
Personal Service
Real Estate Office, Temporary
Retail Sales
Studio, Fine Arts
Taxidermy *
Veterinary Hospital/Clinic *

MISCELLANEOUS USE TYPES
Amateur Radio Tower
Communication Tower *
Outdoor Gathering
Parking Facility *
Reconstructed Wetland

B. The following uses are allowed only by Special Exception from the Board of Zoning Appeals pursuant to Section 1-304. An asterisk (*) indicates additional, modified or more stringent standards are listed in Article IV, Use and Design Standards, for those specific uses.

RESIDENTIAL USES
Manufactured Home, Temporary Residence *

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COMMERCIAL USE TYPES
Office, General

C. The following uses are allowed only by Conditional Use Permit from the Board of Supervisors pursuant to Section 1-501. An asterisk (*) indicates additional, modified or more stringent standards are listed in Article IV, Use and Design Standards, for those specific uses.

RESIDENTIAL USES
Boarding House
Condominium
Dwelling, Multifamily Conversion
Dwelling, Single Family, Attached *
Dwelling, Two-Family
Kennel, Private
Multifamily Dwelling *
Townhouse *

CIVIC USE TYPES
Educational Facility *
Halfway House
Nursing Home *

COMMERCIAL USE TYPES
Agricultural Service *
Antique Shop
Auction Establishment
Bed and Breakfast*
Convenience Store *
Farmer's Market
Flea Market
Funeral Home
Gasoline Station *
Marina
Motor Vehicle Repair Service/ Minor *
Restaurant, General

INDUSTRIAL USE TYPES
Convenience Center *
Custom Manufacturing *

MISCELLANEOUS USE TYPES
Alternate Discharge Sewage System *

Section 3-403 Lot Requirements

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A. Minimum lot area:

1. Without public sewer and water: 30,000 square feet, unless a greater area is required by the Health Department for well and septic.

2. With public sewer or water (but not both): 20,000 square feet, unless a greater area is required by the Health Department.

3. With public sewer and water: 8,000 square feet.

B. Minimum lot width

1. Without public sewer and water: 125 feet.

2. With public sewer or water (but not both): 100 feet.

3. With public sewer and water: 65 feet.

C. Minimum Lot Depth:

1. Without public sewer and water: 200 feet.

2. With public sewer or water (but not both): 150 feet.

3. With public sewer and water: 100 feet.

D. Minimum lot frontage

1. Without public sewer and water: 80 feet.

2. With public sewer or water (but not both): 80 feet.

3. With public sewer and water: 60 feet.

4. Minimum frontage on a cul-de-sac: No less than 50% of minimum lot width of district

Section 4-404 Bulk Regulations

A. Maximum building height:

1. All buildings: 35 feet or 2.5 stories, whichever is lesser

B. Maximum density:

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1. Residential: 3 dwelling units per acre

C. Minimum front yard setback:

Where the street frontage in a block, or within 600 feet of the lot in question, is partially already developed, the minimum front yard for a new building shall be the average of the existing front yards on either side thereof in the same block with a variation of five feet permitted; provided however that except as provided in development standards for specific uses no front yard in a residence district shall be less than 25 feet or need to be more than 50 feet under this provision.

D. Side and Rear Setbacks: 10 feet.

Section 3-405 Additional Standards

The following additional standards shall apply to all commercial and industrial uses in the Rural Village Center district.

1. No Exterior storage. Permitted stores, shops, offices or businesses shall be conducted wholly within a completely enclosed building and except for temporary display items as limited by these regulations there shall be no exterior storage of merchandise or materials unless these are enclosed within storage yard established and maintained in accordance with these regulations (See Section ?????).

2. Warehousing Not Permitted. No commercial warehousing, wholesaling, of jobbing or killing of animals or poultry shall be carried on and no merchandise shall be stored other than to be sold at retail on the premises, and provided further, that no more than fifty (50) percent of the floor area of any building shall be used for the storage of merchandise.

3. Landscaping. Any part of the lot or project area not used for buildings or other structures, parking, loading and accessways, shall be landscaped with grass, trees, shrubs, or pedestrian walks.

4. Buffer. A landscaped buffer of 25 feet shall be established and maintained adjacent to any other property, other than parcels used or zoned for commercial or industrial use, as more fully described in Section ????? of this ordinance.

4. Drainage. Provision shall be made for proper storm water 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.

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SECTION 3-500 R-1 MEDIUM DENSITY RESIDENCE DISTRICT

Sec. 3-501 Purpose of the District

The purpose of this district is to provide for residential development at a density appropriate for areas adjacent to the incorporated Towns, around the rural villages, and in other areas where public sewer and water, and other public services are present or planned in the future. While the predominate use is intended to be detached single family residences, certain civic and commercial uses supportive of residential areas can also be anticipated. In addition, other types of residences may be permitted in order to provide for a wide spectrum of housing needs, provided that these new units are of generally compatible architectural character and are located on tracts of sufficient size so that necessary amenities can be provided and harmonious relationships between residences of different types assured by means of careful planning and the process of site plan review and approval.

Sec. 3-502 Permitted Uses

A. The following uses are permitted by right subject to all other applicable requirements contained in this Ordinance. An asterisk (*) indicates additional, modified or more stringent standards are listed in Article IV, Use and Design Standards, for those specific uses.

AGRICULTURAL USES
Greenhouse, Private
Roadside Stand *
Stable, Private *

RESIDENTIAL USES
Accessory Apartment *
Dwelling, Single Family, Detached
Dwelling, Single Family, Farm
Family Day Care Home
Group Home
Home Occupation, Community *
Kennel, Private
Manufactured Home, Class A
Temporary Emergency Housing *

CIVIC USE TYPES
Cemetery *
Community Center
Community Recreation
Park and Ride Facility
Public Park and Recreational Area
Religious Assembly

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Utility Service/Minor

COMMERCIAL USE TYPES
Real Estate Office, Temporary *
Studio, Fine Arts

INDUSTRIAL USE TYPES

MISCELLANEOUS USE TYPES
Amateur Radio Tower *

B. The following uses are allowed only by Special Exception from the Board of Zoning Appeals pursuant to Section 1-304. An asterisk (*) indicates additional, modified or more stringent standards are listed in Article IV, Use and Design Standards, for those specific uses.

RESIDENTIAL USES
Manufactured Home, Temporary Residence*

C. The following uses are allowed only by Conditional Use Permit from the Board of Supervisors pursuant to Section 1-501. An asterisk (*) indicates additional, modified or more stringent standards are listed in Article IV, Use and Design Standards, for those specific uses.

RESIDENTIAL USES
Dwelling, Single Family, Attached *
Dwelling, Two-Family *

CIVIC USE TYPES
Crisis Center
Day Care Center
Educational Facility
Public Facilities
Utility Service/Major*

COMMERCIAL USE TYPES
Convenience Store *
Marina *

MISCELLANEOUS USE TYPES
Alternate Discharge Sewage System *

Section 3-503 Lot Requirements

The following standards shall apply to the creation of new lots under this ordinance:

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A. Minimum lot area:

1. Without public sewer and water: 30,000 square feet, unless a greater area is required by the Health Department for well and septic.

2. With public sewer or water (but not both): 20,000 square feet, unless a greater area is required by the Health Department.

3. With public sewer and water: 10,000 square feet.

B. Minimum lot width

1. Without public sewer and water: 100 feet.

2. With public sewer or water (but not both): 100 feet.

3. With public sewer and water: 75 feet.

C. Minimum Lot Depth:

1. Without public sewer and water: 200 feet.

2. With public sewer or water (but not both): 150 feet, unless a greater area is required by the Health Department.

3. With public sewer and water: 100 feet.

D. Minimum lot frontage

1. Without public sewer and water: 80 feet.

2. With public sewer or water (but not both): 80 feet.

3. With public sewer and water: 60 feet.

Section 3-504 Height, Bulk, and Yard Requirements

The following standards shall apply to the building of any structure on lots within this district:

A. Maximum building height:

1. All principle and accessory buildings: 2 1/2 stories but not to exceed 35 feet

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B. Minimum Front Yard Setbacks

1. On existing public roads: 100 feet

2. On new subdivision roads: 40 feet

3. Accessory structures shall only be allowed in the rear yard (behind the rear face of the principle building)

C. Minimum side yard setback:

1. On existing public roads: 25 feet

2. On new subdivision roads: 15 feet

3. Accessory structures: 5 feet

D. Minimum rear yard setback:

1. Principle structures: 40 feet

2. Accessory structures: 5 feet

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SECTION 3-600 R-2 VACATION RESIDENCE DISTRICT

Sec. 3-601 Purpose of the District

The purpose of this district is to provide for vacation home development at an appropriate density and in appropriate locations. These areas are generally near the James River and its tributaries where such development exists or is planned. Since occupancy would be primarily seasonal or intermittent, a somewhat more intense use of land can be tolerated and a variety of dwelling types permitted, including mobile homes, either on a separate lot or as an accessory use.

Sec. 3-602 Permitted Uses

A. The following uses are permitted by right subject to all other applicable requirements contained in this Ordinance. An asterisk (*) indicates additional, modified or more stringent standards are listed in Article IV, Use and Design Standards, for those specific uses.

AGRICULTURAL USES
Greenhouse, Private
Roadside Stand *
Stable, Private *

RESIDENTIAL USES
Accessory Apartment *
Dwelling, Single Family, Detached
Family Day Care Home
Group Home
Home Occupation, Community *
Kennel, Private *
Temporary Emergency Housing *

CIVIC USE TYPES
Cemetery *
Community Center
Community Recreation
Park and Ride Facility
Public Park and Recreational Area
Religious Assembly
Utility Service/Minor

COMMERCIAL USE TYPES
Real Estate Office, Temporary *
Studio, Fine Arts

MISCELLANEOUS USE TYPES

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Amateur Radio Tower *

B. The following uses are allowed only by Special Exception from the Board of Zoning Appeals pursuant to Section 1-304. An asterisk (*) indicates additional, modified or more stringent standards are listed in Article IV, Use and Design Standards, for those specific uses.

RESIDENTIAL USES
Manufactured Home, Class A*
Manufactured Home, Temporary Residence*

C. The following uses are allowed only by Conditional Use Permit from the Board of Supervisors pursuant to Section 1-501 An asterisk (*) indicates additional, modified or more stringent standards are listed in Article IV, Use and Design Standards, for those specific uses.

RESIDENTIAL USES
Dwelling, Single Family, Attached *
Dwelling, Two-Family *

CIVIC USE TYPES
Crisis Center
Day Care Center
Educational Facility *
Public Facilities
Utility Service/Major *

COMMERCIAL USE TYPES
Convenience Store*
Marina *
Restaurant, General*

MISCELLANEOUS USE TYPES
Alternate Discharge Sewage System *

Section 3-603 Lot Requirements

The following standards shall apply to the creation of new lots under this ordinance:

A. Minimum lot area:

1. Without public sewer and water: 30,000 square feet, unless a greater area is required by the Health Department for well and septic.

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2. With public sewer or water, or both: 10,000 square feet, unless a greater area is required by the Health Department.

B. Minimum lot width

1. Without public sewer and water: 100 feet.

2. With public sewer or water, or both: 75 feet.

C. Minimum Lot Depth:

1. Without public sewer and water: 200 feet.

2. With public sewer or water (but not both): 125 feet, unless a greater area is required by the Health Department.

3. With public sewer and water: 100 feet.

D. Minimum lot frontage

1. Without public sewer and water: 80 feet.

2. With public sewer or water, or both: 60 feet.

Section 3-604 Height, Bulk, and Yard Requirements

The following standards shall apply to the building of any structure on lots within this district:

A. Maximum building height:

1. All principle buildings: 2 1/2 stories but not to exceed 35 feet

2. Buildings Accessory to a Single Family Residence: No more than the height of the principle building.

B. Minimum Front Yard Setbacks

1. Principle structures: 40 feet

2. Accessory structures shall only be allowed in the rear yard (behind the rear face of the principle building)

C. Minimum side yard setback:

1. Principle structures: 15 feet

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2. Accessory structures shall only be allowed in the rear yard (behind the rear face of the principle building), otherwise: 5 feet

D. Minimum rear yard setback:

1. Principle structures: 25 feet

2. Accessory structures: 5 feet

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SECTION 3-700 B-1 LOCAL BUSINESS DISTRICT

Sec. 3-701 Purpose of the District

The purpose of this district is to provide primarily for low intensity retail shopping and personal service uses, developed either as a unit or in individual parcels, to satisfy those basic needs which occur daily or frequently and so require commercial facilities in close proximity to residences or which may generally be compatible with a rural or residential area. To ensure this compatibility, the size and architectural designs should also be reviewed for compatibility with the surrounding residential and rural community.

Sec. 3-702 Permitted Uses

A. The following uses are permitted by right subject to all other applicable requirements contained in this Ordinance. An asterisk (*) indicates additional, modified or more stringent standards are listed in Article IV, Use and Design Standards, for those specific uses.

RESIDENTIAL USES
Accessory Apartment*

CIVIC USE TYPES
Cemetery *
Club
Community Center
Cultural Service
Day Care Center
Educational Facility
Park and Ride Facility
Post Office
Public Facilities
Public Park and Recreational Area
Religious Assembly
Utility Service/Minor

COMMERCIAL USE TYPES
Antique Shop
Bank
Bed and Breakfast *
Business Support Service
Business or Trade School
Construction Office, Temporary
Funeral Home
Golf Course
Hospital
Hotel/Motel/Motor Lodge/Inn

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Kennel, Commercial
Laundry
Marina *
Medical Office
Motor Vehicle Parts/ Supply, Retail
Office, General
Pawn Shop
Personal Improvement Service
Personal Service
Real Estate Office, Temporary
Restaurant, General
Retail Sales
Studio, Fine Arts
Taxidermy *
Veterinary Hospital/Clinic

INDUSTRIAL USE TYPES

MISCELLANEOUS USE TYPES
Alternate Discharge Sewage System *
Communication Tower *
Outdoor Gathering
Parking Facility
Reconstructed Wetland *

B. The following uses are allowed only by Special Exception from the Board of Zoning Appeals pursuant to Section 1-304. An asterisk (*) indicates additional, modified or more stringent standards are listed in Article IV, Use and Design Standards, for those specific uses.

None at this time.

C. The following uses are allowed only by Conditional Use Permit from the Board of Supervisors pursuant to Section 1-501. An asterisk (*) indicates additional, modified or more stringent standards are listed in Article IV, Use and Design Standards, for those specific uses.

CIVIC USE TYPES
Crisis Center
Halfway House
Nursing Home
Rehabilitation Service
Utility Service/Major*

COMMERCIAL USE TYPES
Agricultural Service *
Auction Establishment
Commercial Indoor Recreation

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Commercial Outdoor Recreation

Section 3-703 Lot Requirements

A. Minimum lot area:

1. Minimum lot area: 40,000 square feet:

2. The required minimum area for lots served by private water or private sewer facilities may be increased when the Health Department requires a larger parcel to satisfy an on-site sewage disposal system.

B. Minimum lot width: 200 feet

C. Minimum Lot Frontage: 200 feet

Section 3-704 Height, Bulk, and Yard Requirements

The following standards shall apply to the building of any structure on lots within this district:

A. Maximum building height:

1. All principle buildings: 2 1/2 stories but not to exceed 45 feet

2. Buildings Accessory: No more than the height of the principle building.

B. Minimum Front Yard Setbacks

1. On primary highway: 75 feet

2. On secondary highway or other street: 50 feet

3. Accessory structures shall only be allowed in the side or rear yard (behind the front face of the principle building)

C. Minimum side yard setback:

1. None, but a buffer yard is required on lots adjacent to residential and agricultural zoning districts (see Section ??????).

2. Accessory structures shall only be allowed in the side or rear yard (behind the front face of the principle building)

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D. Minimum rear yard setback:

1. All structures: 25 feet, but a buffer yard is required on lots adjacent to residential and agricultural zoning districts (see Section ??????).

Section 3-705 Additional Standards

1. No Exterior storage. Permitted stores, shops, offices or businesses shall be conducted wholly within a completely enclosed building and except for temporary display items as limited by these regulations there shall be no exterior storage of merchandise or materials unless these are enclosed within storage yard established and maintained in accordance with these regulations (See Section ?????).

2. Warehousing Not Permitted. No commercial warehousing, wholesaling, of jobbing or killing of animals or poultry shall be carried on and no merchandise shall be stored other than to be sold at retail on the premises, and provided further, that no more than fifty (50) percent of the floor area of any building shall be used for the storage of merchandise.

3. Landscaping. Any part of the lot or project area not used for buildings or other structures, parking, loading and accessways, shall be landscaped with grass, trees, shrubs, or pedestrian walks.

4. Drainage. Provision shall be made for proper storm water 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.

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SECTION 3-800 B-2 GENERAL BUSINESS DISTRICT

Sec. 3-801 Purpose of the District

The purpose of this district is to provide sufficient space in appropriate locations for a wide variety of commercial, automotive, and miscellaneous recreational and service activities, generally serving a wide area of the County and generally located in or near development centers where a general mixture of commercial and service activity now exists or is planned, but which uses are not characterized by extensive warehousing, frequent heavy trucking activity, or the nuisance factors of dust, order, and noise, associated with manufacturing.

Sec. 3-802 Permitted Uses

A. The following uses are permitted by right subject to all other applicable requirements contained in this Ordinance. An asterisk (*) indicates additional, modified or more stringent standards are listed in Article IV, Use and Design Standards, for those specific uses.

RESIDENTIAL USES
Accessory Apartment *

CIVIC USE TYPES
Club
Crisis Center
Cultural Service
Day Care Center
Educational Facility
Halfway House
Nursing Home
Park and Ride Facility
Post Office
Public Facilities
Public Park and Recreational Area
Religious Assembly
Rehabilitation Service
Utility Service/Minor

COMMERCIAL USE TYPES
Agricultural Service *
Antique Shop
Auction Establishment *
Bank
Business Support Service
Business or Trade School
Commercial Indoor Recreation

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Construction Office, Temporary
Crematorium
Dance Hall
Equipment Sales and Rental *
Farmer's Market
Funeral Home
Garden Center *
Gasoline Station *
General Service and Repair *
Golf Course
Hospital
Hospital, Special Care
Hotel/Motel/Motor Lodge/Inn
Kennel, Commercial *
Laundry
Lumber Yard *
Manufactured Home Sales
Marina
Medical Office
Mini Warehouse *
Motor Vehicle Sales *
Motor Vehicle/ Outdoor Storage *
Motor Vehicle Parts/ Supply, Retail
Motor Vehicle Repair Service/ Major *
Motor Vehicle Repair Service/ Minor *
Office, General
Pawn Shop
Personal Improvement Service
Personal Service
Real Estate Office, Temporary *
Recreational Vehicle Sales and Service *
Restaurant, General
Retail Sales
Studio, Fine Arts
Taxidermy
Veterinary Hospital/Clinic

INDUSTRIAL USE TYPES
Laboratory

MISCELLANEOUS USE TYPES
Outdoor Gathering
Parking Facility

B. The following uses are allowed only by Special Exception from the Board of Zoning Appeals pursuant to Section 1-304. An asterisk (*) indicates additional, modified or more stringent standards are listed in Article IV, Use

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and Design Standards, for those specific uses.

INDUSTRIAL USE TYPES
Custom Manufacturing *

C. The following uses are allowed only by Conditional Use Permit from the Board of Supervisors pursuant to Section 1-501. An asterisk (*) indicates additional, modified or more stringent standards are listed in Article IV, Use and Design Standards, for those specific uses.

COMMERCIAL USE TYPES
Adult Entertainment Establishment *
Car Wash
Commercial Outdoor Recreation *
Convenience Store *
Flea Market *
Livestock Auction Market *
Restaurant, Drive-In Fast Food *
Truck Stop*

MISCELLANEOUS USE TYPES
Alternate Discharge Sewage System *
Communication Tower *
Reconstructed Wetland *

Section 3-803 Lot Requirements

A. Minimum lot area:

1. Minimum lot area: 40,000 square feet:

2. The required minimum area for lots served by private water or private sewer facilities may be increased when the Health Department requires a larger parcel to satisfy an on-site sewage disposal system.

B. Minimum lot width: 200 feet

C. Minimum Lot Frontage: 200 feet

Section 3-804 Height, Bulk, and Yard Requirements

The following standards shall apply to the building of any structure on lots within this district:

A. Maximum building height:

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1. All principle buildings: 2 1/2 stories but not to exceed 45 feet

2. Buildings Accessory: No more than the height of the principle building.

B. Minimum Front Yard Setbacks

1. On primary highway: 75 feet

2. On secondary highway or other street: 50 feet

3. Accessory structures shall only be allowed in the side or rear yard (behind the front face of the principle building)

C. Minimum side yard setback:

1. None, but a buffer yard is required on lots adjacent to residential and agricultural zoning districts (see Section ??????).

2. Accessory structures shall only be allowed in the side or rear yard (behind the front face of the principle building)

D. Minimum rear yard setback:

1. All structures: 25 feet, but a buffer yard is required on lots adjacent to residential and agricultural zoning districts (see Section ??????).

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SECTION 3-900 M-1 GENERAL INDUSTRIAL DISTRICT

Sec. 3-901 Purpose of the District

This district is intended to provide an environment suitable for industrial activities that do not create appreciable nuisances, hazards or threats to the natural environment or surrounding development. Uses that would typically be found in this district include a wide variety of light manufacturing, fabricating, processing, wholesale distributing and warehousing uses appropriately located for access to highways and providing a controlled environment within which uses are to be conducted in completely enclosed buildings. 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.

Sec. 3-902 Permitted Uses

A. The following uses are permitted by right subject to all other applicable requirements contained in this Ordinance. An asterisk (*) indicates additional, modified or more stringent standards are listed in Article IV, Use and Design Standards, for those specific uses.

AGRICULTURAL USES
Agriculture
Silvicultural activities

CIVIC USE TYPES
Day Care Center
Park and Ride Facility
Parks and Recreation
Post Office
Public Maintenance Facility
Utility Service/Minor

COMMERCIAL USE TYPES
Auction Establishment
Bank
Business Support Service
Business or Trade School
Construction Office, Temporary
Equipment Sales and Rental
General Service and Repair
Mini Warehouse
Motor Vehicle/ Outdoor Storage
Motor Vehicle Repair Service/ Major
Office, General

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Taxidermy
Truck Stop

INDUSTRIAL USE TYPES
Contractor's Yard
Convenience Center
Custom Manufacturing
Industry, Type I
Laboratory
Warehousing and Distribution

MISCELLANEOUS USE TYPES
Parking Facility
Reconstructed Wetland

B. The following uses are allowed only by Special Exception from the Board of Zoning Appeals pursuant to Section 1-304. An asterisk (*) indicates additional, modified or more stringent standards are listed in Article IV, Use and Design Standards, for those specific uses.

RESIDENTIAL USES
Accessory Apartment

C. The following uses are allowed only by Conditional Use Permit from the Board of Supervisors pursuant to Section 1-501. An asterisk (*) indicates additional, modified or more stringent standards are listed in Article IV, Use and Design Standards, for those specific uses.

CIVIC USE TYPES
Utility Service/Major

COMMERCIAL USE TYPES
Convenience Store
Lumber Yard

INDUSTRIAL USE TYPES
Industry, Type II
Recycling Center
Transfer Station

MISCELLANEOUS USE TYPES
Alternate Discharge Sewage System
Communication Tower

Section 3-903 Lot Requirements

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The following standards shall apply to the creation of new lots under this ordinance:

A. Minimum lot area: 30,000 square feet

The required minimum area for lots served by private water or private sewer facilities may be increased when the Health Department requires a larger parcel to satisfy an on-site sewage disposal system.

B. Minimum lot width

1. On existing public roads: 150 feet

2. On new subdivision roads: 100 feet

C. Minimum Lot Depth: 200 feet

D. Minimum lot frontage

1. On existing public roads: 150 feet

2. On new subdivision roads: 100 feet

3. On a cul-de-sac: 75 feet

Section 3-904 Height, Bulk, and Yard Requirements

The following standards shall apply to the building of any structure on lots within this district:

A. Maximum building height:

1. All structures: 75

a. The height limit shall be thirty five (35) feet in height. The height limit for principal structures may be increased to fifty (50) seventy (70) feet or up to five (5) stories, whichever is lesser; provided, that each required yard is increased one (1) foot for each additional foot of principal structure height over 35 feet. there are two (2) side yards for each permitted principal structure, each of which is fifteen (15) or more feet in width plus one (1) foot or more of side yard for each additional foot of principal structure height over thirty five (35) feet.

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b. Where structures exceed the 35 foot height requirement a building separation of thirty (30) feet shall be required.

c. See Section 4-???, for exceptions to height limits.

B. Minimum Front Yard Setbacks

1. On primary highway: 75 feet

2. On secondary highway or other street: 50 feet

3. Accessory structures shall only be allowed in the side or rear yard (behind the front face of the principle building)

C. Minimum side yard setback:

1. None, but a buffer yard is required on lots adjacent to residential and agricultural zoning districts (see Section ??????).

2. Accessory structures shall only be allowed in the side or rear yard (behind the front face of the principle building)

D. Minimum rear yard setback:

1. All structures: 25 feet, but a buffer yard is required on lots adjacent to residential and agricultural zoning districts (see Section ??????).

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SECTION 3-1000 M-2 GENERAL INDUSTRIAL DISTRICT

Sec. 3-1001 Purpose of the District

The purpose of this district is to provide for a wide variety of industrial operations, 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 assure protection of the public interest and surrounding property and persons. It is the intention of the district to preserve the land in the district for industrial use and to exclude new residential or commercial development except for certain uses determined to be supportive of industrial operations.

Sec. 3-1002 Permitted Uses

A. The following uses are permitted by right subject to all other applicable requirements contained in this Ordinance. An asterisk (*) indicates additional, modified or more stringent standards are listed in Article IV, Use and Design Standards, for those specific uses.

AGRICULTURAL USES
Agriculture
Silvicultural activities

RESIDENTIAL USES
Accessory Apartment

CIVIC USE TYPES
Day Care Center
Park and Ride Facility
Post Office
Public Maintenance Facility
Public Park and Recreational Area
Utility Service/Minor

COMMERCIAL USE TYPES
Adult Entertainment Establishment
Agricultural Service
Auction Establishment
Bank
Business Support Service
Business or Trade School
Construction Office, Temporary
Crematorium
General Service and Repair
Laundry

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Livestock Auction Market
Office, General
Truck Stop

INDUSTRIAL USE TYPES
Convenience Center
Industry, Type I
Industry, Type II
Laboratory
Recycling Center
Scrap and Salvage Service
Transfer Station
Warehousing and Distribution

MISCELLANEOUS USE TYPES
Parking Facility
Reconstructed Wetland

B. The following uses are allowed only by Special Exception from the Board of Zoning Appeals pursuant to Section 1-304. An asterisk (*) indicates additional, modified or more stringent standards are listed in Article IV, Use and Design Standards, for those specific uses.

None at this time.

C. The following uses are allowed only by Conditional Use Permit from the Board of Supervisors pursuant to Section 1-501. An asterisk (*) indicates additional, modified or more stringent standards are listed in Article IV, Use and Design Standards, for those specific uses.

CIVIC USE TYPES
Utility Service/Major

COMMERCIAL USE TYPES
Convenience Store

INDUSTRIAL USE TYPES
Asphalt Plant
Industry, Type III
Landfill
Meat Packing
Power Plant

MISCELLANEOUS USE TYPES
Alternate Discharge Sewage System
Communication Tower

Section 3-1003 Lot Requirements

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The following standards shall apply to the creation of new lots under this ordinance:

A. Minimum lot area: 40,000 square feet.

The required minimum area for lots served by private water or private sewer facilities may be increased when the Health Department requires a larger parcel to satisfy an on-site sewage disposal system.

B. Minimum lot width

1. On existing public roads: 150 feet

2. On new subdivision roads: 100 feet

C. Minimum Lot Depth: 200 feet

D. Minimum lot frontage

1. On existing public roads: 150 feet

2. On new subdivision roads: 100 feet

3. On a cul-de-sac: 75 feet

Section 3-1004 Height, Bulk, and Yard Requirements

The following standards shall apply to the building of any structure on lots within this district:

A. Maximum building height:

1. All structures: 75

a. The height limit shall be thirty five (35) feet in height. The height limit for principal structures may be increased to fifty (50) seventy (70) feet or up to five (5) stories, whichever is lesser; provided, that each required yard is increased one (1) foot for each additional foot of principal structure height over 35 feet. there are two (2) side yards for each permitted principal structure, each of which is fifteen (15) or more feet in width plus one (1) foot or more of side yard for each additional foot of principal structure height over thirty five (35) feet.

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b. Where structures exceed the 35 foot height requirement a building separation of thirty (30) feet shall be required.

c. See Section 4-????, for exceptions to height limits.

B. Minimum Front Yard Setbacks

1. On primary highway: 75 feet

2. On secondary highway or other street: 50 feet

3. Accessory structures shall only be allowed in the side or rear yard (behind the front face of the principle building)

C. Minimum side yard setback:

1. None, but a buffer yard is required on lots adjacent to residential and agricultural zoning districts (see Section ??????).

2. Accessory structures shall only be allowed in the side or rear yard (behind the front face of the principle building)

D. Minimum rear yard setback:

1. All structures: 25 feet, but a buffer yard is required on lots adjacent to residential and agricultural zoning districts (see Section ??????).

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SECTION 3-1200 PLANNED DEVELOPMENT DISTRICT

Section 3-1201 Purpose of the District

The purpose of this district is to provide for the development of planned communities that incorporate a variety of housing options as well as certain limited commercial and office uses designed to serve the inhabitants of the district and surrounding areas. This district is intended to allow greater flexibility than is generally possible under conventional zoning district regulations by encouraging ingenuity, imagination and high quality design to create a superior living environment for the residents of the planned community. Incorporation of significant areas of open space is a primary component of these provisions as a means to maintain critical natural and cultural resources. This is balanced with development at densities which compensate, or in certain situations reward with bonuses, for the maintenance of these resources. The PD district is particularly appropriate for parcels which contain a number of constraints to conventional development. In addition to an improved quality of design, the PD district creates an opportunity to reflect changes in the technology of land development, provide opportunities for new approaches to home ownership, and provide for an efficient use of land which can result in reduced development costs.

This district is intended to supplement and enhance the options and opportunities for creative land development in areas where more intensive development and public utilities and services exist or are anticipated. This district is not intended as a means of establishing a more intensive development in areas characterized by agricultural and forested lands and rural development where public services and utilities are neither anticipated, cost effective, or desirable.

Sec. 3-1202 Uses Generally Permitted

A. The following uses are generally permitted in the Planned Development District, subject to approval of the Board of Supervisors as described in Section 3-1205. Uses allowed by right or through a conditional use permit or special use permit shall also be subject to all other applicable requirements contained in this Ordinance including additional, modified or more stringent standards listed in Article IV, Use and Design Standards, for those specific uses unless otherwise approved as part of the PD district.

AGRICULTURAL USES

Agriculture
Silvicultural activities
Greenhouse, Private
Roadside Stand *
Stable, Commercial *
Stable, Private *

RESIDENTIAL USES

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Accessory Apartment *
Condominium
Dwelling, Multifamily Conversion
Dwelling, Single Family, Attached *
Dwelling, Single Family, Detached
Dwelling, Two-Family *
Family Day Care Home
Group Home
Guest House
Home Occupation, Community *
Kennel, Private *
Multifamily Dwelling *
Temporary Emergency Housing
Townhouse *

CIVIC USE TYPES

Club
Community Center
Community Recreation
Crisis Center
Day Care Center
Educational Facility
Nursing Home
Park and Ride Facility
Post Office
Public Facilities
Public Park and Recreational Area
Religious Assembly
Utility Service/Minor

COMMERCIAL USE TYPES

Antique Shop
Bank
Bed and Breakfast *
Business Support Service
Business or Trade School
Commercial Indoor Recreation
Commercial Outdoor Recreation
Construction Office, Temporary
Convenience Store *
Farmer's Market
Funeral Home
Gasoline Station
General Service and Repair
Golf Course

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Hospital
Hospital, Special Care
Hotel/Motel/Motor Lodge/Inn
Kennel, Commercial *
Laundry
Marina
Medical Office
Mini Warehouse *
Office, General
Personal Improvement Service
Personal Service
Real Estate Office, Temporary
Restaurant, General
Retail Sales
Studio, Fine Arts
Veterinary Hospital/Clinic

INDUSTRIAL USE TYPES

Custom Manufacturing
Laboratory

MISCELLANEOUS USE TYPES

Alternate Discharge Sewage System *
Amateur Radio Tower
Communication Tower *
Outdoor Gathering
Parking Facility
Reconstructed Wetland

Section 3-1203 Site Development Regulations

A. Each planned development shall be subject to the following site development standards.

1. Minimum district size: 10 acres of contiguous land.

2. Maximum gross density: 3 dwelling units per acre, excluding any density bonuses provided for below.

3. Minimum common open space and/or recreational areas: 15 percent of the gross area of the PD district.

4. Criteria for all open space:

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a. Minimum countable open space: 5,000 contiguous square feet.

b. Minimum horizontal dimension: 50 feet, except that areas with a horizontal distance of not less than 20 feet shall be counted as open space provided such areas contain facilities such as, but not limited to, bikeways, exercise trails, tot lots, gazebos, picnic tables, etc.

c. Common open space shall not include proposed street right-of-ways, open parking areas, driveways, or sites reserved for schools or places of religious assembly.

d. Common open space and/or recreational areas shall be of an appropriate nature and location to serve the residents of the district.

5. Open space bonus: for each additional 5 percent of open space the maximum gross density specified in (A) 2. above shall be increased 1 dwelling units per acre. The maximum open space bonus shall be 25 percent.

6. A 7.5 percent bonus to the gross density may be approved by the Administrator when a historic site will be preserved and maintained as an integral part of the development proposal. The historic site must be included in one of the following:

a. The historic site shall be listed on the Virginia Landmarks Register and the National Register of Historic Places;

b. The historic site shall have been determined to be eligible for listing on the registers cited in a. above by the State Review Board for Historic Preservation; OR,

c. The historic site shall have been officially designated by the Board of Supervisors as having County or local significance.

7. Maximum percentage devoted to any single residential use type: 70% of the total number of residential dwelling units.

8. Maximum area for commercial and/or office uses: 20 percent of the gross area of the PD. In addition, the following standards shall apply:

a. Commercial and office uses shall be expressly designed for the service and convenience of the PD and surrounding neighborhood;

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b. Commercial and office uses shall be screened and landscaped so as to be compatible with adjoining residences;

c. Construction of commercial and office uses shall not begin until 25 percent of the residential units of the total PD have been completed.

9. Minimum setback requirements shall be specifically established during the review and approval of the Master Plan. The following guidelines shall be used in establishing the building spacing and setbacks:

a. Building spacing shall provide privacy within each dwelling unit;

b. Building spacing shall ensure that each room has adequate light and air;

c. Areas between buildings used as service yards, storage of trash, or other utilitarian purposes should be designed so as to be compatible with adjoining dwellings;

d. Building spacing and design shall provide privacy for outdoor activity areas (patios, decks, etc.) associated with individual dwelling units.

10. Streets in the PD district may be public in accordance with VDOT and County standards or may be private, as may be approved by the Board of Supervisors. In reviewing the PD preliminary master plan, the Commission may recommend, and the Board may approve, one or more private streets within the proposed district.

Section 3-1204 Relationship to Existing Development Regulations

A. All zoning regulations shall apply to the development of the PD, unless specifically modified in the approval of the final master plan.

Section 3-1205 Application Process

A. Prior to submitting a formal application for review and approval under these provisions, the applicant and county staff shall meet to discuss the requirements of this section. The purpose of the meeting is to obtain a mutual understanding of the application requirements and process. The applicant is encouraged to submit information on the scope and nature of

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the proposal to allow staff to become familiar with the proposal in advance of this meeting.

B. Any application to rezone land to the PD designation, shall constitute an amendment to the zoning ordinance pursuant to Section 1-510. The written and graphic information submitted by the applicant as part of the application process shall constitute proffers pursuant to Section 1-513 of this ordinance. Once the Board of Supervisors has approved the final master plan, all accepted proffers shall constitute conditions pursuant to Section 1-513.

C. To initiate an amendment, the applicant shall complete a rezoning application packet. This information shall be accompanied by graphic and written information, which shall constitute a preliminary master plan. All information submitted shall be of sufficient clarity and scale to clearly and accurately identify the location, nature, and character of the proposed district. At a minimum this information shall include:

1. A legal description and plat showing the site boundaries, and existing street lines, lot lines, and easements.

2. Existing zoning, land use and ownership of each parcel proposed for the district.

3. A general statement of planning objectives to be achieved by the PD district, including a description of the character of the proposed development, the existing and proposed ownership of the site, the market for which the development is oriented, and objectives towards any specific man-made and natural characteristics located on the site.

4. A description and analysis of existing site conditions, including information on topography, archeological and historic resources, natural water courses, floodplains, unique natural features, tree cover areas, etc.

5. A land use plan designating specific uses for the site, both residential and non-residential uses, and establishing site development regulations, including setback, height, building coverage, lot coverage, and density requirements.

6. A circulation plan, including location of existing and proposed vehicular, pedestrian, bicycle, and other circulation facilities and location and general design of parking and loading facilities. General information on the trip generation, ownership and maintenance and proposed construction standards for these facilities should be included. If private streets are proposed a detailed proposal of how

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the roads will be maintained and improved and the initial monetary contribution by the developer and subsequent fees on homeowners over the first twenty-year period shall be provided. A Traffic Impact Analysis shall be required in accordance with VDOT standards.

7. A public services and utilities plan providing requirements for and provision of all utilities, sewers, and other facilities to serve the site.

8. An open space plan, including areas proposed for passive and active recreational uses, natural and undisturbed areas, and proposed buffer areas proposed around the perimeter of the site. Information on the specific design and location of these areas and their ownership and maintenance should be included.

9. Generalized statements pertaining to architectural and community design guidelines shall be submitted in sufficient detail to provide information on building designs, orientations, styles, lighting plans, etc.

10. A development schedule indicating the location, extent and sequence of proposed development. Specific information on development of the open space, recreational areas, and non-residential uses should be included and should be integrated into the Phasing Plan for the overall development of the property.

D. The plan approved by the Board of Supervisors, including all supporting documentation, shall constitute the final master plan for the PD. Any subsequent modification to the Final Master Plan shall be made only accordance with Section 3-1206 below.

Section 3-1206 Revisions to Final Master Plan

A. Major revisions to the final master plan shall be reviewed and approved following the procedures and requirements of Section 1-1205. Major revisions include, but are not limited to changes such as:

1. Any increase in the density of the development;

2. Substantial change in circulation or access;

3. Substantial change in the mixture of dwelling unit types included in the project;

4. Substantial changes in grading or utility provisions;

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5. Substantial changes in the mixture of land uses or an increase in the amount of land devoted to non-residential purposes;

6. Reduction in the approved open space, landscaping or buffering;

7. Substantial change in architectural or site design features of the development or the sequencing of public improvements and amenities;

8. Any other change that the Administrator finds is a major divergence from the approved final master plan, based upon the original application and the public record of comments and concerns raised during consideration the initial or subsequent modifications to the PD zoning.

B. All other changes in the final master plan shall be considered minor amendments. The Administrator, upon receipt of a written request of the owner, may approve such minor amendments.

1. If the Administrator fails to act on a request for a minor amendment to the Master Plan within 15 calendar days, it shall be considered approved.

2. A request which is disapproved by the Administrator shall be considered a major amendment and shall be subject to the approval process outlined above for such amendments.

Section 3-1207 Approval of Preliminary and Final Site Development Plans

A. Following the approval of the final master plan, the applicant or its authorized agent, shall be required to submit preliminary and final site development plans for approval in accordance with Section ???? of this ordinance. Final site development plans for any phase or component of the PD that involves the construction of structures or facilities, shall be approved prior to the issuance of a building and zoning permit, and the commencement of construction.

B. It is the intent of this section that subdivision review under the subdivision regulations be carried out simultaneously with the review of a planned residential development under this section. The plans required under this section shall be submitted in a form which will satisfy the requirements of the subdivision regulations, as determined by the Administrator.

C. Preliminary and final site development plans submitted for review shall be in compliance with the final master plan approved by the Board of Supervisors.

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D. No Planned Residential Development shall be approved and no work shall be authorized on construction until all property included in the Final Master Plan is in common ownership.

Section 3-1208 Control Following Approval of Final Development Plans

A. The zoning administrator shall periodically inspect the site and review all building permits issued for the development to ensure general compliance with the development sequence and schedule. The provision and construction of all of the common open space and public and recreational facilities shown on the final development plan must proceed at the same rate as the construction of dwelling units. If the administrator finds that the development schedule has not been followed, no permits, except for the above mentioned facilities, shall be issued until the developer complies with the development schedule, unless the developer has provided a performance bond or similar instrument to guarantee that such common open space and/or public and recreational facilities will be provided for at a specific date.

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SECTION 3-1300 HP HISTORIC PRESERVATION DISTRICT

Section 3-1301 Purpose of the District

The purpose of this district is to provide for protection against destruction of or encroachment upon historic areas, buildings, monuments or other features, or buildings and structures of 'recognized architectural significance which contribute or will contribute to the cultural, social, economic, political or architectural heritage of Surry County and the Commonwealth of Virginia. It is the purpose of the district to preserve designated historic or architectural features, and their surroundings within a reasonable distance, from destruction, damage, defacement and obviously inconsistent development or uses of land.

Section 3-1302 Application of the District

A. The HP, Historic Preservation District shall be a special overlay district as established in Section 3-101 of this Ordinance.

B. The provisions of this District shall apply to all of those area designated on the official Zoning Maps as HP, Historic Preservation District.

C. No building shall be constructed or used and no land shall be used, for streets or otherwise, and no building or accessory building designated as an historic monument shall be demolished or moved or substantially altered in its exterior construction or appearance and no sign erected unless approved by the Board of Historic and Architectural Review.

Section 3-1303 Board of Historic and Architectural Review

A. The Board of Historic and Architectural Review (Board of Review) is hereby established to consist of five citizens, at least four of whom shall be residents of Surry County, with the following characteristics:

1. One of the members shall be a licensed architect or architectural historian;

2. One shall be realtor;

3. One shall be a member of the County Planning Commission; and,

4. One shall be a citizen who has demonstrated outstanding interest and knowledge in historical or architectural development or building construction within the county.

B. The Board of Review shall be appointed by the Board of Supervisors for five years except that original appointments shall be made for such terms that the term of one member shall expire each year. Appointments to fill vacancies shall be only for the unexpired term. Members may be reappointed to succeed themselves. A member whose term expires shall continue to serve until his successor is appointed and qualifies.

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C. Exceptions to membership shall be approved by the Department of Historic Resources if the County desires to be a Certified Local Government by the Virginia Department of Historic Resources. Information on the credentials of all review committee members shall be submitted to the State Historic Preservation Office and shall be kept on file locally for public inspection.

D. The committee shall have established bylaws and procedures for conducting business, shall elect its chairman and vice-chairman, and keep written minutes of its meetings.

E. The Board of Historic and Architectural Review shall have the authority to:

1. Provide oversight in the administration of historic district provisions as outlined in this ordinance;

2. Review and approve, approve with conditions, or deny a request for new construction and exterior alterations and/or restorations of existing structures within historic districts based upon the criteria and procedures contained in this ordinance.

3. Seek appropriate professional advice when adequate review of any proposed action would normally involve a professional discipline not represented on the review committee before rendering its decision. Such professional advice shall be obtained at the cost of the applicant, in addition to any costs established by the County.

4. The Board of Historic and Architectural Review shall be provided an opportunity to comment and report on any action requested of another public body under this ordinance for a property located partially or wholly within the HP, Historic Preservation District, as it may relate to the purposes and standards of this district. Such comments shall be provided within 45 days of notification of the proposed action, unless additional time is approved by the applicant of the action.

Section 3-1304 Permitted Uses and Activities

A. The permitted uses shall be determined by the underlying or base zoning district.

B. Cultural Services shall be permitted by right subject to review and approval by the Board of Historic and Architectural Review for all aspects of the development and improvement of the site, in addition to any other approvals that may be required.

Section 3-1305 Minor Exemptions

A. The following minor exemptions shall not require Board of Review approval and shall be approved by the administrator:

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1. Repainting resulting in the same or substantially the same color.

2. Replacement of windows, storm windows and doors using the same materials, profile and sash configuration as existing windows, storm windows, and doors, or the addition or deletion of window air conditioners.

3. Addition or deletion of television or radio antennas, skylights, solar collectors, or satellite dishes in locations not visible from a public street.

4. Planting of grass, trees and shrubs, but not including landscape treatment which substantially alters the contour of a landmark site.

5. Permitted outside storage which is not visible from a public street.

6. Any interior changes to a structure.

B. Notwithstanding the above, the Administrator shall have the authority to order that work be stopped and that an appropriate application be filed for review in any case where the action may produce arresting effects, extreme contrasts of materials or colors, intense colors or patterns, or incongruous details inconsistent with the character of the present structures or with the prevailing character of the surrounding historic district.

Section 3-1306 Criteria for Consideration by the Board of Historic and Architectural Review

The action of the Board of Historic and Architectural Review shall be based upon consideration of the following:

1. The public necessity of the proposed construction or use.

2. The public purpose or interest in land or buildings to be protected.

3. The historic or architectural value and significance of a structure and its relationship to the historic value of the surrounding area

4. The age and character of the historic structure, its probable life expectancy, and the appropriateness of the proposed changes to the period or periods during which the structure was built.

5. The general compatibility of the site plan and the exterior design, arrangement, texture, and materials proposed to be used.

6. The view of the structure or area from a public street or road, present or future.

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7. The present character of the setting of the structure or area and its surroundings.

8. The probable effect of proposed construction on trees, wooded areas, or historic sites.

9. Effect of the building, structure or place on the Comprehensive Plan's goals for tourism, economic development and residential land uses in and around the historic district, landmark, building, structure or site;

10. Compatibility of the proposed building, structure or site with the goals for historic preservation as contained in the Comprehensive Plan.

11. Any other factors, including aesthetic factors which the Board of Review deems to be pertinent.

Section 3-1307 Procedure for Approval of New Construction, Alteration, Renovation, and Demolition within Historic Districts

A. An applications shall be submitted to the Administrator for review and action by the Board of Review, including the following:

1. Statement of proposed use and user.

2. Statement of estimated construction time.

3. Photographs and maps relating proposed use to the surrounding property and/or district in which it is located.

4. Site plan drawings, showing the location of the existing and proposed building and site improvements, including:

a. Existing property boundaries, building placement and site configuration,

b. Existing topography and proposed grading,

c. Location of parking, pedestrian access, signage, exterior lighting, fencing and other site improvements,

d. Relationship to adjacent land uses,

e. Proposed site improvements, including location of parking, pedestrian access, signage, exterior lighting, fencing, buildings and structures and other appurtenant elements, and

f. Proposed building color and materials.

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5. Architectural drawings showing plan view and elevations of new planned construction or renovations, including drawings or original buildings.

6. A landscaping and buffer plan.

7. Designs for exterior signage, lighting and graphics, to include description of materials, colors, placement and means of physical support, lettering style and message to be placed on signs.

8. The Administrator may require additional information to be submitted where pertinent to the nature of the request and may also waive specific requirements when the item required is not relevant to the request.

B. Upon receiving a completed application, the Administrator shall place the item on the next public hearing agenda of the Board of Review and provide the necessary notices required under Section 1-600 of this Ordinance.

C. At least 30 days prior to the public hearing, the Administrator shall refer the application in writing to the Thomas Rolfe Branch of the Association for the Preservation of Virginia Antiquities or other organization with a demonstrated interest in historic preservation for review and comment. No action shall be taken within 30 days of sending the request for review and comment.

D. The Board of Review shall hold a public hearing and shall take action within one hundred (100) days after receipt by the Administrator.

E. The Board of Review is not be required to limit new construction, alterations, or repairs to the architectural style of any one period and may seek advisory assistance from experts in such fields as the Board's work requires.

F. The Board of Review shall be strict in its judgment of plans for those structures deemed to have historic or architectural value but shall be lenient in its judgments of plans for structures of little historic value or for plans involving new construction, unless such plans would seriously impair the historic or architectural value of surrounding structures or the surrounding areas.

Section 3-1308 Delay of Approval

A. In the case of a proposal involving a structure or land of unusual public importance, and where the Board of Review decides such action to be in

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the public interest and not in conflict with any provision of law, it may delay the effective date of an approval for a period of two years to enable negotiations to be undertaken and completed for acquisition of the property for preservation or public use. Failure of negotiations within this period shall be the equivalent of a denial of the application by the Board of Review.

Section 3-1309 Razing or Demolition, Approval by Board of Supervisors Required

A. Except as provided by law, no historic landmark, building or structure within a HP Historic District shall be razed or demolished until the razing or demolishment thereof is approved by the Board of Supervisors after public hearing as prescribed in Section 1-600 of this Ordinance and after report from and consultation with the Board of Review. An appeal from a final decision of the Board of supervisors may be filed by the any aggrieved party with the circuit Court of the county in the manner prescribed by law.

Section 6-3010 Appeals

A. Appeal of Board of Review Decision:

1. Any person aggrieved by any decision of the Historic Architectural Review Committee may appeal such decision to the Board of Supervisors, provided that such appeal is filed within fourteen (14) calendar days from the date of notification of the Historic Architectural Review Committee decision.

2. The Board of Supervisors shall consult with the Historic Architectural Review Committee in relation to any appeal and may require documentation of any Historic Architectural Review Committee decision prior to hearing the appeal. The Board of Supervisors may affirm, reverse or modify the Historic Architectural Review Committee decision and shall notify the Zoning Administrator of its action.

B. Appeal of Board of Supervisors Decision

Any person aggrieved by any decision of the Board of Supervisors may appeal such decision to the Circuit Court for the County of Isle of Wight provided that such appeal is filed within thirty (30) days after the final decision is rendered by the Board of Supervisors. Filing of the petition shall stay the decision of the Board of Supervisors pending the outcome of the appeal to the circuit court, except that the time of such petition shall not stay the decision of the Board of Supervisors if such decision denies the right to raze or demolish a historic landmark, building or structure.

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SECTION 3-1400 CB CHESAPEAKE PRESERVATION DISTRICT

(As Amended May 6, 2004 with only Section Numbers Modified. Otherwise the numbering system retains the structure created by the model ordinance.)

Section 3-1401 Purpose and Authority

The Chesapeake Bay and its tributaries are one of the most important and productive estuarine systems in the world, providing economic and social benefits to the citizens of Surry County and the Commonwealth of Virginia. The health of the Bay is vital to maintaining Surry County's economy and the welfare of its citizens.

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

It is the purpose of these provisions, adopted under the authority of Sections 10.1-2108, 10.1-2109, 10.1-2111 and 15.2-2283 of the Code of Virginia to support the goals and objectives of the Chesapeake Bay Preservation Act and the Surry County Comprehensive Plan by protecting and improving the water quality of the Chesapeake Bay, its tributaries, buffer areas and other sensitive environmental lands by minimizing the potential adverse effects of human activity upon these areas. The intent of these provisions is to:

- protect existing high quality state waters;
- restore all other state waters to a condition or quality that will permit all reasonable public uses and will support the propagation and growth of all aquatic life, including game fish, which might reasonably be expected to inhabit them;
- safeguard the clean waters of the Commonwealth from pollution;
- reduce existing pollution;
- promote water resource conservation in order to comply with the requirements of the Chesapeake Bay Preservation Act.

The requirements contained herein establish the means to minimize erosion and sedimentation potential, reduce land application of nutrients and toxins, and

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maximize rainwater infiltration within the Chesapeake Bay Preservation Areas. Natural ground cover, especially woody vegetation, is most effective in holding soil in place and preventing site erosion. Indigenous vegetation, with its adaptability to local conditions without the use of harmful fertilizers or pesticides, filters stormwater runoff. Minimizing impervious cover enhances rainwater infiltration and effectively reduces stormwater runoff potential.

Additionally, these regulations are intended to prevent a net increase in nonpoint source pollution from new development, achieve a ten percent (10%) reduction in nonpoint source pollution from redevelopment, and achieve a forty percent (40%) reduction in nonpoint source pollution from agricultural uses.

Section 3-1402 Application of District

A. At a minimum, Resource Protection Areas shall consist of lands adjacent to water bodies with perennial flow that have an intrinsic water quality value due to the ecological and biological processes they perform or are sensitive to impacts which may cause significant degradation to the quality of state waters. In their natural condition, these lands provide for the removal, reduction or assimilation of sediments, nutrients and potentially harmful or toxic substances in runoff entering the bay and its tributaries, and minimize the adverse effects of human activities on state waters and aquatic resources.

The Resource Protection Area shall include:

1. Tidal wetlands;

2. Nontidal wetlands connected by surface flow and contiguous to tidal wetlands or water bodies with perennial flow;

3. Tidal shores;

4. Such other lands considered by Surry County to meet the provisions of subsection A. 1. through 4. of this section and to be necessary to protect the quality of state waters; and

5. A buffer area not less than 100 feet in width located adjacent to and landward of the components listed in subsections 1. through 4. above, and along both sides of any water body with perennial flow.

B. RMA Designation

The RMA includes all remaining areas of Surry County which are located within the James River Watershed.

C. RMA Opt-Out provision

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Lots or parcels of record within the RMA may be exempt from the provisions of these provisions if they meet all the criteria listed below:

1. do not possess a RMA feature. The RMA features to which this pertains are:

   a. the 100-year floodplain;

   b. nontidal wetlands not connected by surface flow and contiguous to tidal wetlands, water bodies with perennial flow or other tidal waters;

   c. highly erodible and highly permeable soils;

   d. slopes in excess of 15 percent;

2. An environmental site assessment as provided for in section 3-1405, B. or a submission of equal sufficiency and deemed acceptable by' the Zoning Administrator shall be submitted as evidence of the limits of the RMA.

Section 3-1403 Resource Protection Area

The County shall, as part of their plan-of-development review process pursuant to section 3-1405, A. or during their review of a water quality impact assessment pursuant to Section 3-1405, F. determine whether water bodies on or adjacent to the development site have perennial flow, and (ii) shall adjust Resource Protection Area boundaries, as necessary, on the site, based on this evaluation of the site. The County may accomplish this by either conducting the site evaluations themselves or requiring the person applying to use or develop the site to conduct the evaluation and submit the required information for review.

A. Interpretation of RPA Boundaries

The site-specific boundaries of the RPA shall be determined by the applicant through the performance of an environmental site assessment conducted by a qualified professional. The qualified professional shall use the adopted map as a guide to the general location of an RPA and shall examine whether water bodies on or adjacent to the development site have perennial flow. If necessary, Resource Protection Area boundaries shall be adjusted, on the site, based on the evaluation.

B. Where Conflicts Arise Over Delineation

When the applicant provides a site-specific delineation of the RPA, the zoning Administrator will verify the accuracy of the boundary delineation.

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In determining the site-specific RPA boundary, the Zoning Administrator may render adjustments to the applicant's boundary delineation, in accordance with these provisions and the Subdivision Ordinance for Surry County. In the event the adjusted boundary delineation is contested by the applicant, the applicant may seek relief from the Board of Zoning Appeals in accordance with Section 1-303 to determine the boundary delineation.

C. Use and Lot Size provisions for Lands Within the RPA

1. Development within the RPA is limited to new water-dependent facilities, expansion of existing water-dependent facilities and redevelopment.

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

   a. It does not conflict with the Comprehensive Plan and complies with performance standards of these provisions of the Zoning Ordinance.

   b. Any non-water-dependent land uses and all non-water-dependent components of water -dependent facilities shall be located outside of the Resource Protection Area.

   c. Access, utilities or other land disturbance necessary to serve water-dependent facilities shall be kept to a minimum with a single point of access where possible.

3. Redevelopment shall be permitted only if there is no increase in the amount of impervious cover and no further encroachment within the RPA and it shall conform to the stormwater management requirements outlined under Section 3-1404, G. and the erosion and sediment control requirements outlined under Section 3-1404, A. of these provisions.

4. Lot size shall be subject to the requirements of the underlying zoning district(s), provided that any lot shall have sufficient area outside the Resource Protection Area to accommodate an intended development, in accordance with the performance standards in Section 3-1404 when such development is not otherwise allowed in the Resource Protection Area.

D. RPA Buffer Area Requirements

1. To minimize the adverse effects of human activities on the other components of Resource Protection Areas, state waters, and aquatic life, a 100-foot wide buffer area of vegetation that is

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effective in retarding runoff, preventing erosion, and filtering nonpoint source pollution from runoff shall be retained if present and established where it does not exist.

2. The RPA buffer shall be located adjacent to and landward of other RPA components and along both sides of any water bodies with perennial flow. The full buffer area shall be designated as the landward component of the RPA. Notwithstanding permitted uses, encroachments, and vegetation clearing as set forth in this section, the 100 foot buffer is not reduced in width.

3. The 100-foot RPA buffer shall be deemed to achieve a 75 percent (75%) reduction of sediments and a 40 percent (40%) reduction of nutrients.

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

5. The RPA buffer shall be maintained in accordance with the following performance standards:

   a. In order to maintain the functional value of the buffer area, indigenous vegetation may be removed, subject to approval by the Zoning Administrator, only to provide for reasonable sight lines, access paths, general woodlot management, and best management practices, including those that prevent upland erosion and concentrated flows of stormwater.

      i. Trees may be pruned only as necessary provide for sight lines and vistas, provided that where removed, they shall be replaced with other vegetation that is equally effective in retarding runoff, preventing erosion, and filtering nonpoint source pollution from runoff.

      ii. Any path shall be constructed and surfaced so as to effectively control erosion.

      iii. Dead, diseased, or dying trees or shrubbery and noxious weeds may be removed and thinning of trees may be allowed in accordance with sound horticultural practices as permitted by the Zoning Administrator.

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iv. For shoreline erosion control projects, trees and woody vegetation may be removed, necessary control techniques employed, and appropriate vegetation established to protect or stabilize the shoreline, in accordance with the best available technical advice subject to the issuance of all required permits.

b. When the application of the RPA buffer would result in the loss of a buildable area on a lot or parcel legally recorded prior to October 1, 1989, the Zoning Administrator may, through an administrative process, permit encroachments into the buffer area in accordance with the following criteria:

i. Encroachment into the buffer areas shall be the minimum necessary to achieve a reasonable buildable area for a principal structure and necessary utilities;

ii. Where practicable a vegetated area that will maximize water quality protection mitigate the effects of the buffer encroachment, and is equal to the area encroaching within the buffer area shall be established elsewhere on the lot or parcel; and

iii. The encroachment may not extend into the seaward 50 feet of the buffer area.

c. On agricultural lands the agricultural buffer area shall be managed to prevent concentrated flows of surface water from breaching the buffer area and appropriate measures may be taken to prevent noxious weeds (such as Johnson grass, kudzu, and multiflora rose) from invading the buffer area. Agricultural activities may encroach into the buffer area as follows: .

i. Agricultural activities may encroach into the landward 50 feet of the 100-foot wide buffer area when at least one agricultural best management practice which, in the opinion of the local soil and water conservation district board, addresses the more predominant water quality issue on the adjacent land - erosion control or nutrient management - is being implemented on the adjacent land, provided that the combination of the undisturbed buffer area and the best management practice achieves water quality protection, pollutant removal, and water resource conservation at least the equivalent of the 100foot wide buffer area. If nutrient

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management is identified as the predominant water quality issue, a nutrient management plan, including soil tests, must be developed consistent with the Virginia Nutrient Training and Certification Regulations (4 VAC 5-15) administered by the Virginia Department of Conservation and Recreation.

ii. Agricultural activities may encroach within the landward 75 feet of the 100-foot wide buffer area when agricultural best management practices which address erosion control, nutrient management, and pest chemical control, are being implemented on the adjacent land. The erosion control practices must prevent erosion from exceeding the soil loss tolerance level, referred to as "T," as defined in the "National Soil Survey Handbook" of November 1996 in the "Field Office Technical Guide" of the U.S. Department of Agriculture Natural Resource Conservation Service. A nutrient management plan, including soil tests, must be developed, consistent with the Virginia Nutrient Management Training and Certification. Regulations (4 VAC 5-15) administered by the Virginia Department of Conservation and Recreation. In conjunction with the remaining buffer area, this collection of best management practices shall be presumed to achieve water quality protection at least the equivalent of that provided by the 100-foot wide buffer area.

iii. The buffer area is not required to be designated adjacent to agricultural drainage ditches if at least one best management practice which, in the opinion of the local Soil and Water Conservation District board, addresses the more predominant water quality issue either erosion control or nutrient management on the adjacent land.

Section 3-1404 Performance Standards for All Development and Redevelopment.

A. All development and redevelopment exceeding 2,500 square feet shall be subject to applicable provisions of the Subdivision Ordinance for Surry County, Erosion and Sediment Control Ordinance, and the Zoning Ordinance for Surry County.

B. No more land shall be disturbed than is necessary to provide for the proposed use or development.

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C. All land development shall minimize impervious cover consistent with the use or development proposed.

D. Indigenous vegetation shall be preserved to the maximum extent practicable consistent with the use or development proposed.

E. All on-site sewage disposal systems not requiring VPDES permit shall be pumped out at least once every five years.

1. If deemed appropriate by the health department and subject to conditions that Surry County Health Department may set, Surry County may offer to the owners of such systems, as an alternative to the mandatory pump-out, the option of having a plastic filter installed and maintained in the outflow pipe from the septic tank to filter solid material from the effluent while sustaining adequate flow to the drainfield to permit normal use of the septic system. Such a filter should satisfy standards established in the Sewage Handling and Disposal Regulations (12 VAC 5-610) administered by the Virginia Department of Health.

2. Furthermore, in lieu of requiring proof of septic tank pump-out every five years, Surry County may allow owners of on-site sewage treatment systems to submit documentation every five years, certified by a sewage handler permitted by the Virginia Department of Health, that the septic system has been inspected, is functioning properly, and the tank does not need to have the effluent pumped out of it.

F. For new construction, provide a reserve sewage disposal site with a capacity at least equal to that of the primary sewage disposal site. This reserve sewage disposal site requirement shall not apply to any lot or parcel recorded prior to October 1, 1989, if the lot or parcel is not sufficient in capacity to accommodate a reserve sewage disposal site, as determined by the Surry County Health Department. Building shall be prohibited on the area of all sewage disposal sites until the structure is served by public sewer or an on-site sewage treatment system which operates under a permit issued by the State Water Control Board.

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

1. For development, the post-development nonpoint source pollution runoff load shall not exceed the pre-development load, based on

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the calculated average land cover for Virginia's Chesapeake Bay watershed;

2. For isolated redevelopment sites, the nonpoint source pollution load shall be reduced by at least 10 percent. The Zoning Administrator may waive or modify this requirement for redevelopment sites that originally incorporated best management practices for stormwater runoff quality control, provided the following provisions are satisfied:

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

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

   c. If best management practices are structural, evidence shall be provided that facilities are currently in good working order and performing at the design levels of service. The Zoning Administrator may require a review of both the original structural design and maintenance plans to verify this provision. A new maintenance agreement may be required to ensure compliance with these provisions.

   d. For redevelopment, both the pre- and post-development loadings shall be calculated by the same procedures. However, where the design data is available, the original post-development nonpoint source pollution loadings can be substituted for the existing development loadings.

3. For single family dwellings on lots of one acre or greater in size stormwater runoff calculations are not required provided the post-development impervious coverage for all structures, buildings, and other impervious surfaces does not exceed 16%.

H. Prior to initiating grading or other on-site land disturbing activities on any portion of a lot or parcel, all wetlands permits required by federal, state and local laws and regulations shall be obtained and evidence of such submitted to the zoning Administrator, in accordance with these provisions and the Surry County Subdivision Ordinance.

I. Land upon which agricultural activities are being conducted, including but not limited to crop production, pasture, and dairy and feedlot operations, or lands otherwise defined as agricultural land by the local government, shall have a soil and water quality conservation assessment conducted that evaluates the effectiveness of existing practices pertaining to soil erosion and sediment control, nutrient management, and management of

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pesticides and, where necessary, results in a plan that outlines additional practices needed to ensure that water quality protection is being accomplished consistent with these provisions.

Section 3-1405 Submission Requirements

A. Plan of Development

Any development or redevelopment exceeding 2500 square feet of land disturbance in the CBPA shall be accomplished through a plan of development process prior to any clearing or grading of the site or the issuance of any building permit, unless the zoning Administrator determines that due to the scope and nature of the proposed development certain of the required information is unnecessary. The submittal requirements of sections 3-1405, A. to 3-1405, F., as required, shall constitute a complete site plan submittal for land disturbance activities associated with individual one and two-family dwellings. Site plan submission requirements for commercial, industrial and multi-family dwellings shall comply with the submittal requirements of Section 3-1405, A. to 3-1405, G. Administration of the plan of development process for other development or redevelopment activities shall be in accordance with these provisions for site plans, and the Subdivision Ordinance for Surry County for subdivision plats. The following plans or studies shall be submitted, unless otherwise provided for to accompany a site plan or subdivision plat:

B. Environmental Site Assessment

An environmental site assessment prepared by an RPA Delineator, as defined, shall be submitted in conjunction with a preliminary site plan or preliminary subdivision plat approval application.

1. The environmental site assessment shall be drawn to scale on the submitted plan of development for one-and two-family dwellings, preliminary site plans and subdivision plats clearly delineating the following components:

    a. Tidal wetlands;

    b. Tidal shores;

    c. Nontidal wetlands connected by surface flow and contiguous to tidal wetlands or water bodies with perennial flow;

    d. Slopes greater than 15 percent;

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e. A 100-foot buffer area located adjacent to and landward of the components listed in subsections (1) through (4) above, and along both sides of any water bodies with perennial flow.

f. Highly erodible, highly permeable, and hydric soils identified in the soil survey.

2. Wetlands delineations shall be performed consistent with the procedures specified in the most current Federal Manual for Identifying and Delineating Jurisdictional Wetlands.

3. The environmental site assessment shall be drawn at the same scale as the site plan or subdivision plan, and shall be certified as complete and accurate by an RPA Delineator competent to make the inventory. This requirement may be waived by the zoning Administrator when the proposed use or development would result in less than 5,000 square feet of disturbed area.

C. Landscape Plan

A landscape plan, as described below, shall be submitted in conjunction with a site plan or preliminary subdivision plat approval application.

No clearing or grading of any lot or parcel shall be permitted without an approved landscape plan. Landscape plans may be required to be prepared and/or certified by design professionals practicing within their areas of competence as prescribed by the Code of Virginia.

1. Contents of the Plan

a. The landscape plan shall be drawn to scale and clearly delineate the location, size, and description of existing and proposed plant material. All existing trees on the site two (2) inches or, greater in diameter at breast height (DBH) shall be shown on the plan, or where there are groups of trees, the woodlines of the group may be outlined instead. The specific number of trees two (2) inches or greater DBH to be preserved outside of the impervious cover and outside the groups shall be indicated on the plan. Trees to be removed and woodlines to be changed to create desired and necessary impervious cover shall be clearly delineated on the plan.

b. Any required buffer area shall be clearly delineated and any plant material to be added to establish or supplement the

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buffer area, as required by these provisions, shall be shown on the landscape plan.

c. Within the buffer area, trees to be removed for sight lines, vistas, access paths, and BMPs, as provided for in these provisions, shall be shown on the landscape plan. Vegetation required by these provisions to replace any existing trees within the buffer area shall also be shown on the plan.

d. Trees to be removed for shoreline stabilization projects and any replacement vegetation required by these provisions shall be shown on the landscape plan.

e. The landscape plan shall depict grade changes or other work adjacent to trees which would affect them adversely. Specifications shall be provided as to how grade, drainage, and aeration would be maintained around trees to be preserved.

f. The landscape plan shall include specifications for the protection of existing trees during clearing, grading, and all phases of construction.

2. Plant Specifications

a. All plant materials necessary to supplement the buffer area or vegetated areas outside the construction footprint shall be installed according to standard planting practices and procedures.

b. All supplementary or replacement plant materials shall be living and in healthy condition. Plant materials shall conform to the standards of the most recent edition of the American Standard For Nursery Stock published by the American Association of Nurserymen.

c. Where areas to be preserved, as designated on an approved landscape plan, are encroached, replacement of existing trees and other vegetation will be achieved at a ratio of 2 planted trees to 1 removed. Replacement trees shall be a minimum 2-1/2 inches caliper measured six (6) inches above the ground at the time of planting.

3. Maintenance

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a. The applicant shall be responsible for the maintenance, repair, and replacement of all vegetation as may be required by the provisions of these provisions.

b. In buffer areas and areas outside the impervious cover, plant material shall be tended and maintained in a healthy growing condition and free from harmful refuse and debris. Unhealthy, dying, or dead plant materials shall be replaced during the next planting season, as required by these provisions.

D. Stormwater Management Plan

A stormwater management plan shall be submitted as part of the plan of development process required by section 3-1405 in conjunction with site plan or subdivision plat approval. This submittal is not required for individual one- and two-family homes located on lots one acre or greater in size if the impervious cover is 16% or less of the total site area.

1. Contents of the Plan

At a minimum, the stormwater management plan shall contain the following:

a. Location and design of stormwater control devices and BMPs.

b. Procedures for implementing nonstructural stormwater control practices.

c. Pre-and post-development nonpoint source pollution loadings with supporting documentation of all utilized coefficients and calculations.

d. For facilities, verification of structural soundness, including a Professional Engineer or Class IIIB Surveyor Certification.

2. The plan shall establish a long-term schedule for inspection and maintenance of stormwater management facilities that includes all maintenance requirements and persons responsible for performing maintenance. If the designated maintenance responsibility is with a party other than Surry County, then a maintenance agreement shall be executed between the responsible party and the County.

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

E. An erosion and sediment control plan in accordance with the Erosion and Sediment Control Ordinance for Surry County.

F. Water Quality Impact Assessment

1. A water quality impact assessment is required for:

a. Any proposed land disturbance, development or redevelopment within an RPA, including any buffer area encroachment.

b. Any proposed land disturbance, development or redevelopment within an RMA when deemed necessary by the Zoning Administrator due to the unique characteristics of the site (such as the topography, soils, ground cover, location of wetlands and tidal shores) or the intensity of the proposed development.

2. The purpose of the water quality impact assessment is:

a. to identify the impacts of proposed development on water quality and lands within an RPA and other environmentally sensitive lands;

b. to ensure that, where development does take place within RPAs and other sensitive lands, it will be located on those portions of a site and in a manner that will be least disruptive to the natural functions of RPAs and other sensitive lands;

c. to protect individuals from investing funds for, improvements proposed for a location on lands unsuited for such development because of high ground water, erosion, or vulnerability to flood and storm damage; and to specify mitigation which will address water quality protection.

3. The water quality impact assessment shall be certified as complete and accurate by a professional engineer or other individual with demonstrated competence satisfactory to the County.

4. A water quality impact assessment must demonstrate through acceptable calculations that the remaining buffer area and necessary best management practices will result in removal of no

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less than 75 percent of sediments and 40 percent of nutrients from post-development stormwater runoff.

5. There shall be two levels of assessment, minor and major.

6. Minor Water Quality Impact Assessment

A minor water quality impact assessment pertains only to land disturbance, development or redevelopment activity within a CBPA which causes no more than 5,000 square feet of land disturbance and/or which proposes to encroach into the landward 50 feet of the 100 foot buffer area as permitted under Section 3-1403, D. 5. B. of this ordinance. A minor assessment must demonstrate that the undisturbed buffer area, enhanced vegetative plantings and any required best management practices will result in the removal of no less than 75 percent of sediments and 40 percent of nutrients from post development stormwater runoff and that will retard runoff, prevent erosion, and filter nonpoint source pollution the equivalent of the full undisturbed 100-foot buffer area. The minor assessment shall include a site drawing to scale which shows the following:

a. Location of the components of the Resource Protection Area, including the 100 foot buffer area and the location of any water body with perennial flow.

b. Location and nature of the proposed encroachment into the buffer area, including: type of paving material; areas of clearing or grading; location of any structures, drives, or other impervious cover; and sewage disposal systems or reserve drainfield sites;

c. Type and location of proposed best management practices to mitigate the proposed encroachment.

d. Location of existing vegetation onsite, including the number and type of trees and other vegetation to be removed in the buffer to accommodate the encroachment or modification;

e. Re-vegetation plan that supplements the existing buffer vegetation in a manner that provides for pollutant removal, erosion and runoff control.

7. Major Water Quality Impact Assessment

A major water quality impact assessment shall be required for any development which (i) exceeds 5,000 square feet of land

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disturbance within CBPAs and proposes to encroach into the landward 50 feet of the 100 foot buffer area; (ii) proposes to disturb any portion of the seaward 50 feet of the 100 foot buffer area or any other component of an RPA; or (iii) is located solely in a RMA when deemed necessary by the Zoning Administrator. The information required in this section shall be considered a minimum, unless the Zoning Administrator determines that some of the elements are unnecessary due the scope and nature of the proposed use and development of land.

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

a. All information required as part of a minor water quality impact assessment;

b. The identification of the existing characteristics and conditions of sensitive lands as components of the CBPA, as defined herein; .

c. The identification of the natural processes and ecological relationships inherent in the site, and an assessment of the impact of the proposed use and development of land on these processes and relationships;

d. A hydrogeological study which describes the existing topography, soils, hydrology and geology on the site and adjacent lands, and indicates the impacts of the proposed development on these features as well as the following:

   i. disturbance wetlands and justification for such action;

   ii. disruptions or reductions in the supply of water to wetlands, streams, lakes, rivers or other water bodies;

   iii. distributions to existing hydrology including wetland and. stream circulation patterns;

   iv. source location and description of proposed fill material;

   v. location of dredge material and location of dumping area for such material;

   vi. estimation of pre- and post-development pollutant loads in runoff.

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vii. estimation of percent increase in impervious surface on site and type(s)of surfacing materials used;

viii percent of site to be cleared for project;

ix. anticipated duration and phasing schedule of construction project;

x. the proposed mitigation measures associated with potential hydrogeological impacts which may include minimizing cut and fill, a proposed stormwater management system, the creation of wetlands to replace those lost, and the use of erosion and sediment control concepts such as minimizing the extent of cleared areas, perimeter controls, reduction of runoff velocities, measures to stabilize disturbed areas, and the implementation of a comprehensive site inspection program;

xi. a listing of all requisite permits from all applicable agencies necessary to develop the project.

e. A landscaping plan in accordance with the requirements of Section 3-1405, C.

8. Evaluation Procedure

a. Upon the completed review of a minor water quality impact assessment, the Zoning Administrator will determine if any proposed modification or encroachment into the buffer area is consistent with the these provisions and make a finding based upon the following criteria:

i. The necessity of the proposed encroachment and the ability to place improvements elsewhere on the site to avoid disturbance of the buffer area;

ii. Impervious surface is minimized;

iii. Proposed best management practices, where required, achieve the requisite reductions in pollutant loadings;

iv. The development, as proposed, meets the purpose and intent of these provisions;

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v. The cumulative impact of the proposed development, when considered in relation to other development in the vicinity, both existing and proposed, will not result in a significant degradation of water quality.

b. Upon the completed review of a major water quality impact the Zoning Administrator will determine if the proposed development is consistent with the purpose and intent of these provisions and make a finding based upon the following criteria:

i. Within any RPA, the proposed development is water-dependent;

ii. The disturbance of wetlands will be minimized;

iii. The development will not result in significant disruption of the hydrology of the site;

iv. The development will not result significant degradation vegetation or life;

v. The development will not result in unnecessary destruction of plant materials on site;

vi. Proposed erosion and sediment control concepts are adequate to achieve the reductions in runoff and prevent off-site sedimentation;

vii. Proposed stormwater management concepts are adequate to control the stormwater runoff to achieve the required standard for pollutant control;

viii. Proposed revegetation of disturbed areas will provide optimum erosion and sediment control benefits;

ix. The design and location of any proposed drainfield will be in accordance with the requirements of Section 3-1403;

x. The development, as proposed, is consistent with the purpose and intent of these provisions;

xi. The cumulative impact of the proposed development, when considered in relation to other development in

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the vicinity, both existing and proposed, will not result in a significant degradation of water quality.

c. The Zoning Administrator shall require additional mitigation where potential impacts have not been adequately addressed. Evaluation of mitigation measures will be made by the Zoning Administrator based on the criteria herein.

d. The Zoning Administrator shall find the proposal to be inconsistent with the purpose and intent of these provisions when the impacts created by the proposal cannot be mitigated. Evaluation of the impacts will be made by the Zoning Administrator based on the criteria herein.

G. Supplemental Submittal Requirements for Commercial, Industrial, and Multi-Family Site Plans.

1. Preliminary Site Plans

The preliminary site plans shall be clearly drawn to scale as specified below and shall show the following:

a. 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.

b. The northpoint, scale, and date.

c. Location of the project by an insert map at a scale of not less than one inch equals two thousand feet, indicating the scale, the north arrow, and such information as the names and numbers of adjoining roads, streams and bodies of water, railroads, subdivisions, towns, and magisterial districts or other landmarks sufficient to clearly identify the location of the property.

d. Existing zoning and zoning district boundaries and proposed changes in zoning if any.

e. The boundaries of the property involved, county or 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.

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f. Uses of owners adjoining properties and names of owners.

g. Topography of the project area with contour intervals of two feet or less, unless waived by the zoning Administrator as clearly unnecessary to review of the project or proposal.

h. 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.

i. The general location and character of construction of proposed streets, alleys, driveways, curb cuts, entrances and exits, loading areas, (including numbers of parking and loading spaces), outdoor lighting systems, storm drainage and sanitary facilities.

j. The general location of proposed lots, setback lines, and easements and proposed reservations for parks, parkways, playgrounds, school sites, and open spaces.

k. 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.

l. Preliminary plans and elevations of the several dwelling types and other buildings, as may be necessary.

m. General location, height, and material of all fences, walls, screen planting, and landscaping.

n. General location, character, size, and orientation of proposed signs.

o. 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.

p. If located in a Chesapeake Bay Preservation Area, the delineation of an RMA, RPA and RPA buffer area; the delineation of a primary and reserve sewage disposal site, if applicable; as well as the information specified in section 3-1404, B. of these provisions.

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The zoning Administrator may establish additional requirements for preliminary site plans, and in special cases, may waive a particular requirement if, in his written 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 these provisions 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 fifty feet, or such other scale as may be approved by the zoning Administrator as appropriate to a particular case.

2. Final Site Plans

The final site plan shall show the following:

a. 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.

b. 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 County or other utility system.

c. Provisions for the adequate disposition of natural and storm water in accordance with the duly adopted design criteria and standards of the County indicating the location sizes, types and grades of ditches, catch basins and pipes and connections to existing drainage system. 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.

d. Existing topography with two-foot contour interval or such intervals as approved by the Zoning 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 fifty feet apart in both directions.

e. Proposed finished grading by contours supplemented where necessary by spot elevations.

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f. All horizontal dimensions shown on the site plan shall be in feet and decimals of a foot to the nearest one hundredth of a foot; and all bearings in degrees, minutes, and seconds to the nearest ten seconds.

g. The delineation of an RMA, RPA and RPA buffer area as well as a primary and reserve sewage disposal site, if applicable.

3. Procedure for Approval of site Plans

a. Five copies of a preliminary site plan or plans shall be filed with the Zoning Administrator. The preliminary site plan shall be accompanied by such other written or graphic material as may be deemed essential in aiding the decisions of the zoning Administrator as set out in writing by the zoning Administrator.

b. Approval by the zoning Administrator of a preliminary site plan shall be valid for a period of one year. A final site plan shall be prepared and filed with the Zoning Administrator and shall comply with the specifications of these provisions and applicable laws, regulations, and ordinances governing development of land. Permits shall be issued in accord with the approved and filed plat. All wetland permits required by law and all necessary maintenance agreements ensuring proper maintenance of best management practices must be on file with the Zoning Administrator before the final plan is approved.

4. Amendments and Additions to site Plans

The procedure for amendment of approved site plans shall be the same as for a new application, except that minor amendments of an approved site plan may be approved by the Zoning Administrator's initialing of the change on the plan. A change may be made provided it:

a. Does not alter a recorded subdivision plat,

b. Does not conflict with the requirements of this Ordinance, specific

5. Revocation of Permits

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No permit shall be issued for any structure in any area covered by a site plan under these provisions except in conformity to such plan which has been duly approved. Permits may be revoked by the County, after written notice and a hearing if requested, for failure to comply with the approved plan, the conditions attached thereto, or other applicable regulations.

6. Approval and Extension

Approval of final site plan submitted under the these provisions shall expire one year 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 zoning Administrator within ninety days before the expiration of the approved site plan. The Zoning Administrator shall acknowledge the request and shall make a decision regarding the requested extension within thirty days after receipt of the request.

Section 3-1406 Installation and Bonding Requirements

A. Where buffer areas, landscaping, stormwater management facilities or other specifications of an approved plan or plat are required, no certificate of occupancy shall be issued until the installation of required plant materials or facilities is completed, in accordance with the approved plan or plat.

B. When the occupancy of a structure is desired prior to the completion of the required landscaping, stormwater management facilities, or other specifications of an approved plan, a certificate of occupancy may be issued only if the applicant provides to Surry County a form of surety satisfactory to the County Attorney in an amount equal to the remaining plant materials, related materials, and installation costs of the required landscaping or facilities and/or maintenance costs for any required storm water management facilities during the construction period.

C. All required landscaping shall be installed and approved by the first planting season following issuance of a certificate of occupancy or the surety may be forfeited to the County.

D. All required stormwater management facilities or other specifications shall be installed and approved within 18 months of project commencement. Should the applicant fail, after proper notice, to initiate, complete or maintain appropriate actions required by the approved plan, the surety may be forfeited to the County. The county may collect from the applicant

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the amount by which the reasonable cost of required actions exceeds the amount of the surety held.

E. After all required actions of the approved plan or plat have been completed, the applicant must submit a written request for a final inspection. If the requirements of the approved plan have been completed to the satisfaction of the zoning Administrator, such unexpended or unobligated portion of the surety held shall be refunded to the applicant or terminated within 60 days following the receipt of the applicant's request for final inspection. The zoning Administrator, provided his justification for same is set out in writing, may require a certificate of substantial completion from a Professional Engineer or Class IIIB surveyor before making a final inspection.

Section 3-1407 Exemptions

A. Public utilities, railroads, public roads, and facilities exemptions.

1. Construction, installation, operation, and maintenance of electric, natural gas, fiber-optic, and telephone transmission lines, railroads, and public roads and their appurtenant structures in accordance with (i) regulations promulgated pursuant to the Erosion and Sediment Control Law (§ 10.1-560 et seq. of the Code of Virginia) and the Stormwater Management Act (§10. 1- 603. 1 et seq. of the Code of Virginia), (ii) an erosion and sediment control plan and a stormwater management plan approved by the Virginia Department of Conservation and Recreation, or (iii) local water quality protection criteria at least as stringent as the above state requirements will be deemed to constitute compliance with this chapter. The exemption of public roads is further conditioned on the following that the road alignment and design is consistent with other applicable requirements, to prevent or otherwise minimize (i) encroachment in the Resource Protection Area and (ii) adverse effects on water quality.

B. Construction, installation and maintenance of water, sewer, natural gas and underground telecommunications and cable television lines owned, permitted, or both, by Surry County or regional service authority shall be exempt from the criteria in this part provided that:

1. To the degree possible, the location of such utilities and facilities should be outside Resource Protection Areas;

2. No more land shall be disturbed than is necessary to provide for the proposed utility installation;

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3. All such construction, installation and maintenance of such utilities and facilities shall be in compliance with all applicable state and federal permits and designed and conducted in a manner that protects water quality; and

4. Any land disturbance exceeding an area of 2,500 square feet complies with all erosion and sediment control requirements of this part.

C. Exemptions for Silvicultural Activities

Silvicultural activities in Chesapeake Bay Preservation Areas are exempt from this chapter provided that silvicultural operations adhere to water quality protection procedures prescribed by the Virginia Department of Forestry in the January 1997 edition of "Forestry Best Management Practices for Water Quality in Virginia Technical Guide." The Virginia Department of Forestry will oversee and document installation of best management practices and will monitor in-stream impacts of forestry operations in Chesapeake Bay Preservation Areas.

D. Exemptions for Water Wells, Passive Recreation Facilities and Historic Preservation and Archaeological Activities in RPAs.

Exemptions from these requirements may be granted for the following land disturbances in RPAs: (i) water wells; (ii) passive recreation facilities such as boardwalks, trails, and pathways; and (iii) historic preservation and archaeological activities, provided that it is demonstrated to the satisfaction of the Zoning Administrator that:

1. Any required permits, except those to which this exception specifically applies, shall have been issued;

2. Sufficient and reasonable proof is submitted that the intended use will not deteriorate water quality; and

3. The intended use does' not conflict nearby planned or approved uses.

4. Any land disturbance, excluding an area of 2,500 shall comply with the Erosion and Sediment Control Ordinance for Surry County.

Section 3-1408 Nonconforming Use and Nonconforming Structures

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A. Surry County may permit the continued use, but not necessarily the expansion, of any structure in existence on December 19, 1991.

B. The Zoning Administrator may grant a nonconforming using and/or waiver for structures on legal nonconforming lots or parcels to provide for remodeling and alterations to such nonconforming structures provided that:

1. There will be no net increase in nonpoint source pollutant load; and

2. Any development or land disturbance exceeding an area of 2,500 square feet complies with all erosion and sediment control requirements of this part.

C. This chapter shall not be construed to prevent the reconstruction of pre-existing structures within Chesapeake Bay Preservation Areas from occurring as a result of casualty loss unless otherwise restricted by local government ordinances.

D. An application for the expansion of a nonconforming principal structure may be approved by the Zoning Administrator through an administrative review process provided that the following findings are made:

1. The request for the waiver is the minimum necessary to afford relief;

2. Granting the waiver will not confer upon the applicant any specific privileges that are denied by these provisions to other property owners in similar situations;

3. The waiver is in harmony with the purpose and intent of these provisions and does not result in water quality degradation;

4. The waiver is not based on conditions or circumstances that are self-created or self-imposed;

5. Other findings, as appropriate and required by Surry County are met; and

6. Reasonable and appropriate conditions are imposed, as warranted, that will prevent the waiver from causing a degradation of water quality;

7. This provision shall not apply to accessory structures.

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Section 3-1409 Exceptions

A. Request for Exception

A request for an exception to the requirements of Section 3-1403, C. and 3-1403, D. of this ordinance shall be made in writing to the Planning Commission. It shall identify the impacts of the proposed exception on water quality and on lands within the RPA through the performance of a water quality impact assessment which complies with these provisions. It shall also include an erosion and sediment control plan and address the applicable findings listed below.

B. Surry County shall notify the affected public of any such exception requests and shall consider these requests in a pub1'ic hearing in accordance with Code Section 15.2204 of the Code of Virginia, except that only one hearing shall be required.

C. Exception Review

The Planning Commission shall review the request for an exception and the water quality impact assessment and may grant the exception with such conditions and safeguards as deemed necessary to further the purpose of these provisions if the Planning Commission finds:

1. Granting the exception will not confer upon the applicant any special privileges that are denied by these provisions to other property owners in the CBPA;

2. The exception request is not based upon conditions or circumstances that are self-created or self -imposed, nor does the request arise from conditions or circumstances either permitted or non-conforming that are related to adjacent parcels;

3. The exception request is the minimum necessary to afford relief;

4. The exception request will be consistent with the purpose and intent of these provisions, and not injurious to the neighborhood or otherwise detrimental to the public welfare; and is not of substantial detriment to water quality; and

5. Reasonable and appropriate conditions are imposed which will prevent the exception from causing a degradation of water quality.

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D. A request for an exception to the requirements of these provisions other than Section 3-1403 shall be made in writing to the Zoning Administrator. The Zoning Administrator may grant these exceptions provided that:

1. Exceptions to the requirements are the minimum necessary to afford relief.

2. Reasonable and appropriate conditions are' imposed which will prevent the exception from causing a degradation of water quality.

3. Exceptions to Section 3-1404 (Performance Criteria) may be made provided that the findings noted in Section 3-1409, C. are made.

Section 3-1410 Variance Appeal

A. If the Planning Commission cannot make the required findings or refuses to grant an exception, the applicant may appeal by submitting a written application for review to the Board of Zoning Appeals ("Board") in accordance with Section 1-303 of this Ordinance. The Board shall hear the appeal as soon as practical after receipt of a complete application accompanied by the water quality impact assessment and the Planning Commission's written findings and rationale.

B. In rendering its decision, the Board shall consider the water quality impact assessment and the findings and rationale of the Planning Commission and balance the hardship to the property owner with the purpose, intent, and objectives of these provisions.

SECTION 3-1500 FLOODPLAIN DISTRICT

Section 3-1501 Purpose

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

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

B. Restricting or prohibiting certain uses, activities and development from locating within areas subject to flooding.

C. Requiring all those uses, activities, and developments that do occur in

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flood-prone areas to be protected and/or floodproofed against flooding and flood damage.

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

Section 3-1502 Applicability

These provisions shall apply to all lands within the jurisdiction of Surry County and identified as being in the 100-year floodplain by the Federal Insurance Administration.

Section 3-1503 Compliance and Liability

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

B. The degree of flood protection sought by the provisions of this ordinance is considered reasonable for regulatory purposes and is based on acceptable engineering methods of study. Larger floods may occur on rare occasions. Flood heights may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris.

C. This ordinance does not imply that areas outside the floodplain area, or that land uses permitted within such area will be free from floodings or flood damages.

D. This ordinance shall not create liability on the part of Surry County or any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder.

Section 3-1504 Abrogation and Greater Restriction

This ordinance supersedes any ordinance currently *in* effect in flood-prone areas. However, any underlying ordinance shall remain *in* full force and effect to the extent that its provisions are more restrictive than this ordinance.

Section 3-1505 Severability

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

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ordinance are hereby declared to be severable.

Section 3-1506 Penalties

A. Any person who fails to comply with any of the requirements or provisions of this ordinance or directions of the zoning officer or any other authorized employee of Surry County shall be guilty of a misdemeanor of the first class and subject to the penalties thereof.

B. In addition to the above penalties, all other actions are hereby reserved, including an action in equity for the proper enforcement of the ordinance. The imposition of a fine or penalty for any violation of, or noncompliance with, this ordinance shall not excuse the violation or noncompliance to permit it to continue; and all such persons shall be required to correct or remedy such violations or noncompliance within a reasonable time. Any structure constructed, reconstructed, enlarged, altered, or relocated in noncompliance with this ordinance may be declared by the Surry County Board of Supervisors to be a public nuisance and abatable as such. Flood insurance may be withheld from structures constructed in violation of this ordinance.

Section 3-1507 Description of District

A. Basis of District

The floodplain district shall include areas subject to inundation by water of the one hundred (100) year flood. The basis for the delineation of the district shall be the one hundred (100) year flood elevations or profiles contained in the Flood Insurance Study for Surry County prepared by the Federal Emergency Management Agency, Federal Insurance Administration, dated April 2, 2009, as amended.

1. The approximated Floodplain District shall be that floodplain area for which no detailed flood profiles or elevations are provided, but where a one hundred (100) year floodplain boundary has been approximated. Such areas are shown as Zone A on the Flood Insurance Rate Maps. For these areas, the one hundred (100) year flood elevations and floodway information from federal, state and other acceptable sources shall be used, when available. Where the specific one hundred (100) year flood elevation cannot be determined for this area using other sources of data, such as the U. S. Army Corps of Engineers Floodplain Information Reports, U.S. Geological Survey Flood-Prone Quadrangles, etc., then the applicant for the proposed use, development and/or activity shall determine this elevation in accordance with hydrologic and hydraulic analyses shall be undertaken only by professional

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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 Surry County Department of Planning.

B. Overlay Concept

1. The Floodplain District described above shall be overlays to the existing underlying area as shown on the Official Zoning Ordinance Map, and described in Section 3-101 B. of this ordinance.

2. Any conflict between the provisions or requirements of the Floodplain District and those of any underlying district the more restrictive provisions and/or those pertaining to the floodplain district shall apply.

Section 3-1508 Official Zoning Map

The boundaries of the floodplain district are established as shown on the Flood Insurance Rate Map, dated April 2, 2009, as amended, which is declared to be a part of this ordinance and which shall be kept on file at the Surry County Department of Planning.

Section 3-1509 District Boundary Changes

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

Section 3-1510 Interpretation of District Boundaries

Initial Interpretations of the boundaries of the floodplain district shall be made by the Administrator. Should a dispute arise concerning the boundaries of any of the district, the Board of Zoning Appeals shall make the necessary determination in accordance with Section 1-303. 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.

Section 3-1511 General Provisions

A. Permit Requirement

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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 the Ordinance and with all other applicable codes and ordinances, such as the Virginia Uniform statewide Building Code and the Surry County Subdivision Regulations. Prior to the issuance of any such permit, the Zoning Officer shall require all applications to include compliance with all applicable state and federal laws. Under no circumstances shall any use, activity, and/or development adversely affect the capacity of the channels or floodways of any watercourse, drainage ditch, or any other drainage facility or system.

B. Alteration or Relocation of Watercourse

Prior to any proposed alteration or relocation of any channels or of any watercourse, stream, etc., within this jurisdiction a permit shall be obtained from the U.S. Army Corps of Engineers, the Virginia Marine Resources Commission, the Virginia state Water Control Board (a joint permit application is available from anyone of these organizations). Notification of the proposal shall be given to all adjacent jurisdictions, the Division of Soil and Water Conservation (Department of Conservation and Recreation), and the Federal Insurance Administration.

C. Site Plans and Permit Applications

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

1. For structures that have been elevated, the elevation of the lowest floor (including basement) .

2. For structures that have been floodproofed (nonresidential only) , the elevation to which the structure has been floodproofed.

3. The elevation of the one hundred (100) year flood.

4. Topographic information showing existing and proposed ground elevations.

D. Encroachment provision

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

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at any point.

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

E. Manufactured Homes

1. Manufactured homes that are placed or substantially improved within Zones A and AE on the community's FIRM on sites.

   a. outside of a manufactured home park or subdivision,

   b. in a new manufactured home park or subdivision,

   c. in an expansion to an existing manufactured home park or subdivision, or

   d. in an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as the result of a flood, be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to or above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist floatation collapse and lateral movement.

2. Manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within Zones A and AE on the community's FIRM that are not subject to the provisions of paragraph one above of this section be elevated so that either

   a. the lowest floor of the manufactured home is at or above the base flood elevation, or

   b. the manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored to an adequately

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anchored foundation system to resist floatation, collapse, and lateral movement.

F. Recreational Vehicles

1. Recreational vehicles placed on sites within Zones A and AE on the community's FIRM either

a. be on the site for fewer than 180 consecutive days,

b. be fully licensed and ready for highway use, or

c. Meet the permit requirements for placement and the elevation and anchoring requirements for manufactured homes in paragraph 4.1 E. 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.

Section 3-1512 Design criteria for utilities and Facilities

A. Sanitary Sewer Facilities

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

B. Water Facilities

All new or replacement water facilities shall be designed to minimize or eliminate infiltration of flood waters into the system and be located and constructed to minimize or eliminate flood damages.

c. Drainage Facilities

All storm drainage facilities shall be designed to convey the flow of surface waters without damage to persons or property. The systems shall ensure drainage away from building and on site waste disposal sites. The Surry County Board of Supervisors may require a primarily underground system to accommodate frequent floods and a secondary surface system to accommodate larger, less frequent floods. Drainage plans shall be consistent with local and regional drainage plans. The facilities shall be

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designed to prevent the discharge of excess runoff onto adjacent properties.

D. Utilities

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

E. Streets and Sidewalks

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

Section 3-1513 Variances: 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 consider the following additional factors:

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

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

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

4. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners.

5. The importance of the services provided by the proposed facility to the community.

6. The requirements of the facility for a waterfront location.

7. The availability of alternative locations not subject to flooding for the proposed use.

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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 if rise, and sediment transport of the flood waters expected at the site.

12. The repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

13. Such other factors which are relevant to the purposes of this ordinance.

B. The Board of Zoning Appeals may refer any application and accompanying documentation pertaining to any request for a variance to any engineer or other qualified person or agency for technical assistance in evaluating the proposed project in relation to flood heights and velocities, and the adequacy of the plans for flood protection and other related matters.

C. Variances shall be issued only after the Board of Zoning Appeals has determined that the granting of such will not result in (a) unacceptable or prohibited increases in flood heights, (b) additional threats to public safety, (c) extraordinary public expense, and will not (d) create nuisances, (e) cause fraud or victimization of the public, or (f) conflict with local laws or ordinances.

D. Variances shall be issued only after the Board of Zoning Appeals has determined that variance will be the minimum required to provide relief from any hardship to the applicant.

E. The Board of Zoning Appeals shall notify the applicant for a variance, in writing, that the issuance of a variance to construct a structure below the one hundred (100) year flood elevation (a) increases the risks to life and property and (b) will result in increased premium rates for flood insurance.

F. A record shall be maintained of the above notification as well as all variance actions, including justification for the issuance of the variances.

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Any variances which are issued shall be noted in the annual or biennial report submitted to the Federal Insurance Administrator.

Section 3-1514 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:

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

B. 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 fifty (50) percent or more of its market value shall be undertaken only in full compliance with the provisions of the Virginia Uniform Statewide Building Code.

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