

## Chapter 86 ZONING AND SUBDIVISION

### ARTICLE I. IN GENERAL

#### Sec. 86-1. Scope.

This chapter shall be the zoning chapter of all the unincorporated portions of the County of King William, as set forth in Code of Virginia, § 15.2-2281 and together with the map or maps accompanying the zoning chapter which may be referred to as the King William Zoning District Map.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

#### Sec. 86-2. Purpose.

This chapter has been made in accordance with the comprehensive plan for the purpose of promoting the health, safety, and general welfare of the citizens of the county; and of further accomplishing the objectives of Code of Virginia, § 15.2-2283. To these ends, this chapter is designed to give reasonable consideration to each of the following purposes:

- (1) Provide for adequate light, air, and convenience of access;
- (2) Reduce or prevent congestion in the public streets;
- (3) Encourage good civic design and arrangement to facilitate the creation of a convenient, attractive, and harmonious community;
- (4) Provide for adequate police and fire protection, disaster evacuation, civil defense, transportation, water, sewerage, flood protection, schools, parks, forests, playgrounds, recreational facilities, airports, and other public needs;
- (5) Protect against destruction of, or encroachment upon historic areas and working waterfront development areas;
- (6) Protect against one or more of the following: overcrowding of land, undue density of population in relation to the community facilities existing or available, obstruction of light and air, danger and congestion in travel and transportation, or loss of life, health or property from fire, flood, panic, crime or other dangers;
- (7) Encourage economic development activities that provide desirable employment and enlarge the tax base;
- (8) Provide for the preservation of agricultural and forested lands and other lands of significance for the protection of the natural environment;
- (9) Protect approach slopes and other safety areas of licensed airports, including United States government and military air facilities;
- (10) Promote the creation and preservation of affordable housing suitable for meeting the current and future needs of the County;
- (11) Provide reasonable modifications in accordance with the Americans with Disabilities Act of 1990 (42 U.S.C. § 12131 et seq.) or state and federal fair housing laws, as applicable;

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(12) Conserve and protect natural resources.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

### **Sec. 86-3. Effective date.**

The effective date of the zoning ordinance from which this chapter is derived shall be [30 days] from and after the date of its passage, September 27, 2021, and legal application, and its provisions shall be in force thereafter until repealed or amended.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

### **Sec. 86-4. Severability; relationship to other laws.**

- (a) Should any section or any provision of this chapter be decided by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the chapter as a whole, or any part thereof other than the part so held to be unconstitutional or invalid.
- (b) Whenever requirements imposed by this chapter are either more or less restrictive than requirements imposed by any governmental authority through legislation, rule, or regulation, the requirements which are more restrictive or which impose higher standards or requirements shall govern. Regardless of any other requirement of this chapter, no land shall be used and no structure erected or maintained in violation of any state or federal pollution control or environmental protection law or regulation. If any section of this chapter incorporates by reference any state statute or regulation, then the ordinance incorporates future amendments to the statute or regulation.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

### **Secs. 86-5—86-9. Reserved.**

## **ARTICLE II. DEFINITIONS**

For the purpose of this chapter, the following alphabetical listing of terms and their definitions shall apply.

*Abattoir* means a commercial slaughterhouse, designed for the purpose of killing animals, skinning, dressing, and cutting up of carcass, wrapping for sale for human consumption with cooler and freezer storage. Includes confinement of animals while awaiting slaughter and may include cooking or process relating to processing plants, such as smoking. May include wholesale and/or retail sales of product on the premises from a separate room designated to that purpose, as a secondary use.

*Accessory dwelling unit* means a smaller, independent residential dwelling unit located on the same parcel as a separate single-family dwelling.

*Accessory building or structure* – means a building or structure, the use of which is subordinate to the principal use and clearly incidental to or customarily found in connection with and located on the same lot as (except as otherwise provided in this Ordinance), the main building or principal use of the land.

*Accessory use* means one which is clearly incidental to or customarily found in connection with, and (except as otherwise provided in this chapter) is located on the same lot as the principal use of the premises.

*Acreage* means a parcel of land, or portion thereof regardless of area, that may be described by metes and bounds but is not necessarily a numbered lot on any recorded subdivision plat.

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*Act of nature* shall mean any natural disaster or phenomena including a hurricane, tornado, storm, flood, high water, wind-driven water, tidal wave, earthquake or fire caused by lightning or wildfire. Nothing herein shall be construed to enable the property owner to commit an arson as defined by the Code of Virginia, §§ 18.2-77 or 18.2-80 and obtain vested rights under this chapter.

*Administrative review-eligible project* means a wireless project, per Code of Virginia § 15.2-2316.3, that provides for:

- (1) The installation or construction of a new structure that is not more than 50 feet above ground level, provided that the structure with attached wireless facilities is (i) not more than ten feet above the tallest existing utility pole located within 500 feet of the new structure within the same public right-of-way or within the existing line of utility poles; (ii) not located within the boundaries of a local, state, or federal historic district; (iii) not located inside the jurisdictional boundaries of a locality having expended a total amount equal to or greater than 35 percent of its general fund operating revenue, as shown in the most recent comprehensive annual financial report, on undergrounding projects since 1980; and (iv) designed to support small cell facilities; or
- (2) The co-location on any existing structure of a wireless facility that is not a small cell facility.

*Administrator* means and refers to the Zoning Administrator.

*Affordable housing* means legally permitted dwelling units that are affordable to families with incomes at or below 80 percent of the area median income, provided that the occupant pays no more than 30 percent of his or her gross income for gross housing costs, including utilities.

*Agricultural operation.* means any operation devoted to the bona fide production of crops, or animals, or fowl, including the production of fruits and vegetables of all kinds; meat, dairy, and poultry products; nuts, tobacco, nursery, and floral products; and the production and harvest of products from silviculture activity. This term also includes aquaculture, wholesale plant nurseries, and the housing of livestock, as that term is defined in Virginia Code § 3.2-6500.

*Agriculture* means the tilling of soil, raising of crops, horticulture, aquaculture, hydroponics, gardening, livestock and fowl keeping and breeding, and the production of natural products with resources primarily derived from the land upon which it is produced. These include preliminary processing of products such as eggs, milk, wool, and the like, as well as the small-scale processing of animals for consumption, dairies, and similar farm production uses.

*Agriculture, intensive* means the commercial keeping of animals or the drying and storage of agricultural products with accessory uses including storage bins and litter/manure storage. The operations of the use may generate dust, noise, odors, pollutants, or visual impacts that could adversely affect adjacent properties.

*Agritourism* means pursuant to the Code of Virginia, any activity carried out at a farm winery, farm brewery, farm distillery, or an agricultural operation that allows members of the general public, for recreational, entertainment, or educational purposes, to view or enjoy rural activities, including farming, wineries, ranching, historical, cultural, harvest-your-own activities, or natural activities and attractions, regardless of whether or not the participant paid to participate in the activity. These rural activities also include, but are not limited to, farm tours, tours of an individual agricultural operation, hayrides, heirloom plant and animal exhibits, crop mazes, and educational programs, workshops, or demonstrations related to agriculture or silviculture; all agritourism events shall take place on an operational farm and be subordinate to the agriculture operation. The use does not include event venue as defined in this chapter.

*Airport* means a place, either on land or on water, where aircraft may land to discharge or receive cargo and passengers, make repairs, or take in fuel.

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

*Alteration.* See structural alteration.

*Amateur radio antenna* means, pursuant to all conditions set forth in the Code of Virginia § 15.2-2293.1, an antenna, or any combination of a mast or tower plus an attached or mounted antenna, which transmits noncommercial communication signals and is utilized by an operator licensed by the Federal Communications Commission.

*Antenna* means any exterior apparatus designed for telephone, radio, or television communications through the sending and/or receiving of electromagnetic waves.

*Apartment* means a part of a building containing cooking and housekeeping facilities, consisting of a room or suite of rooms intended, designed, and used as a residence by an individual or a single family.

*Applicant* means any person submitting any application required or permitted pursuant to any of the provisions of this chapter, including his successors and assigns.

*Approve* means to officially agree or accept and shall also include the term "or disapprove" when used in connection with an action to be taken by a board, commission, or officer in the administration and maintenance of this chapter.

*Assisted living facility.* See life care facility.

*Attached Building* – means a fully enclosed structure joined by a common wall or floor/ceiling assembly to another structure with a door or stairs providing interior access from one to the other. *Auction house* means a commercial establishment that stores merchandise in an enclosed area and sells its merchandise in an auction format.

*Automobile auction house* means a commercial establishment that sells automobiles in an auction format.

*Automobile dealership* means the use of any building, land area or other premises for the display of new and used automobiles, trucks, vans, or motorcycles for sale, lease, or rent, including any warranty repair work and other major and minor repair service conducted as an accessory use.

*Automobile graveyard* means any lot or place which is exposed to the weather upon which more than five motor vehicles of any kind, incapable of being operated, and which it would not be economically practical to make operative, are placed, located, or found. Operability is the determination of the zoning administrator.

*Automobile repair service* means the 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, paint, and auto body modifications and similar repair and service activities where repairs and routine maintenance are conducted.

*Awning* means a shelter constructed of rigid or nonrigid materials on a supporting framework, either freestanding, or projecting from and supported by an exterior wall of a building.

*Bakery* means an establishment engaged in the production and/or sale, either wholesale or retail, of baked goods. The products may be prepared either on or off site.

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*Base parcel* means the remaining acreage of a parcel after the subtraction of the acreage of perennial water features. The base parcel is comprised of the land acreage of a parcel. All development standards, density requirements, and submission requirements will be applied to the acreage of the base parcel.

*Base station* means a station that includes a structure that currently supports or houses an antenna, transceiver, coaxial cables, power cables, or other associated equipment at a specific site that is authorized to communicate with mobile stations, generally consisting of radio transceivers, antennas, coaxial cables, power supplies, and other associated electronics (Code of Virginia, § 15.2-2316.3).

*Basement* means a story partly underground and having more than one-half of its height above the ground.

*Bed and breakfast* means a dwelling unit occupied by the owner that provides up to five bedroom accommodations. Buildings being used as a bed and breakfast at the time of adoption of this chapter having more than five bedrooms and/or occupied by a resident manager rather than the owner may continue to operate with the same number of bedrooms and/or may continue to be occupied by a resident manager rather than by the owner of the building.

*Best management practices* or "*BMPs*" means a practice, or combination of practices, determined by a state or area-wide planning agency to be the most effective, practicable means of preventing or reducing the amount of pollution generated by nonpoint sources to a level compatible with water quality goals.

*Bikeway* means a bicycle pathway: either a bike lane, a bike trail, or bike route.

*Biomass* means agricultural-related materials including vineyard, grain or crop residues; straws; aquatic plants; and crops and trees planted for energy production.

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

*Board of zoning appeals or board* means the King William County Board of Zoning Appeals.

*Boarding house (rooming house)* means an owner-occupied building other than a hotel or motel where, for compensation, lodging with or without meals, is provided for four or more persons and in which the length of stay usually exceeds one week in duration. A lodging house is also included in this definition.

*Boathouse* means an over-water roofed structure used for storing a boat as defined in Code of Virginia, § 28.2-1203(A), such structure being larger than 700 square feet in area or having at least one wall and with a height no greater than sixteen ( 16) feet. The height of a boathouse is measured from the surface of the floor serving the boat berths to either the highest point of the roof ridge line or, for boathouses without ridgelines, to the highest point of the structure, including any railing. Flagpoles, weathervanes, and other non-structural fixtures are not included when measuring the height of boathouses. Boathouses must be fitted with reflectors and lighting as to make them visible at night to water traffic. Boathouses are required to obtain approval from VMRC, the ACOE, and obtain a zoning and building permit.

*Boatshed* means an over-water wall-less roofed structure used for storing a boat as defined in Code of Virginia § 28.2-1203(A), such structure being 700 square feet in area or less. Boatsheds must be fitted with reflectors and lighting as to make them visible at night to water traffic. Boatsheds are required to obtain approval from VMRC, the ACOE, and to obtain a zoning and building permit.

*Bond* means a security representing the debt of the applicant, property owner, or developer.

*Boundary line adjustment* means the adjustment of the boundary line between two or more lots, or the vacation of a lot line for the purpose of combining two or more lots, but not including any action which would

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result in a creation of additional building lots or the vacation of any street, alley, easement for public passage or other public feature (Code of Virginia, § 15.2-2275).

*Brewery or distillery* means the use of land, licensed by the Commonwealth of Virginia, where beer or spirits are manufactured for sale. Breweries have a capacity greater than 1,000 barrels a year and distilleries have a capacity greater than 5,000 gallons a year. Consumption of products produced on the premises is permitted as an accessory use.

*Brewpub* means a craft/micro-brewery that operates in conjunction with a retail tavern or pub/restaurant on the premises.

*Broadcasting or communication tower* means any unstaffed facility for the transmission and/or reception of radio, television, radar, cellular telephone, personal paging device, specialized mobile radio (SMR), and similar services. A broadcasting or communication tower usually consists of an equipment shelter or cabinet, a support tower or other structure used to achieve the necessary elevation, and the transmission or reception devices or antenna. Excluded are amateur radio antennas, which are described separately.

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

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

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

*Building* means any structure, or part thereof, permanently affixed to a lot or lots and having a roof supported by columns or walls for the housing or enclosure of persons, animals or property of any kind.

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

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

*Building height* means the vertical distance from the average established road 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 of a mansard roof, or to the mean height level between eaves and ridge for gavel, hip, shed, and gambrel roofs. When the highest wall of a building with a shed roof is within 35 feet of a road, the height of such building shall be measured to the highest point of coping or parapet.

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

*Building official* means an appointed official of the county who is responsible for making and certifying building inspections.

*Building setback line (front)* means a line parallel to the front line of rectangular lots or, in the case of curved front lot lines, parallel to the chord of the curve, denoting the minimum distance by which any structure must be separated from the right-of-way line. In the case of existing flag lots and irregularly shaped lots, the setback line shall be drawn on the plat in a position acceptable to the agent. In such cases, the setback line shall be perpendicular to the longer axis of the lot insofar as practicable.

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*Building site* means a piece of land consisting of the minimum area of required square footage of the zoning district where it is located where a permitted use or structure may be placed.

*Bulk* means the size and shape of a building or structure and its relationship to other buildings, to the lot area for a building, and to open spaces and yards.

*Camp, day or youth* means an establishment, either publicly or privately owned, with its services designed for the recreation and education of youth. However, this facility does not accommodate the overnight stay of its patrons.

*Camp, recreational* means an establishment consisting of facilities used periodically by an association of persons where seasonal accommodations for recreational purposes are provided to the members of the association.

*Camp unit* means a tent, camping cabin, recreational vehicle, camping trailers, pick-up campers, yurts, or other type of portable shelter intended, designed, or used for temporary living quarters or shelter during periods of recreation, vacation, leisure time, or travel.

*Camper or camping trailer.* See recreational vehicle.

*Campground* means any area, place, parcel, or tract of land, by whatever name called, on which three or more campsites are occupied or intended for occupancy, or facilities are established or maintained, wholly or in part, for the accommodation of camping units for periods of overnight or longer, whether the use of the campsites and facilities is granted gratuitously, or by rental fee, lease, or conditional sale, or by covenants, restrictions, and easements, including any travel trailer camp, recreation camp, family campground, camping resort, or camping community. "Campground" does not mean a summer camp, migrant labor camp, or park for manufactured homes as defined in this section and in §§ 32.1-203 and 36-85.3, or a construction camp, storage area for unoccupied camping units, or property upon which the individual owner may choose to camp and not be prohibited or encumbered by covenants, restrictions, and conditions from providing his sanitary facilities within his property lines.

*Campsite* means a site with or without connections to water supply, electrical service, or sewage systems, used by one camping unit.

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

*Carport* means a roofed space having one or more sides open to the weather, primarily designed or used to park motor vehicles.

*Car wash* means a facility for the washing and cleaning of vehicles. Typical uses include automatic conveyor machines and self-service car washes.

*Cemetery* means a place for interment of human or animal remains, above the ground or below the ground, with or without sale of lots. A cemetery includes all uses necessarily or customarily associated with interment of human remains, including benches, ledges, walls, graves, roads, paths, landscaping, and soil storage consistent with federal, state, and local laws on erosion sediment control. Additionally, a cemetery includes mausoleums, columbaria, chapels, administrative offices, and maintenance and storage areas (Code of Virginia, § 15.2-2288.5).

*Central sewage system* means a system which provides for sewage collection, treatment, and disposal for a single development. This does not include on-site individual lot systems.

*Central water system* means a system which provides for water distribution for a single development. This does not include on-site individual lot wells.

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*Certificate of occupancy* means a document issued by the building official allowing the occupancy or use of a building and certifying that the structure or use has been constructed or will be used in compliance with all applicable County codes and ordinances.

*Chesapeake Bay Preservation Area (CBPA)* means any land designated by the County pursuant to the Chesapeake Bay Preservation Area and Management Regulations, 9 VAC 25-830 et seq., and Code of Virginia § 62.1-44.15:67 et seq. The Chesapeake Bay Preservation Area consists of a resource protection area (RPA) and a resource management area (RMA).

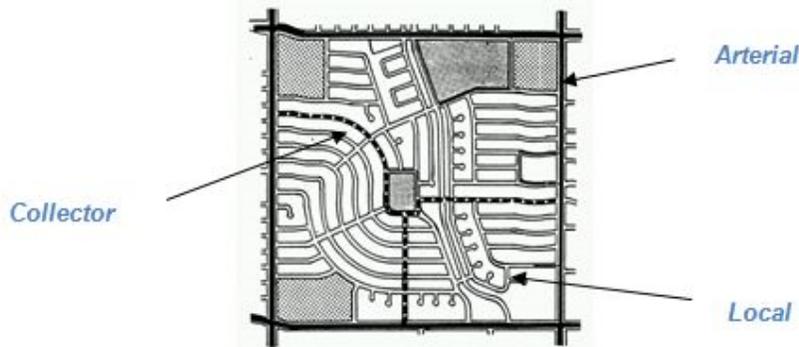
*Clerk* means the Clerk of the Circuit Court of King William County.

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

*Cluster development* means a development design technique that concentrates buildings on a part of a site to allow the remaining land to be used for recreation, common open space, and the preservation of environmentally sensitive features.

*Co-locate* means to install, mount, maintain, modify, operate, or replace a wireless facility on, under, within, or adjacent to a base station, building, existing structure, utility pole, or wireless support structure. "Co-location" has a corresponding meaning (Code of Virginia, § 15.2-2316.3).

*Collector* means streets that provide service to smaller communities and link local traffic generators with local (minor) roads. These routes usually have lower speed limits and are spaced at intervals consistent with the population density. May be grouped with major collector and referenced as collector or collector street.



*Commercial indoor amusement* means establishments which provide multiple coin operated amusement or entertainment devices or machines as other than an incidental use of the premises. Such devices would include pinball machines, video games, and other games of skill or scoring, and would include pool and/or billiard tables, whether or not they are coin operated. Typical uses include game rooms, billiard and pool halls, and video arcades.

*Commercial indoor entertainment* means predominantly spectator uses conducted within an enclosed building. Typical uses include, but are not limited to, motion picture theaters, and concert or music halls.

*Commercial indoor sports and recreation* means predominantly participant uses conducted within an enclosed building. Typical uses include bowling alleys, ice and roller skating rinks, indoor racquetball, swimming, and/or tennis facilities.

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*Commercial outdoor entertainment* means predominantly spectator uses conducted in open or partially enclosed or screened facilities. Typical uses include, but are not limited to, sports arenas, animal racing facilities, and outdoor amusement parks.

*Commercial outdoor sports and recreation* means predominantly participant uses conducted in open or partially enclosed or screened facilities. Typical uses include, but are not limited to, driving ranges, golf courses, miniature golf, swimming pools, tennis courts, outdoor racquetball courts, paintball facilities, and motorized model airplane flying facilities.

*Commercial vehicle repair service* means a facility with the primary purpose of the 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; paint, body and fender shops; equipment service centers; machine shops; and other similar uses where major repair activities are conducted.

*Commission* means the Planning Commission of King William County.

*Common open space* means all open space within the boundaries of a planned "cluster" residential development designed and set aside for the common use of all residents of the development.

*Communications service* means an establishment primarily engaged in the provision of broadcasting and other information relay services accomplished through the use of electronic and telephonic mechanisms. Excluded from this use type are facilities classified as utility services, major or broadcasting or communication towers. Typical uses include television studios, telecommunication service centers, telegraph service offices or film and sound recording facilities.

*Community center* means a non-profit community entertainment, recreation, and meeting place.

*Community sewage collection and treatment system* means a publicly or privately owned sewer system designed to serve more than one dwelling unit or nonresidential structure, and which consists of collection and transmission lines, pumping stations if necessary, and a sewage treatment and disposal facility. Such system functions by transmission of sewage away from points of origin, collection and treatment of the sewage at a sewage treatment facility which is not located on any of the lots or parcels served by the system, and disposal or discharge of the treated effluent either on land or in surface waters.

*Community water supply system* means a publicly or privately owned water supply system designed to serve more than one dwelling unit or nonresidential structure. Such system consists of a well or wells which are not located on any of the lots or parcels served by the system, pumps, transmission lines or mains, and storage tanks if necessary.

*Comprehensive plan* means the officially adopted comprehensive plan for the county.

*Concept plan* means a generalized plan indicating the boundaries of a tract or tracts of land, and presenting the general arrangement of proposed facilities, uses, structures, and improvements.

*Conditional use* means a use listed as a conditional use in this chapter and which may be permitted in a specified district under certain conditions; such conditions to be determined in each case by the terms of this chapter and by the board of supervisors after a public hearing and report by the planning commission in accordance with the procedures specified by this chapter and Code of Virginia, § 15.1-486 et seq. A conditional use is a class of "special exception" which the board of supervisors reserves to itself the right to grant under Code of Virginia, § 15.1-491(c).

*Conservation area* means any land preserved to remain as permanent open space. Conservation areas may be preserved for one or more of the following: habitats for endangered or threatened species; wetlands, flood

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plains, water bodies, shorelines, and associated buffers; agricultural and forestal production; historic, cultural heritage, and archaeological sites; protection of steep slopes and other land or natural resource conservation purposes; parks or recreation areas; scenic purposes; and, to assist in shaping the character, direction, and timing of community development.

*Conservation easement* means the granting of a property's development rights to an agency that stipulates that the described land will remain in its natural state and precludes or restricts future or additional development.

*Construction footprint* means the area of all impervious surface, including but not limited to, buildings, roads and drives, parking areas, and pedestrian paths, the area necessary for construction of such improvements, and septic tank and primary drainfield locations.

*Consumer repair service* means an establishment or place of business primarily engaged in the provision of repair services to individuals and households, rather than businesses, but excluding automotive and equipment repair use types. Typical uses include appliance repair shops, shoe repair, watch or jewelry repair shops, bike repair, or repair of musical instruments.

*Convalescent home (nursing or rest home)* means any institution, however named, whether conducted for charity or for profit, which is advertised, announced or maintained for the express or implied purpose of caring for more than eight unrelated persons admitted thereto for the purpose of nursing or convalescent care. Nursing and convalescent care include care given because of prolonged illness or defect or during the recovery from injury or disease, and includes any and all of the procedures commonly employed in waiting on the sick, such as administration of medicine, preparation of special diets, giving of bedside care, application of dressings and bandages, and the carrying out of treatments prescribed by a duly licensed practitioner of medicine.

*Correctional institution* means any place designated by law for the keeping of persons held in custody under process of law, or under lawful arrest, including state prisons, county and local jails, and other facilities operated by the department of corrections or local governmental units primarily for the purposes of punishment, correction, or rehabilitation following conviction of a criminal offense.

*Country club* means a land area and buildings which may include a golf course, clubhouse, dining room, swimming pool, tennis courts and similar recreational or service uses available only to members and their guests.

*Court, open*, means an open, unoccupied space, other than a yard, associated with a building or group of buildings and which is bounded on two or more sides by such building or buildings and every part of which is clear and unobstructed upward from its lowest point.

*Crematory* means a commercial establishment that specializes in the cremation of corpses, including pets.

*Cross-walkway* means a public way intended for pedestrian use and excluding motor vehicles, which cuts across a block in order to furnish improved access to adjacent streets or properties.

*Cul-de-sac* means a minor street having but one end open for vehicular traffic and with the other end permanently terminated by a turnaround for vehicles.

*Cultural institution* means a publicly or privately owned facility with the primary purpose of displaying historical, cultural, or artistic materials to be viewed by patrons. These institutions can include museums, libraries, and art galleries.

*Dam break inundation zone* means the specific areas of land that would become flooded and covered with water if a particular dam were to break or fail and is known as the inundation area.

*Dark sky lighting* means a term that refers to shielded light fixtures that cast light downward and generally conform to the specifications endorsed by the International Dark Sky Association.

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*Day care center* means any facility operated for the purpose of providing care, protection and guidance. This term includes nursery schools, preschools, day care centers for individuals including adults, and other similar uses but excludes public and private educational facilities or any facility offering care to individuals for a full 24-hour period. Excluded from this definition is family day home as defined by this chapter.

*Dedication* means the transfer of private property to public ownership upon written acceptance.

*Density* means the number of dwelling units or residential lots permitted on a given unit of land. Density is determined by dividing the total number of residential units or lots to be located on the parcel by the area of the base parcel itself.

*Detached building* - means a building with walls and roofs independent of any other building and with open spaces on all sides.

*Development* means any man-made change to improved or unimproved real estate including but not limited to buildings or other structures, roads, and other paving, utilities, filling, excavation, mining, dredging, or drilling.

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

*Director of community development* means the director of the department of community development hired by the county administrator.

*Disabled person* means an individual with a physical or mental impairment that substantially limits one or more of a person's major life activities, may impair their ability to live independently, or a person with record of having such an impairment, or being regarded as having such impairment, not to include use or addiction to a controlled substance.

*District*. Refer to zoning district.

*Dripline* means the imaginary perpendicular line extending downward from the outermost tips of the tree branches to the ground.

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

*Dwelling, or dwelling unit*, means a building or portion thereof designed or used exclusively for residential occupancy, but not including boats, trailers, motor homes, hotels, motels, or motor lodges, with a room or group of rooms connected together containing cooking, bathroom and sleeping facilities constituting a separate, independent housekeeping unit, physically separated from any other dwelling unit in the same structure.

*Dwelling, attached single-family* means a single-family dwelling that shares one or more exterior walls with a separate single-family dwelling.

*Dwelling, detached single-family* means a single-family dwelling entirely surrounded by a yard or other separation from other main buildings on the same lot or on adjacent lots. The term "single-family dwelling," as used in this chapter, shall be considered to mean a detached single-family dwelling unless specified as attached. A modular home shall be considered the same as a detached single-family dwelling of conventional construction.

*Dwelling, manufactured home*, means a structure constructed to federal standards, transportable in one or more sections, which, in the traveling mode, is eight feet or more in width and is 40 feet or more in length, or when erected on a site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein. Some manufactured homes are also referred to as mobile homes.

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*Dwelling, modular home*, means a residential unit that is manufactured in a factory pursuant to the Uniform Statewide Building Code of Virginia and transported to the site where it is established on a permanent foundation as a dwelling unit.

*Dwelling, multi-family*, means a building arranged or designed to be occupied by 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, apartments for elderly housing and condominiums.

*Dwelling, single-family*, means a dwelling designed for or occupied exclusively by one family.

*Dwelling, townhouse*, means a grouping of three 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 walls.

*Dwelling, two-family*, means the use of an individual lot for two single-family dwelling units which share at least one common wall, each occupied by one family. Each dwelling unit may be vertically stacked. The exterior appearance of the whole resembles a single structure. Also referred to as a "duplex."

*Easement* means an authorization by a property owner for use by another of any designated part of his property for one or more specified purposes, which purposes are consistent with the general property rights of the owner.

*Educational facility* means a public or private institution for the teaching of children or adults including primary and secondary schools, colleges, and similar facilities.

*Emergency shelter* means a facility providing temporary shelter and feeding of indigents or disaster victims, operated by a public or nonprofit agency.

*Engineer* means an engineer registered by the Commonwealth of Virginia.

*Equipment sales and rental* means establishments primarily engaged in the sale or rental of tools, trucks, tractors, construction equipment, agricultural implements, and similar industrial equipment, and the rental of mobile homes. Included in this use type is the incidental storage, maintenance, and servicing of such equipment.

*Erected* means built, constructed, reconstructed, moved upon, placed altered, or any physical operations on the premises required for building. Excavations, fill, drainage, and the like shall be considered a part of erection.

*Establishment* means any entity or individual conducting a business, profession, or trade; and any entity or individual conducting a civic, community service, or nonprofit activity.

*Event venue* means a location that hosts affairs, including but not limited to, banquets, dinners, parties, weddings and the like for up to three consecutive days, for which attendance is permitted only by invitation or reservation.

*Extermination business* means a commercial establishment specialized in the killing of animals, garden and agricultural pests.

*Façade* means an entire outside wall of a structure, including wall faces, parapets, fascia, windows, and doors, of one complete elevation.

*Fair market value* means the price at which property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or to sell and both having reasonable knowledge of relevant facts.

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*Family* means two or more persons related by blood, marriage, adoption, or a group of not more than four persons not related by blood, marriage, or adoption, occupying a dwelling unit as an individual housekeeping organization. Does not include group homes.

*Family day home (four or less children)* means a single-family dwelling in which one to four individuals, are received for care, protection and guidance during only part of a 24-hour day. Individuals related by blood, legal adoption or marriage to the person who maintains the home shall not be counted towards this total (Code of Virginia, § 15.2-2292). The care of four or fewer individuals for portions of a day shall be considered as a home occupation Type I.

*Family day home (5—12 individuals)* means a single-family dwelling in which five to 12 individuals, are received for care, protection and guidance during only part of a 24-hour day. Individuals related by blood, legal adoption or marriage to the person who maintains the home shall not be counted towards this total (Code of Virginia, § 15.2-2292).

*Family health care structure, temporary* means pursuant to all conditions set forth in the Code of Virginia § 15.2-2292.1, a transportable residential structure, providing an environment facilitating a caregiver's provision of care for a mentally or physically impaired person, that (i) is primarily assembled at a location other than its site of installation; (ii) is limited to one occupant who shall be the mentally or physically impaired person or, in the case of a married couple, two occupants, one of whom is a mentally or physically impaired person, and the other requires assistance with one or more activities of daily living as defined in Code of Virginia, § 63.2-2200, as certified in writing by a physician licensed in the commonwealth; (iii) has no more than 300 gross square feet; and (iv) complies with applicable provisions of the Industrialized Building Safety Law (§ 36-70 et seq.) and the Uniform Statewide Building Code (§ 36-97 et seq.).

*Farm building or structure* - means a building or structure not used for residential purposes, located on property where one or more agricultural operations take place, and used primarily for any of the following uses or combination thereof:

1. Storage, handling, production, display, sampling or sale of agricultural, horticultural, floricultural or silvicultural products produced on the farm;
2. Sheltering, raising, handling, processing or sale of agricultural animals or agricultural animal products;
3. Business or office uses relating to the farm operations;
4. Use of farm machinery or equipment or maintenance or storage of vehicles, machinery or equipment on the farm;
5. Storage or use of supplies and materials used on the farm; or
6. Implementation of best management practices associated with farm operations.

*Farm supply and service establishment* means to implement sales, rentals and service, feed and seed store, custom milling, milk depots and creameries, fertilizer storage in bags, or bulk storage of liquid or dry fertilizer in tanks or in a completely enclosed building.

*Farmer's market* means the retail sale of fresh fruits and vegetables, and other food and related items, at a facility with spaces occupied by several different temporary tenants on a short term or daily basis; indoor or outdoor; but this term does not include roadside stands.

*Financial institution* means an establishment whose principal purpose is the provision of financial services, including but not limited to, an insured depository institution, a credit union, a federal home loan bank, a small

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business investment company, a depository institution holding company, a mortgage lending business, or other institutions as defined by federal statute.

*Fish hatchery* means an establishment in which young fish are produced and reared especially for later release in natural waters.

*Flag lot* means a lot fronting on and abutting public roads and where access to the public road is by a narrow private right-of-way that is part of the lot itself.

*Flea market, indoor,* means a commercial establishment that is located within a building and hosts the sale of secondhand articles and antiques by individual vendors.

*Flea market, outdoor,* means a commercial establishment that is held in the open air and hosts the sale of secondhand articles and antiques by individual vendors.

*Flood* means a general and temporary inundation of normally dry land areas.

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

*Flood proofing* means the combination of structural provisions, changes, or adjustments to properties and structures subject to flooding required for new construction in the floodway by the Virginia Uniform Statewide Building Code.

*Floodplain* means a relatively flat or low land area, adjoining a river, stream or watercourse, which is subject to partial or complete inundation as a result of a storm every 100 years, or an area subject to the unusual and rapid accumulation or runoff of surface waters from any source.

*Floodway* means the designated area of the floodplain required to carry and discharge floodwaters of a given magnitude. For the purpose of this chapter, the floodway shall be capable of accommodating a flood of the 100-year magnitude.

*Floor area* means the sum of the gross horizontal areas of each floor of the building or buildings on a lot, measured from the exterior walls or from the centerline of party walls separating two buildings.

*Florist* means a commercial establishment that sells flowers or grows flowers for sale on the premises.

*Forestry* means the use of land for the raising and harvesting of timber, pulp wood, and other forestry products for commercial purposes, including the temporary operation of a sawmill and/or chipper to process the timber cut from that parcel or contiguous parcels. Associated uses include accessory offices, equipment sheds, timber tracts, tree farms, forest nurseries, sawmills, and onsite wood gathering for transport to a processing facility.

*Frontage, lot (road frontage),* means the lot width along the property line parallel to the road and may dictate the front of the property.

*Full cutoff luminaire* means an outdoor light fixture shielded in such a manner that all light emitted by the fixture is projected below the horizontal plane; also, a type of dark sky lighting.

*Funeral home* means an establishment engaged in undertaking services such as preparing the dead for burial and arranging and managing funerals. Typical uses include mortuaries and crematories.

*Garage, parking,* means a building or portion thereof, other than a private garage, designed or used for storing of motor vehicles.

*Garden center* means an establishment or place of business primarily engaged in retail sales from the premises including trees, shrubs, seeds, fertilizers, pesticides, plants, and plant materials primarily for agricultural,

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residential and commercial consumers. Such an establishment typically sells products purchased from others, but may sell material which they grow themselves.

*Gardening* means any use of land unenclosed except for fencing for the raising of grass, flowers, vegetables, crops, trees, or other botanical objects of natural growth, generally for the use and/or consumption of the occupants of the premises, but not including accessory structures used for the same purpose.

*Gasoline station* means any place of business with fuel pumps and underground storage tanks that provides fuels and oil for motor vehicles. A store associated with automobile fuel sales shall be considered a gasoline station.

*General retail* means buildings for display and the sale of merchandise at retail (but specifically exclusive of coal, wood, and lumber yards). Typical uses include drugstore, newsstand, candy shop, dry goods and notions store, antique store and gift shop, hardware store, household appliance store, furniture store, florist, music and radio store, tailor shop.

*Glare* means lighting entering the eye directly from luminaires or indirectly from reflective surfaces that causes visual discomfort or reduced visibility. Also, the effect produced by brightness sufficient to cause annoyance, discomfort, or loss in visual performance and visibility.

*Golf course* means any golf course, publicly or privately owned, on which the game of golf is played, including accessory uses and buildings customary thereto, but excluding golf driving ranges as defined herein. See commercial outdoor sports and recreation.

*Golf driving range* means a limited area on which golf players do not walk, but onto which they drive golf balls from a central driving tee. See commercial outdoor sports and recreation.

*Governing body* means the Board of Supervisors of King William County, Virginia, as applicable.

*Governmental facility* means a building or structure owned, operated, or occupied by governmental agency, local, state or federal level agency, to provide a governmental service to the public. These facilities can include police stations, fire stations, governmental agency offices, and the like.

*Grade* means that which is determined by averaging the elevations of the finished ground adjacent to all the corners and/or principal points in the perimeter wall of the building.

*Grandfathered* means a term referencing a use or structure that is not in conformance with the current ordinance but that was legal at the time it was established or constructed. Also referred to and defined as a legally, nonconforming use/structure.

*Greenhouse, commercial* means a greenhouse operation in which plants are offered for sale to the public, either at wholesale or at retail.

*Greenhouse, private* means a building with transparent walls and roof; for the cultivation and exhibition of plants under controlled conditions.

*Greenway* means a corridor of open space managed for conservation, recreation, and nonmotorized transportation. Greenways often follow natural geographic features such as ridge lines, stream valleys, and rivers, but may also be built along canals, utility corridors, abandoned rail lines, and the like. Greenways may include a trail or bike path or may be designed strictly for environmental or scenic protection.

*Ground floor area* means the area of the lowest floor, whether or not on the same level, comprised primarily of livable floor area.

*Group home* means a licensed residential facility in which no more than eight mentally ill, intellectually disabled, mentally impaired, or developmentally disabled persons or no more than eight aged, infirmed or disabled

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persons reside, with one or more resident counselors or other staff persons, shall be considered a residential occupancy by a single family. Mental illness and developmental disability shall not include current illegal use of or addiction to a controlled substance as defined in the Code of Virginia, § 54.1-3401. Such facility shall be licensed by the Commonwealth of Virginia Department of Behavioral Health and Development Services, in order to qualify as a single family use.

*Guesthouse* means living quarters within a detached accessory building located on the same premises with the main building for use by temporary guests of the occupants of the premises, and not rented or otherwise used as a separate dwelling unless permitted by the terms of this chapter.

*Halfway house* means an establishment providing accommodations, supervision, rehabilitation, counseling, and other guidance services to persons suffering from alcohol or drug addiction, to persons re-entering society after being released from a correctional facility or other institution, or to persons suffering from similar disorders.

*Health officer* means the legally designated health authority of the state department of health, for the county or its authorized representative.

*Height* means the vertical distance of a structure measured from the average elevation of the finished grade within 20 feet of the structure to the highest point of the structure. See also building height.

*Helipad* means an area designated for the landing or departure of helicopters (Code of Virginia, § 15.2-2293.2).

*Historic area* means an area containing one or more buildings or places where historic events occurred or having special public value because of noticeable architectural, archaeological or other features relating to the cultural or artistic heritage of the community, or of such significance as to warrant conservation and preservation, and which has been so designated by the historic landmarks commission or some other local, state, or federal government agency.

*Home occupation, Type I* means an accessory use of a dwelling unit for gainful employment involving the provision of goods or services and which does not generate any additional employees or more than five customers daily.

*Home occupation, Type II* means an accessory use of a dwelling unit for gainful employment involving the provision of goods and/or services and which generates employees and/or more than five customers daily.

*Hospital* means a building or group of buildings, having room facilities for overnight patients, used for providing services for the in-patient medical or surgical care of sick or injured humans, and which may include related facilities, central service facilities and staff offices; provided, however, that such related facility must be incidental and subordinate to the main use and must be an integral part of the hospital operations.

*Hotel* also referred to as a motel or motor lodge; means a building or group of attached or detached buildings containing lodging units intended primarily for rental or lease to transients by the day, week, or month. Such uses generally provide additional services such as daily maid service, restaurants, meeting rooms, and/or recreation facilities.

*Hunt camp* means an area of a property devoted to the temporary, seasonal use for a camp dedicated for hunting that often includes a structure for sleeping, but not for permanent use. The structure may or may not include such features as a kitchen, indoor plumbing, and other amenities found in a typical dwelling unit. A hunt camp may include facilities such as private kennels or pens.

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

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*Industry, heavy*, means manufacturing with significant external effects, or which pose significant risks due to the involvement of explosives, radioactive materials, poisons, pesticides, herbicides, or other hazardous materials in manufacturing or other processes

*Industry, light*, means processing, manufacturing, compounding, assembly, packaging, treatment or fabrication of materials and products, from processed or previously manufactured materials. Light industry is capable of operation in such a manner as to control the external effects of the manufacturing process, such as smoke, noise, soot, dirt, vibration, odor, and the like. Uses may include, but are not limited to, a machine shop, the manufacturing of apparel, electrical appliances, electronic equipment, camera and photographic equipment, ceramic products, cosmetics and toiletries, business machines, paper products (but not the manufacture of paper from pulpwood), musical instruments, medical appliances, tools or hardware, plastic products (but not the processing of raw materials), pharmaceuticals or optical goods, bicycles, any other product of a similar nature.

*Industry, medium*, means goods which are generally mass produced from raw materials on a large scale through the use of an assembly line or similar process, usually for sale to wholesalers or other industrial or manufacturing uses. Medium industry produces moderate external effects such as smoke, noise, soot, dirt, vibration, odor, and the like.

*Intersection* means the area embraced within the prolongation of the lateral boundary lines of two or more streets which join one another at an angle whether or not one such street crosses the other.

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

*Kennel, commercial* means any location where raising, grooming, caring for, or boarding of dogs, cats, or other small animals for commercial purposes is conducted.

*Kennel, private* means keeping of five or more dogs which are all owned and licensed by a single owner and kept on the same property.

*Land disturbance* or *land disturbing activity* means any activity which may result in soil erosion or the movement of sediments including grubbing, grading, excavating, utility line installation, or any surface preparation for the support of development or redevelopment, but not including silvicultural or agricultural activities

*Landscaping* means the improvement of the appearance of an area by the planting of trees, grass, shrubs, or other plant or related materials.

*Life care facility* means a residential facility primarily for the continuing care of the elderly, providing for transitional housing progressing from independent living in various dwelling units, with or without kitchen facilities, and culminating in nursing home type care where all related uses are located on the same lot. Such facility may include other services integral to the personal and therapeutic care of the residents. An assisted living facility would be included in this definition.

*Light pollution* means any adverse effect of man-made light including sky glow, glare, light trespass, light clutter, and decreased visibility at night.

*Light trespass* means light sources casting excessive light upon adjacent property or upon a public right-of-way, also called light spillover.

*Liquor* means any alcoholic beverage other than beer, wine, or cider, as those terms are defined in Code of Virginia, §§ 4.1-100 and 4.1-213.

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*Livestock* means any animal customarily kept by humans for the purpose of providing food, clothing, or work, including but not limited to, cows, goats, horses, pigs, and poultry but not including cats, dogs, or other house pets.

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

*Living quarters* means a residence for persons employed on the premises.

*Loading space* means a space within a building or on the premises providing for the standing, loading or unloading of vehicles.

*Lot* means a land intended to be separately owned, developed, or otherwise used as a unit, established by plat, subdivisions or as otherwise permitted by law

*Lot, area* means the total horizontal area within the lot lines of the lot.

*Lot, corner* means a lot abutting upon two or more streets at their intersection where the interior angle of intersection is not greater than 135 degrees. A lot abutting upon a curved street shall be considered a corner lot if the tangents to the curve at the points of intersection of the side lot lines intersect at an interior angle of less than 135 degrees. A reversed corner lot is a corner lot that is turned, with reference to an adjoining lot, to front on another street. A corner lot will have two front setbacks on each side that fronts the street and two side setbacks.

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

*Lot, double or reverse frontage* means a lot, other than a corner lot, which has frontage on two streets.

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

*Lot, line* means the boundary line of the lot.

*Lot line, front* means the line separating the lot from a street on which it fronts. On a corner lot, the front shall be deemed to be along the shorter dimension of the lot; and where the dimensions are equal, the front shall be on that street on which a predominance of the other lots in the block front. For an existing flag lot the front yard shall be determined as in the definition of "building setback line."

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

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

*Lot of record* means a lot shown upon a plan of subdivision or upon a plat attached or referred to in a deed described by metes and bounds in a deed recorded in the clerk's office of the county circuit court.

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

*Luminaire* means a complete lighting unit or fixture, consisting of a lamp, or lamps and ballast(s), together with the parts designed to distribute the light (reflector, lens, diffuser), to position and protect the lamps, and to connect the lamps to the power supply.

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

*Manufactured building* means a building which is:

- (1) Mass produced in a factory;
- (2) Designed and constructed for transportation to a site for installation and use when connected to required utilities; and

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- (3) Either an independent, individual building or a module for combination with other elements to form a building on the site.

*Manufactured home.* See dwelling.

*Manufactured home park* means a lot or parcel of land under single ownership on which are located or which are arranged or equipped with water, sewer and electrical facilities, for the accommodation of two or more manufactured homes occupied for living purposes. A manufactured home park may feature continuing general management and include special facilities for common use by the occupants, such as recreational buildings and laundries.

*Manufactured home sales* means establishments primarily engaged in the sale or rental of manufactured homes.

*Marina* means a commercial, waterfront establishment whose business is offering the sale or rental of boats and marine sporting equipment and the servicing, repair, or storage of same. These establishments may provide boat slip rental, gasoline sales, sanitary pump out service, and food and drink accommodations.

*Micro-wireless facility* means a small cell facility that is not larger in dimension than 24 inches in length, 15 inches in width, and 12 inches in height and that has an exterior antenna, if any, not longer than 11 inches (Code of Virginia, § 15.2-2316.3).

*Mini-warehouse* means 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.

*Minor street* means a street other than a major thoroughfare or collector street and intended primarily for providing low volume traffic access to abutting properties of limited number.

*Motor home or camper* means a unit or subunit which is or becomes self-propelled and is designed for human habitation on a short-term basis.

*Nonconforming building* means 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 chapter.

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

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

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

*Nonpoint source pollution* means 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.

*Nontidal wetlands* means those wetlands other than tidal wetlands that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do

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support, a prevalence of vegetation typically adapted for life in saturated soil conditions, as defined by the U.S. Environmental Protection Agency in 33 CFR 328.3(c).

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

*Nursery* means a place where plants are grown commercially, either for sale direct to the public or to other retailers.

*Nursing home.* Refer to Convalescent home.

*Occupancy* means the period during which one owns, rents, uses, or occupies a certain premises or land.

*Occupant* means a person who, on a regular basis, spends nights at a residence. A person is considered an occupant regardless of whether they spend the majority of their nights at a residence, if the times they do stay overnight are regular and recurrent. In addition, a person shall be considered an occupant if their clothes or other daily living supplies are maintained at the residence.

*Office, general* means the use of a site for business, professional, or administrative offices, excluding medical offices. Typical uses include real estate, insurance, management, travel, computer software or information systems research and development, or other business offices; organization and association offices; or law, architectural, engineering, accounting or other professional offices. Retail sales do not comprise more than an accessory aspect of the primary activity of a general office.

*Office, medical* means the 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 service. Medical offices are operated by doctors, dentists, or similar practitioners licensed by the Commonwealth of Virginia. Emergency treatment is not the dominant type of care provided at this facility.

*On-site sewage disposal* means treatment and disposal of sewage on the same lot or parcel on which the sewage is created, through means approved by the health official.

*On-site water supply* means a well, approved by the health official, located on the lot or parcel on which water supplied by such well will be consumed or used.

*Open space (usable residential common open space)* means any outdoor area of such location, size and shape as to provide for specific outdoor living such as patios, swimming pools, and the like, or outdoor service functions such as laundry drying. Area considered as usable common open space must be available for all residential occupants of a given building or project and may include only those spaces enclosing an area of at least 300 square feet, with a least dimension of 15 feet or more.

*Outdoor display* means the permanent and/or continuous keeping, displaying, or storing, outside of a building, of any goods, materials, merchandise or equipment to be sold to the public.

*Outdoor storage* means the keeping, in other than a building, of any goods, materials, or merchandise on the same parcel for more than 24 consecutive hours.

*Parcel* means a tract of land consisting of one or more lots of record.

*Parking facility* means a commercial site for surface parking or a parking structure use which provides one or more parking spaces together with driveways, aisles, turning and maneuvering areas, incorporated landscaped areas, and similar features meeting the requirements established by this chapter.

*Parking lot, public* means 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.

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

*Patio* means 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.

*Pawn shop* means 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.

*Pedestrian path* means paved, marked or otherwise designated pedestrian treatments that are installed to comply with the Americans with Disabilities Act (ADA).

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

*Penalty, civil* means a punitive measure that imposes an associated fee for the violation of a provision included in this chapter.

*Permanent foundation* means a building foundation as defined in the BOCA National Building Code or other building codes recognized by the commonwealth.

*Person* means an individual, firm, corporation, or association.

*Personal improvement services* mean establishments primarily engaged in the provision of informational, instructional, personal improvements and similar services. Typical uses include driving schools, health or physical fitness studios, dance/music/art studios, handicraft and hobby instruction.

*Personal services* mean establishments or places 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.

*Petroleum or chemical storage over 30,000 gallons* means the storage of chemicals, petroleum products and other materials in above-ground containers in a quantity that totals more than 30,000 gallons, for subsequent resale to distributors or retail dealers or outlets.

*Petroleum or chemical storage up to 30,000 gallons* means the storage of chemicals, petroleum products and other materials in above-ground containers in a quantity that totals 30,000 gallons or less, for subsequent resale to distributors or retail dealers or outlets.

*Picnic area* means a facility with one or more picnic shelters that can be used or reserved by the public.

*Picnic shelter* means a structure with no more than two walls, which provides protection or shelter to persons which are picnicking. Picnic shelters shall not be used for human habitation.

*Pier, commercial* means a fixed waterfront structure in which the owner of the pier charges a fee for members of the general public to use the pier. Allowed uses include crabbing, fishing, sunning, swimming and similar activities, but not boating or the docking of boats.

*Pier, community* means a fixed waterfront structure used by a residential community, including guests, for crabbing, fishing, sunning, swimming, and similar activities, but not for boating or the docking of boats.

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*Pier gazebo, large*, means a roofed structure located over a pier as defined in Code of Virginia, § 28.2-1203(A), which is over 400 square feet in area or a structure of any size containing walls.

*Pier gazebo, small*, means a wall-less roofed structure located over a pier as defined in Code of Virginia, § 28.2-1203(A), which is 400 square feet in area or smaller.

*Pier, private* means a waterfront structure, fixed or floating, used for the docking of boats owned and registered by the property owner or a guest visiting the owner, or for recreational uses such as fishing.

*Planned unit development* means a form of development characterized by unified site design for a variety of housing types and densities, clustering of buildings, common open space, and a mix of building types and land uses in which project planning and density calculation are performed for the entire development rather than on an individual lot basis.

*Plat* means a map or plan of a tract or parcel of land which is to be, or which has been subdivided. The word "plat" includes the words "map," "plan," "replat," "plot" and "replot." When used as a verb, "plat" is synonymous with "subdivide."

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

*Post office* means postal services directly available to the consumer operated by the United States Postal Service.

*Poultry* means domestic fowl normally raised on a farm, such as chickens, ducks, geese, turkeys, peafowl, guinea fowl, and the like.

*Power generation plant* means a facility that converts one or more energy sources, including but not limited to waterpower, fossil fuels or nuclear power into electrical energy or steam. A power generation plant may also perform either or both of the following: (a) operation of a transmission system that conveys the energy or steam from the generation facility to a power distribution system; (b) operation of a distribution system that conveys energy or steam from the generation facility or the transmission system to final consumers. This definition excludes solar generation.

*Premises* means a lot, together with all buildings and structures thereon.

*Preservation* means the act or process of applying measures to sustain the existing form, integrity, and material of a site, structure, or landmark and their existing form and vegetative cover. Preservation may include initial stabilization work, where necessary, as well as ongoing maintenance of these elements.

*Primary highway* means a highway designated as a state primary highway or U.S. highway by the adopted comprehensive plan of the county or by the Virginia Department of Transportation (VDOT).

*Property* means any tract, lot, parcel or several of the same collected together for the purpose of subdividing.

*Public assembly* means facilities that accommodate public assembly for sports, amusements, or entertainment purposes. Typical uses include auditoriums, sports stadiums, convention facilities, and incidental sales and exhibition facilities.

*Public building* means a building, or part thereof, owned or leased and occupied and used by an agency or political subdivision of the United States of America, the commonwealth, a county or a town or city.

*Public maintenance and service facility* means a public facility supporting maintenance, repair, vehicular or equipment servicing, material storage, and similar activities including street or sewer yards, equipment services centers, and similar uses having characteristics of commercial services or contracting or industrial activities.

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*Public park and recreational area* means publicly owned and operated parks, picnic areas, playgrounds, indoor/outdoor athletic or recreation facilities, indoor/outdoor shelters, amphitheaters, game preserves, open spaces, and other similar uses. This shall not include public recreation assembly.

*Public recreation assembly* means publicly-owned and operated community, civic, or recreation centers, year-round swimming facilities, or indoor performing arts/auditoriums.

*Public water and sewer system* means a water or sewer system owned and operated by a municipality or county, or owned and operated by a corporation approved by the board of supervisors and properly chartered and certified by the State Corporation Commission, and subject to special regulations as set forth in this chapter, or the county ordinances.

*Railroad facility* means an area of land, a portion of which is covered by a system of tracks that provides for the making up of trains by one or more railroads or private industry concerns. Necessary functions of a rail facility include but are not limited to the classifying, switching, storing, assembling, distributing, consolidating, moving, repairing, weighing, or transferring of cars, trains, engines, locomotives, and rolling stock.

*Recreation, active* means those recreational pursuits which require physical alteration to the area in which they are performed including, but not limited to, pedestrian ways, bikeways, tennis courts, swimming and boating areas, playgrounds, and play fields.

*Recreation, passive* means recreational activities that generally do not require a developed site such as hiking, horseback riding, and picnicking.

*Recreation facility, private* means a private 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 usually proposed or planned in association with development and are usually located within or adjacent to such development.

*Recreation facility, public* means a publicly owned or operated recreation facility.

*Recreational vehicle* means a vehicular type or portable structure without a permanent foundation which can be towed, hauled, or driven and primarily designed as temporary living accommodations for recreational, camping, and travel use and including, but not limited to; travel trailers, truck campers, camping trailers and self-propelled motor homes.

*Recreational vehicle sales and service* means the retail sales of recreational vehicles and boats, including service and storage of vehicles and parts and related accessories.

*Recycling center* means a facility used by the general public for the collection of materials for recycling or reuse, including bins, boxes, buildings, self-propelled motor vehicles, trailers and other enclosures or receptacles. Except for county or other governmental sponsored programs to collect and/or recycle household hazardous wastes, this definition shall not include facilities for the collection of non-recyclable materials, such as business and household refuse, garbage, organic materials, medical waste, trash, junk, toxic substances, or similar materials.

*Refuse collection site* means a facility for the collection of non-recyclable materials, such as business and household refuse, garbage, organic materials, medical waste, trash, junk, toxic substances, or similar materials.

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

*Religious assembly* means a use providing regular organized religious worship and related incidental activities, except primary or secondary schools and day care facilities.

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*Research and development* means a business which engages in research, or research and development of innovative ideas in technology-intensive fields. Examples include research and development of communication systems, transportation, geographic information systems, multimedia and video technology. Development and construction of prototypes may be associated with this use.

*Resident engineer* means a resident engineer of the Virginia Department of Transportation.

*Residential use* means any place, building, or establishment used in whole or in part as a dwelling, or used for the care, protection, or guidance of any persons during any part of the day, including, but not limited to, single-family and multi-family dwellings, manufactured homes, family day care homes, group homes, and homes for adults.

*Resource extraction* means 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, soil mining, and other major excavations. 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.

*Resource management area (RMA)* means a component of the Chesapeake Bay Preservation Area. The resource management area shall include all lands within the county not otherwise designated as an RPA. RMAs include land types that, if improperly used or developed, have the potential for causing significant water quality degradation or for diminishing the functional value of the resource protection area. Components of the RMA include floodplains; highly erodible soils, including steep slopes; highly permeable soils; nontidal wetlands not included in RPAs; and other sensitive lands affecting water quality.

*Resource protection area (RPA)* means the "shoreward" component of the Chesapeake Bay Preservation Area. RPAs are composed of tidal wetlands, nontidal wetlands connected by surface flow and contiguous to tidal wetlands or water bodies with perennial flow, tidal shores, such other lands considered necessary to protect the quality of state waters and 100 feet of riparian buffers adjacent to and landward of these features. The full buffer area shall be designated as the landward component of the RPA notwithstanding the presence of permitted uses, encroachments, and permitted vegetation clearing in compliance with this chapter.

*Restaurant* means any building in which, for compensation, food or beverages are dispensed to persons not residing on the premises for consumption on the premises including, among other establishments, cafés, delicatessens, or refreshment stands.

*Restaurant, drive-in* means an eating and/or drinking establishment which caters to motor-driven vehicle businesses where the person being served may consume his food and/or drink while sitting in a motor-driven vehicle, as opposed to a restaurant serving exclusively inside or adjacent to the main building.

*Restaurant, fast food* means an establishment primarily engaged in the preparation of food and beverages, for either take-out, delivery or table service, served in disposable containers at a counter. This use type does not employ a drive-up or drive-through service facility and does not offer curbside service.

*Restaurant, general* means an establishment engaged in the preparation of food and beverages containing more than 2,000 gross square feet and characterized primarily by table service to customers in non-disposable containers.

*Restaurant, mobile* means a readily moveable wheeled vehicle or towed vehicle designed and equipped for the preparation and sale of food and/or drink, which is provided to walk-up customers. This term includes mobile food units, food trucks, and similar apparatuses. Mobile restaurants (food vendors) are by definition itinerant and not permanent fixtures to a specific property.

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*Restaurant, small* means an establishment engaged in the preparation of food and beverages containing no more than 2,000 gross square feet and characterized primarily by table service to customers in non-disposable containers. Typical uses include cafés, coffee shops, and eat-in delis.

*Rezoning* means a reclassification of land from one zoning district to another by the board of supervisors after review by the planning commission, notices, and public hearings as prescribed by law.

*Right-of-way* means the dedication for public use of streets and utilities.

*Riparian buffer* means a vegetated buffer no less than 100 feet wide, located adjacent to and landward of all tidal shores, tidal wetlands, non-tidal wetlands connected by surface flow and contiguous to tidal wetlands or along water bodies with perennial flow. The riparian buffer is a component of the resource protection area.

*Road or roadway* means a public or private thoroughfare which affords the principal means of access to abutting properties, and whether designated as a freeway, expressway, thoroughfare, highway, road, parkway, avenue, boulevard, lane, place, circle, or however otherwise designated.

*Road or roadway line (rights-of-way line)* means a dividing line between a lot, tract, or parcel of land and a contiguous street, and also referred to as a rights-of-way-line.

*Road or roadway, major, or major thoroughfare* means a street or road designated as a major thoroughfare (a U.S. highway, state primary highway, or state secondary highway) on the adopted comprehensive plan of the county.

*Road or roadway, private* means a private thoroughfare or easement of access established in accord with the terms of this chapter and which is not publicly owned or publicly maintained.

*Road or roadway, public* means a street designed and constructed in accordance with subdivision street standards of the Virginia Department of Transportation and intended to be accepted into the department's secondary highway system, whether or not such acceptance has been granted.

*Road or roadway, width* means the horizontal distance between street lines measured perpendicular to the street centerline.

*Salvage and scrap service* means a place of business primarily engaged in the storage, sale, dismantling or other processing of used or 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 automobiles parts and supplies.

*Sanitary landfill* means an engineered land burial facility for the disposal of solid waste (as defined by the Virginia Department of Waste Management) which is so located, designed, constructed, and operated to contain and isolate the solid waste so that it does not pose a substantial present or potential hazard to human health or the environment.

*Sawmill, permanent* means a sawmill permanently located for the purpose of processing timber from the property on which located, from adjoining property, or from other properties removed from the sawmill or its environs without regard to point of origination. Such mill may or may not be held out for the processing of timber bought or sold on a price basis.

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

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*Screening* means a method of visually shielding or obscuring one abutting or nearby structure or use from another by fencing, walls, berms or densely planted vegetation. Screening is intended to substantially, but not necessarily totally, obscure visual impacts between adjoining uses.

*Secondary highway* means a highway designated as a state secondary highway by the Virginia Department of Transportation.

*Service drive* means a minor street which is parallel to and adjacent to a major thoroughfare, and which provides access to abutting properties and restricts access to the major thoroughfare.

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

*Setback line* means a line generally parallel with and measured from the front lot line, defining the limits of a defined yard in which no building or structure may be located above ground.

*Sewage treatment system, private, individual alternative*, means any device or system which results in a point source discharge of treated sewage for which the department of health may issue a permit authorizing construction and operation when such system is regulated by the state department of environmental quality pursuant to a general Virginia Pollutant Discharge Elimination System permit issued for an individual single-family dwelling with flows less than or equal to 1,000 gallons per day on a yearly average. Such a system is designed to treat sewage from a residential source and dispose of the effluent by discharging it to an all-weather stream, an intermittent stream, a dry ditch, or other location approved by the department of health.

*Shooting range, indoor* means the use of a structure for firearms or other projectiles for the purpose of target practice or competitions, and in return for compensation.

*Shooting range, private* means the use of land for target shooting and other recreational activities, other than hunting, involving the use of firearms or other projectiles (e.g., archery) by the owner or occupant of a parcel and their guests, not in return for compensation and not including formal competitions.

*Shooting range, outdoor* means the use of land for shooting clubs and other facilities for the discharge of firearms or other projectiles for the purposes of target practice, skeet and trap shooting, mock war games, or formal competitions, or in return for compensation.

*Shopping center* means a group of commercial establishments planned, developed, owned and managed as a unit related in location, size and type of shops to the area that the unit serves and providing site parking in relationship to the types and sizes of stores.

*Short term business rental* means the rental of any legally permitted dwelling unit for occupancy, or any portion of any legally permitted dwelling unit for occupancy, for dwelling, lodging, or sleeping purposes for a period of less than 30 consecutive calendar days.

*Sidewalk* means a paved public or private walkway for pedestrians and the term is used interchangeably with pedestrian path. Public sidewalks are located within right-of-ways or easements.

*Sign* means an identification, description, illustration, 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.

*Sign, abandoned*, means a sign or structure of a former sign shall be deemed to be abandoned when for a period of 30 consecutive days it does not identify or advertise a lawful, bona fide, and operational business, service, lessor, owner, product, or activity located at, or offered upon, the premises.

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*Sign, accessory*, means a sign relating only to uses of the premises on which the sign is located, or products sold on the premises on which the sign is located, or indicating the name or address of a building or occupants or management of a building on the premises where the sign is located.

*Sign, agricultural*, means signs advertising products raised or made on the premises.

*Sign, animated* means a sign utilizing any form of movement, including, without limitation, animation, revolution, vertical or horizontal motion, whether electrical, mechanical, wind-blown, or through change in lighting.

*Sign, area* means the smallest square, rectangle, triangle, circle, or combination thereof encompassing the entire advertising area, excluding architectural trim and structural supports unless they form integral parts of the display. For signs with two faces, one side shall be included in a computation of sign area; for signs with three or more faces, the total area shall not exceed twice the permitted sign area. The area of a cylindrical sign shall be computed by multiplying one-half of the circumference by the height of the sign.

*Sign, awning* means a sign painted on, printed on, or attached flat against the surface of an awning. Such sign shall not extend above the height of the awning.

*Sign, banner* means a temporary sign made of cloth, paper, vinyl, or other similar flexible material affixed to a framework, building wall, or flat surface as to remain in a stationary position.

*Sign, canopy*. See sign, awning.

*Sign, construction* means a temporary sign providing information about future development or current construction on a site and the parties involved in the project. Such signs shall be removed at the time of issuance of a permanent sign permit or the first occupancy permit, whichever is applicable.

*Sign, contractor* means one sign per licensed contractor performing, or having performed within the past 31 days, construction or building renovation work on the premises.

*Sign, digital* means a sign with a message that is made up of internally illuminated components that display an electronic image, which may or may not include text and is capable of changing the image and message periodically. Digital displays may include but are not limited to television screens, LCD, LED or plasma displays.

*Sign, directional* means a sign giving directional instructions, but containing no advertising copy, (e.g., parking or exit and entrance signs). Such signs shall not exceed four feet in height and two square feet in area.

*Sign, double-faced* means a sign with two parallel or nearly parallel faces, a-frame, back to back, upon which advertising is displayed. Double-faced signs shall be considered a single sign, provided that the faces are parallel or are not separated by an angle greater than 15 degrees and are part of the same structure. If one face contains a larger sign area than the other, the larger face shall be used in calculating the sign area.

*Sign, electronic message board* means any sign containing light emitting diodes (LEDs), fiber optics, light bulbs, plasma display screens or other illumination devices, or a series of vertical or horizontal slats

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or cylinders that are capable of being rotated at intervals, that are used to change the messages, intensity of light, or colors displayed by such sign.

*Sign, flag* means cloth or similar flexible fabric attached to a pole at one end such that the material can bend or flutter from the point(s) of attachment.

*Sign, flashing* means any illuminated sign on which there is artificial light which is not stationary or constant in intensity or color at all times when such sign is in use.

*Sign, freestanding* means a sign, for a single business entity, not attached to any building or structure. Common freestanding sign types include blade, pylon, pole and monument or ground-mounted.

*Sign, freestanding, combined* means a sign not attached to any building or structure that advertises for more than one business or entity.

*Sign, government* means signs erected and maintained pursuant to and in discharge of any federal, state, or county governmental function, or as may be required by law, ordinance, or governmental regulation, including official traffic signs, warning devices, and other similar signs.

*Sign, grand opening* means one grand opening sign pertaining to a recently opened, licensed business.

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

*Sign, individual letter* means a sign made up of letters that are only attached directly to the building.

*Sign, inflatable* means any display capable of being expanded by air or other gas and used on a temporary or permanent basis to advertise a product or event.

*Sign, marquee* means any sign attached to or hung from a marquee. For the purpose of this ordinance, 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 weather.

*Sign, monument* means a sign affixed to a structure built at grade, in which the sign and the structure are an integral part of one another; not a pole sign.

*Sign, off-premises* means any sign, including billboards, which directs attention to a business commodity, service or establishment conducted, sold or offered at a location other than the premises on which the sign is erected.

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*Sign, portable* means a freestanding sign that is trailer mounted, or otherwise designed to be relocated, or is constructed on a chassis or carriage with permanent or removable wheels, and has an area not exceeding 60 square feet on each of two parallel sides.

*Sign, projecting* means a sign which is attached to and projects more than eighteen (18) inches from the face of a wall of a building. The term projecting sign includes a marquee sign.

*Sign, real estate* means signs offering individual real property or properties within a platted subdivision or multi-unit development for sale or rent.

*Sign, temporary* means a sign designed and intended to be displayed for a specified or limited period of time, regardless of type or style of sign. Temporary signs may include signs constructed of cloth, canvas, vinyl, paper, plywood, fabric, or other material not suitable for long term durability. Signs which are neither permanently anchored in the ground nor permanently affixed to a building or structure which is permanently installed in the ground shall be deemed temporary signs.

*Sign, roof* means any sign erected, constructed, and maintained wholly upon or over the roof of any building.

*Sign, wall* means a sign painted on, or attached to, and erected parallel to the face of an outside wall of a building, and not projecting more than 18 inches from the wall.

*Sign, window* means a sign, which is physically affixed to a building window and legible from any vehicular public right-of-way through a building window. For purposes of this chapter, any sign (including illuminated signs) located inside a building and otherwise legible from any vehicular public right-of-way shall be deemed not to be a "window sign" if such sign is less than six square feet in area and is located at least ten feet away from such window(s) through which it is viewed.

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

*Site.* See building site.

*Site plan* means a plan prepared by a professional engineer or land surveyor licensed by the state showing all proposed improvements to the site. The site plan shall include all covenants, grants, or easements and other conditions relating to use, location, and bulk of buildings, density of development, common open space, public facilities, and such other information as is required in applicable sections of this chapter such as with conditional use, rezoning, or variance applications.

*Small cell facility* means a wireless facility that meets both of the following qualifications: (i) each antenna is located inside an enclosure of no more than six cubic feet in volume, or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements could fit within an imaginary enclosure of no more than six cubic feet and (ii) all other wireless equipment associated with the facility has a cumulative volume of no more than 28 cubic feet, or such higher limit as is established by the Federal Communications Commission. The following types of associated equipment are not included in the calculation of equipment volume: electric meter, concealment, telecommunications demarcation boxes, back-up power systems, grounding equipment, power transfer switches, cut-off switches, and vertical cable runs for the connection of power and other services (Code of Virginia, § 15.2-2316.3).

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*Small-scale conversion of biomass* means the conversion of any renewable biomass into heat, power, or biofuels (Code of Virginia, § 15.2-2288.01).

*Soils, highly erodible* means (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 deemed 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.

*Soils, highly permeable* means soils with a given potential to transmit water through the soil profile. Highly permeable soils are identified as any soil having a permeability equal to or greater than six inches of water movement per hour in any part of the soil profile to a depth of 72 inches (permeability groups "rapid" and "very rapid") as found in the latest edition of the "National Soil Survey Handbook" of November 1996, in the "Field Office Technical Guide" of the U.S. Department of Agriculture, Natural Resources Conservation Service.

*Solar facility, medium-scale* means a facility that generates electricity from sunlight primarily to reduce onsite consumption of utility power for commercial and industrial applications. Sites are between one to three acres with a maximum capacity of 999 kilowatts.

*Solar facility, roof* means a system consisting of solar panels, modules, accessory structures and related equipment (e.g., heat exchanger, pipes, inverter, wiring, storage) that collects solar energy and converts it into heat and/or electricity in which the solar panels are located on the roof of a residential dwelling unit (Code of Virginia, § 15.2-2288.7).

*Solar facility, small-scale* means a facility that either: (a) generates less than 15 kilowatts electricity from sunlight, consisting of one or more photovoltaic (PV) systems and other appurtenant structures and facilities within the boundaries of the site; or (b) utilizes sunlight as an energy source to heat or cool buildings, heat or cool water, or produce electrical or mechanical power by means of any combination of collecting, transferring, or converting solar-generated energy; and (c) meets at least one of the following criteria: has a disturbance zone equal to or less than an acre; is mounted on or over a building, parking lot, or other previously disturbed area; or utilizes integrated PV only.

*Solar facility, utility-scale* means a facility that generates electricity from sunlight which will be used to provide electricity to a utility provider. Sites are generally over two acres and have a capacity in excess of one megawatt.

*Solid waste* means any garbage, refuse, sludge and other discarded material, including solid, liquid, semisolid or contained gaseous material, resulting from industrial, commercial, mining and agricultural operations and from community activities.

*Special event* means circuses, fairs, carnivals, festivals, weddings, family reunions or other types of special events that:

- (1) Run for no longer than two weeks.
- (2) Are intended to or likely to attract substantial crowds.
- (3) Are unlike the customary or usual activities generally associated with the property where the special event is to be located.

*Special event—Charity or religious* means an event such as a fund raiser held by a non-profit organization or a church affiliation. The zoning permit fee will be waived for charity or religious special events.

*Special event—Private* means a private event such as a birthday party, family reunions, that is by invitation only. Private events are defined as events that include persons who have not been charged an admission or made

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a contribution towards the costs of such gathering or assembly for the purposes of amusement, entertainment, or similar common purpose on private property where the special event is to be located.

*Special event—Public* means an event such as a circus, fair, carnivals, festivals which is advertised to the public. Events in which the public is invited on public and private property which may affect public safety, health, or welfare or its impact on surrounding property.

*Special exception* means a special use exception, yard exception or height exception specifically listed in this chapter that is a use not permitted in a particular district except by a conditional use permit granted under the provisions of this chapter.

*Specialty food shop* means the use of land, such as a coffee, candy, or ice cream shop, where the primary client consumption is off-site with limited seating and the product is limited to one type or line of food service and the food preparation is such that:

- (1) All odors must be contained within the establishment and specialized equipment may be required to contain the odors;
- (2) It does not involve "cooking" but the application of heat, by microwave or the boiling of water for beverages, shall not be considered "cooking" for purposes of this definition; and
- (3) No open flame heat source is used.

*Specialty shop* means a small-scale (less than 2,500 square feet per business) retail use which offers for sale items of art or crafts, or which offers for sale items related to a specific theme, such as kitchen wares and pet care.

*Stable, commercial* means the sheltered boarding of horses or ponies, or other livestock, for a revenue generating purpose. Included in this definition are horse riding academies and horse, or livestock, grooming operations.

*Stable, private* means the keeping, breeding, or raising of horses or ponies, or other livestock, 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.

*Stockyard* means a facility intended for the keeping and storing of livestock in association with a slaughterhouse or abattoir.

*Store, general.* See general retail.

*Store, grocery* means a retail business primarily engaged in the sale of unprepared food for personal or household preparation and consumption. Such a facility may engage in incidental sales of prepared foods for personal consumption on- or off-site.

*Store, neighborhood convenience* means an establishment primarily engaged in the provision of frequently or recurrently needed goods for household consumption, such as prepackaged food and beverages, and limited household supplies and hardware. Convenience stores shall not include fuel pumps or the selling of fuel for motor vehicles. Typical uses include neighborhood markets and country stores.

*Story* means that portion of a building included between the surface of any floor and the surface of the floor next above it, or if there is no floor above it, then the space between such floor and the ceiling next above it. For the purpose of height measurement for any building other than a detached single-family dwelling, a basement shall be counted as a story if its ceiling is five feet above the level from which the height of the building is measured.

*Story, half,* means 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

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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* means a public or private thoroughfare which affords the principal means of access to abutting properties, and whether designated as a freeway, expressway, thoroughfare, highway, road, parkway, avenue, boulevard, lane, place, circle, or however otherwise designated.

*Street Centerline in the Business Management Area* means the center of the four lanes along Rt. 360 or the center of the two lanes along Rt. 30

*Street line (right-of-way line)* means a dividing line between a lot, tract, or parcel of land and a contiguous street, and also referred to as a right-of-way-line.

*Street, major, or major thoroughfare* means a street or road designated as a major thoroughfare (a U.S. highway, state primary highway or state secondary highway) on the adopted comprehensive plan of the county.

*Street, private.* See road or roadway, private.

*Street, public.* See road or roadway, public.

*Street width* means the horizontal distance between street lines measured perpendicular to the street centerline.

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

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

*Subdivide* means to divide any lot, parcel or tract of land into two or more parts. The term "subdivide" shall include the term "resubdivision," but shall not include a division or partition of land by a court of competent jurisdiction; a division for the sole purpose of rearranging or straightening a property line; a division for the purpose of conveying part of a lot or parcel of land to an adjoining lot or parcel, provided that if both lots currently meet the minimum area requirements of the zoning ordinance, neither shall be reduced in size below such minimum area requirements; or a division among legal heirs of a parcel, provided that such legal heirs retain title to all lots or smaller parcels so created and further provided that each part after the division meets the minimum area and dimension requirements of the zoning ordinance.

*Subdivider* means any person or persons dividing or proposing to divide land so as to constitute a subdivision as defined in this section, and including any agent of the subdivider.

*Subdivision* means the result of subdividing a tract or parcel of land platted with contiguous lots, streets, public areas or easements, and containing provisions for drainage, utilities and other necessary facilities and services to serve residents. Unplatted and unnumbered remainders of a tract or parcel shall not be considered part of a subdivision.

*Subdivision agent* means the officer or agency or both of them designated by the board of supervisors to review and approve the subdivision of land and the plats of such subdivision, when located wholly or partly within the county.

*Subdivision, cluster* means a subdivision utilizing a design technique that concentrates single family dwellings in specific areas on the site with 70 percent of the original parcel as a permanent conservation area.

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*Subdivision, family* means a division made pursuant to Code of Virginia, § 15.2-2244, i.e., a single division of a lot or parcel for the purpose of sale or gift to a member of the immediate family of the property owner, including the family member's spouse, subject only to any express requirement contained in the Code of Virginia and to any requirement imposed by the governing body that all lots of fewer than five acres have reasonable right-of-way of 20 feet providing ingress and egress to a dedicated recorded public street or thoroughfare. Unless otherwise constructed to meet standards eligible for addition to the secondary system of highways, access to such divisions shall be deemed to be privately maintained roads and the deeds and plats of such divisions shall include the language required under this chapter. Only one such division in the county shall be allowed per family member, and shall not be for the purpose of circumventing this chapter. Each such division shall remain in the name of the qualified family member for a minimum of five years from the date of recordation, unless the lot is the subject of an involuntary transfer such as foreclosure, death, divorce, judicial sale, condemnation or bankruptcy. For the purpose of this subsection, a member of the immediate family is defined as any person who is a natural or legally defined offspring, stepchild, spouse, sibling, grandchild, grandparent or parent of the owner.

*Subdivision, farmstead* means a subdivision of two to seven lots where the lots are a minimum of 15 acres in size.

*Subdivision, major* means a subdivision with more than four lots and may contain lots of less than 15 acres. The term "major subdivision" shall include any subdivision of more than four lots, which is designed and developed as a single unit, regardless of the number of owners and/or subdividers involved, or the number of parcels or tracts of land encompassed, by the subdivision. The term "major subdivision" shall also include any subdivision which initially contains fewer than five lots, but which is intended to become a subdivision of more than four lots at some future time through additions. Any proposed subdivision which standing alone would qualify as a minor subdivision, but which will adjoin an existing minor subdivision shall be classified as a major subdivision and shall meet all the requirements of this article pertaining thereto if the total number of lots in the two subdivisions exceeds four and:

- (1) The proposed minor subdivision will be created from the remainder of the tract or parcel of land from which the existing subdivision was created, irrespective of any change of ownership of such remainder since the creation of the existing subdivision;
- (2) Access to the proposed subdivision is through the existing minor subdivision;
- (3) The two subdivisions have the same or similar names; or
- (4) The lot numbering system for the two subdivisions suggests that the proposed subdivision is an expansion of the existing one.

*Subdivision, minor* means a subdivision other than a major subdivision or a single-lot subdivision that results in the creation of no more than four platted lots.

*Subdivision, single-lot* means a subdivision with only one lot, whether or not exempt from the requirements of article XVIII—division 3.

*Substantial alteration* means an 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.

*Tasting room* means an establishment with the primary purpose of serving alcoholic beverages, along with food, that are produced either on site or off site by the brewery, distillery, or winery that owns the tasting room.

*Taxidermy* means the art of preparing, stuffing, and mounting the skins of animals, which may include freeze drying.

*Temporary open-air stands* for seasonal sales of products raised on the premises. A zoning permit is required.

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*Temporary sales* means temporary stands or outdoor areas for sale of Christmas trees, and the like not to exceed 90 days. A zoning permit is required.

*Temporary stands* for sale of fireworks not to exceed 14 days per calendar year. A zoning permit is required.

*Temporary structure* means a structure that will not remain erected on a parcel for a length longer than 60 days. The erection of a temporary structure requires a temporary structure permit.

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

*Tidal wetlands* means vegetated and non-vegetated wetlands as deemed in the Code of Virginia, § 28.2-1300.

*Townhouse development* means one or more single-family dwellings containing townhouses with accessory parking, open space, and recreational and management facilities.

*Tract* means one or more parcels of land under the same ownership with at least one boundary in common between parcels.

*Trade school* means a secondary school that teaches and certifies students in a skilled trade.

*Transfer station* means any storage or collection facility which is operated as a relay point for municipal solid waste which ultimately is to be transferred to a landfill.

*Tree* means a woody perennial plant having a single main stem.

*Truck/freight terminal* means an area of land used for the switching, storing, assembling, distributing, consolidating, moving, repairing, weighing, or transferring of freight.

*Trust* means a property interest held by a person or a combination of firms or corporations formed by a legal agreement.

*U.S.C.* means the United States Code.

*Use* means the purpose or activity for which land or buildings thereon are designed, arranged or intended, or for which they are occupied or maintained, and any manner of performance of such activity with respect to the performance standards of this chapter.

*Use, temporary* means a use established for a fixed, short period of time, with the intent to discontinue such use upon the expiration of such time.

*Utility lot* means a parcel(s) of land, area of water, or combination of land and water, within a subdivision or development site designed and intended for the use of residents, occupants of the development or the general public and set aside for nonresidential and/or public service purposes; not including streets, off-street parking, or private yard space.

*Utility pole* means a structure owned, operated, or owned and operated by a public utility, local government, or the commonwealth that is designed specifically for and used to carry lines, cables, or wires for communications, cable television, or electricity (Code of Virginia, § 15.2-2316.3).

*Utility service, major* means service of a regional nature which normally entails the construction of new buildings, or structures such as electric generating plants and sources, electrical switching facilities and stations or substations, community wastewater treatment plants, and similar facilities. Included in this definition are also traditional methods of electric, gas, and other utility provisions as well as non-traditional methods such as windmills, but not including solar power stations. All overhead service, distribution, and transmission lines are included in this definition.

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*Utility service, minor* means service which is necessary to support development within the immediate vicinity and involve only minor structures. Included in this use type are small facilities such as transformers, relay, and booster devices, and well, water, and sewer pump stations. Also included in this use type are wireless communication antennas which are attached to an existing building or structure, including but not limited to utility poles, signs, broadcasting or communication facilities, and water towers, and which are not greater than 20 feet in length.

*VAC* means the Virginia Administrative Code.

It shall not include a change in use which change shall be accomplished by a rezoning or by a conditional zoning (Code of Virginia, § 15.2-2201).

*VDOT* means the Virginia Department of Transportation.

*Veterinary hospital* means any establishment rendering surgical and medical treatment of animals. Boarding of domestic animals shall only be conducted indoors, on a short-term basis, and shall only be incidental to such hospital/clinic use, unless also authorized and approved as a commercial kennel. Agricultural livestock such as horses and cows may be boarded outdoors as appropriate.

*Warehousing and distribution* means uses including storage, warehousing and dispatching of goods within enclosed structures, or outdoors. Typical uses include wholesale distributors, storage warehouses, moving/storage firms.

*Water control structure* means a structure in a water management system that conveys water, controls the direction or rate of flow, maintains a desired water surface elevation or measures water. Includes flood and watershed control structures.

*Water-dependent facility* means a development of land that cannot exist outside of a 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: ports; the intake and outfall structures of power plants, water treatment plants, sewage treatment plants, storm sewers; marinas and other boat docking structures; beaches and other water-oriented recreation areas and fisheries or other marine resource facilities.

*Water tower* means a water storage tank, or a standpipe or an elevated tank situated on a support structure, originally constructed for use as a reservoir or facility to store or deliver water (Code of Virginia, § 15.2-2316.3).

*Wayside stand* means an establishment for the seasonal retail sale of agricultural or forestal goods and merchandise primarily produced by the operator on the site, or on nearby property. Agricultural goods produced on other properties owned or leased by the operator may also be allowed provided a majority of the produce comes from land surrounding the wayside stand. This use type shall include agricultural products picked by the consumer. Also referred to as a roadside or farm stand or wayside market.

*Wetlands* means waters of the United States, including land where, at least some of the time, water saturates the soil enough to result in a hydric soil (soil that is characterized by an absence of free oxygen some or all of the time). Wetlands limits must be determined in accordance with the current federally approved method of delineation.

*Wholesale sales* means an establishment or place of business primarily engaged in selling and/or distributing merchandise to retailers, to industrial, commercial, institutional, or professional business users, or to other wholesalers.

*Wildlife reservation* means land set aside to achieve the preservation or conservation of wildlife including associated habitat. Includes game refuge and forest preserve uses.

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*Winery* means a facility licensed in accordance with Code of Virginia, § 4.1-207 and regulations of the board of alcoholic beverage control to manufacture wine and to sell, and deliver or ship such wine in closed containers for the purpose of resale outside the state or by persons licensed by the state to sell the wine at wholesale. The use may include the licensed operation of distilling equipment on the premises to manufacture spirits from fruit or fruit juices only, where used solely to fortify wine produced by the winery.

*Wireless facility* means equipment at a fixed location that enables wireless communications between user equipment and a communications network, including (i) equipment associated with wireless services, such as private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services, such as microwave backhaul, and (ii) radio transceivers, antennas, coaxial, or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration (Code of Virginia, § 15.2-2316.3).

*Wireless infrastructure provider* means any person that builds or installs transmission equipment, wireless facilities, or wireless support structures, but that is not a wireless services provider (Code of Virginia, § 15.2-2316.3).

*Wireless services* means (i) "personal wireless services" as defined in 47 U.S.C. § 332(c)(7)(C)(i); (ii) "personal wireless service facilities" as defined in 47 U.S.C. § 332(c)(7)(C)(ii), including commercial mobile services as defined in 47 U.S.C. § 332(d), provided to personal mobile communication devices through wireless facilities; and (iii) any other fixed or mobile wireless service, using licensed or unlicensed spectrum, provided using wireless facilities (Code of Virginia, § 15.2-2316.3).

*Wood yard* means a location where raw or partially processed logs and other wood or forest products are stored.

*Working waterfront* means an area or structure on, over, or adjacent to navigable waters that provides access to the water and is used for water-dependent commercial, industrial, or governmental activities, including commercial and recreational fishing; tourism; aquaculture; boat and ship building, repair, and services; seafood processing and sales; transportation; shipping; marine construction; and military activities; also, any parcel located adjacent to a waterway that supports a water based business (Code of Virginia, § 15.2-2201).

*Writ of certiorari* means an order a higher court issues in order to review the decision and proceedings in a lower court and determine whether there were any irregularities (Code of Virginia, § 15.2-2314).

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

*Yard, front*, means a yard lying between the front lot line and the nearest part of the building or use not excepted in this chapter, 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 not specifically excepted and the front lot line.

*Yard measurement* means, in measuring a yard, the building line shall be deemed to mean a line parallel to the nearest lot line drawn through the point of a building or the point of a group of buildings nearest to such lot line, and the measurement shall be taken at right angles from the building line to the nearest lot line.

*Yard, rear*, means a yard lying between the rear lot line and the nearest part of the building not excepted in this chapter, 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 not specifically excepted and the rear lot line.

*Yard, side*, means a yard lying between a side lot line and the nearest part of the building or use not excepted in this chapter, and extending from the front yard to the rear yard, or if there is 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 not specifically excepted and the nearest side lot line.

*Zoning administrator* means the officer of the county who is responsible for administering this chapter.

*Zoning district* means a specifically delineated section of the county in which the regulations are uniform and so designated on the zoning district map.

*Zoning permit* means a document issued by the zoning administrator certifying that the proposed use, structure or building complies with the zoning regulations of this chapter or a variance thereof.

(Ord. No. 09-21R2, Att. A, 9-27-2021; Ord. No. 08-22, 8-22-2022, Ord. No. 2-24, 2-26-24, Ord. No. 2-25, 2-10-25; Ord 06-25, 8-25-25, Ord. 02-26, 2-9-2026)

### **ARTICLE III. GENERAL CONDITIONS**

#### **Sec. 86-10. Applicability of ordinance provisions; generally.**

This chapter shall apply to all property in the unincorporated territory of the county, with the exception that any property held in fee simple ownership by the United States of America or the Commonwealth of Virginia shall not be subject to the provisions contained herein.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

#### **Sec. 86-11. Conditions generally.**

The regulations established within each district in this chapter shall be regarded as minimum regulations. They shall apply uniformly to each class or kind of structure or land. In addition, the following requirements apply throughout the county:

- (1) *Conformity with ordinance regulations generally.* No building or land shall hereinafter be used or occupied, and no building or part thereof shall be erected, constructed, reconstructed, moved, or structurally altered except in conformity with the regulations of this chapter.
- (2) *Lots of record.* Every building hereafter erected, reconstructed, converted, moved, or structurally altered shall be located on a lot of record and in no case shall there be more than one main building on one lot unless otherwise provided in this chapter.
- (3) *Yards and open space.* No part of any yard, open space, including lot area per family or dwelling unit, off-street parking space, or loading space required for any building or land use by this chapter shall be included as part of a yard, open space, parking or loading space, as the case may be, for another building or use.
- (4) *Existing building permit valid.* Nothing contained in this chapter shall require any changes in the plans or construction of any building for which a valid building permit was granted prior to the effective date of the ordinance from which this chapter is derived; except, that if the construction of such building is not substantially commenced within six months after the effective date of the ordinance from which this chapter is derived, future construction shall be in conformity with the provisions of this chapter.

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- (5) *Uses not specifically listed.* Permitted uses are listed for the various districts in the use matrix of the ordinance [from which this chapter is derived]. Unless the contrary is clear from the context of the lists or other regulations of this chapter, uses not specifically listed are prohibited.
  - (6) *Obstruction of drainage.* No building or other structures shall be erected on any land and no change shall be made in the existing contours of any land, including any change in the course, width, or elevation of any natural or other drainage channel, in any manner, that will obstruct, interfere with, or substantially change the drainage from such land to the detriment of neighboring lands. Factors to be considered in determining substantial change shall include the adopted drainage standards of the state department of transportation and the county's soil erosion and sedimentation ordinance, codified as article III, chapter 30 of this Code. In the administration of this requirement, the zoning administrator shall refer any application submitted to the resident engineer, state department of transportation, for a determination in the matter.
  - (7) *Obstruction of public right-of-way.* No building, structure, sign, merchandise, or other obstruction shall be located or constructed on any public right-of-way.
  - (8) *Access.* Access to a building or land use across land which is not zoned so as to permit the use served by such access, is not permitted.

(Ord. No. 09-21R2, Att. A, 9-27-2021; Ord 06-25, 8-25-25)

**Secs. 86-12—86-14. Reserved.**

**ARTICLE IV. ADMINISTRATION**

**DIVISION 1. PLANNING COMMISSION**

**Sec. 86-15. Planning commission established.**

- (a) In accordance with the Code of Virginia, § 15.2-2210, there shall be a planning commission which shall consist of at least five nor more than 15 members, all of whom shall be residents of the locality, qualified by knowledge and experience to make decisions on questions of community growth and development; provided, that at least one-half of the members so appointed shall be owners of real property. The local governing body may require each member of the commission to take an oath of office.
- (b) One member of the commission may be a member of the governing body of the locality, and one member may be a member of the administrative branch of government of the locality. The term of each of these two members shall follow the term of office to which they have been elected or appointed, unless the governing body, at the first regular meeting each year, appoints others to serve as their representatives. The remaining members of the commission first appointed shall serve respectively for terms of one year, two years, three years, and four years, divided equally or as nearly equal as possible between the memberships. Subsequent appointments shall be for terms of four years each. The local governing bodies may establish different terms of office for initial and subsequent appointments including terms of office that are concurrent with those of the appointing governing body. Vacancies shall be filled by appointment for the unexpired term only.
- (c) Members may be removed for malfeasance in office. Notwithstanding the foregoing provision, a member of a local planning commission may be removed from office by the local governing body without limitation in the event that the commission member is absent from any three consecutive meetings of the commission, or is absent from any four meetings of the commission within any 12-month period. In either such event, a

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successor shall be appointed by the governing body for the unexpired portion of the term of the member who has been removed.

- (d) The local governing body may provide for compensation to commission members for their services, reimbursement for actual expenses incurred, or both.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

State law reference(s)—Qualifications, appointment, removal, terms and compensation of members of local planning commissions, Code of Virginia, § 15.2-2212.

### **Sec. 86-16. Organization of the planning commission.**

The planning commission shall elect from the appointed members a chairman and a vice-chairman, whose terms shall be for one year. The commission may:

- (1) Create and fill such other offices as it deems necessary;
- (2) Appoint such employees and staff as it deems necessary for its work; and
- (3) Contract with consultants for such services as it requires.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

State law reference(s)—Officers, employees and consultants, Code of Virginia, § 15.2-2217.

### **Sec. 86-17. Rules and procedure of the planning commission.**

- (a) The planning commission shall adopt rules for the transaction of business and shall keep a record of its transactions which shall be a public record.
- (b) The planning commission shall designate the time for holding regular meetings and shall meet at least every two months. Special meetings of the commission may be called by the chairman or by two members upon written request to the secretary. The secretary shall provide to all members, at least five days in advance of a special meeting, a written notice designating the time and place of the meeting and the purpose thereof.
- (c) A majority of the members shall constitute a quorum and no action of the planning commission shall be valid unless authorized by a majority vote of those present and voting.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

State law reference(s)—Code of Virginia, §§ 15.2-2214, 15.2-2215 and 15.2-2217.

### **Sec. 86-18. Duties of the planning commission.**

The planning commission shall:

- (1) Exercise general supervision of, and make regulations for, the administration of its affairs;
- (2) Prescribe rules pertaining to its investigations and hearings;
- (3) Keep a complete record of its proceedings; and be responsible for the custody and preservation of its papers and documents;
- (4) Make recommendations and an annual report to the governing body concerning the operation of the commission and the status of planning within its jurisdiction;

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- (5) Review the zoning regulations and the zoning district map to correct deficiencies, encourage improved building practices, and bring in accordance with the objectives of the comprehensive plan;
  - (6) Prepare, publish, and distribute reports, ordinances, and other material relating to its activities; and,
  - (7) If deemed advisable, establish an advisory committee or committees.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

State law reference(s)—Duties of Commissions, Code of Virginia, § 15.2-2221.

**Secs. 86-19, 86-20. Reserved.**

*DIVISION 2. BOARD OF ZONING APPEALS*

**Sec. 86-21. Board of zoning appeals established.**

- (a) There shall be a board of zoning appeals (hereafter also called the "BZA") which shall consist of five members, each to be a resident of the county and each to be appointed by the county circuit court.
- (b) The terms of BZA members shall be five years, except that original appointments shall be made for such terms that the term of one member shall expire each year.
- (c) Vacancies shall be filled by the county circuit court for the unexpired portion of the term.
- (d) A member may be removed by the court for cause, upon written charges and after a public hearing.
- (e) Each member shall receive such compensation as the board of supervisors may authorize for attendance at each regular or called meeting of the BZA.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

State law reference(s)—Similar provisions, Code of Virginia, § 15.2-2308; State and Local Government Conflict of Interests Act, Code of Virginia, § 2.2-3100 et seq.

**Sec. 86-22. Organization of board of zoning appeals.**

The board of zoning appeals shall elect from the appointed members a chairman and vice-chairman, whose terms shall be for one year. The chairman shall preside at all meetings of the BZA, and, in the chairman's absence, a designated vice-chairman shall preside. The BZA may:

- (1) Elect as its secretary either one of its members or a qualified individual who is not a member of the BZA. The secretary shall 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 may be a salaried county employee and may perform the duties of secretary of the BZA in addition to other regular duties.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

State law reference(s)—Officers of Board, Code of Virginia, § 15.2-2308.

**Sec. 86-23. Rules of procedure of board of zoning appeals.**

- (a) The BZA shall adopt such rules of procedure for the transaction of business and shall keep a record of its transactions which shall be a public record.

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- (b) Meetings of the BZA shall be held at the call of the chairman and at such other times as the BZA may determine.
  - (c) The chairman, or in the chairman's absence the vice-chairman, may administer oaths and compel the attendance of witnesses.
  - (d) All meetings of the BZA shall be open to the public.
  - (e) A quorum shall be not less than a majority of all the members of the BZA.
  - (f) No action of the BZA shall be valid unless authorized by a majority vote of those present and voting.
- (Ord. No. 09-21R2, Att. A, 9-27-2021)

State law reference(s)—Quorum, rules, records of boards, Code of Virginia, § 15.2-2308.

### **Sec. 86-24. Powers and duties of board of zoning appeals.**

- (a) The board of zoning appeals shall have the following powers and duties:
  - (1) To hear and decide appeals from any order, requirement, decision, or determination made by an administrative officer in the administration or enforcement of this chapter or of any ordinance adopted pursuant hereto.
    - a. Decision on such appeal shall be based on the BZA's judgment of whether the administrative officer was correct.
    - b. The BZA shall consider the purpose and intent of any applicable ordinances, laws, and regulations in making its decision.
    - c. Appeal decisions are to occur only after notice and hearing as provided by Code of Virginia, § 15.2-2204. However, when giving any required notice to the owners, their agents or the occupants of abutting property and property immediately across the street or road from the property affected, the BZA may give such notice by first-class mail rather than by registered or certified mail.
  - (2) To authorize upon appeal or original application in specific cases such variance from the terms of this chapter provided that the burden of proof shall be on the applicant for a variance to prove by a preponderance of the evidence that the application meets the standard for a variance and the criteria set out in this section.
  - (3) A variance shall be granted if the evidence shows that the strict application of the terms of the ordinance would unreasonably restrict the utilization of the property or that the granting of the variance would alleviate a hardship due to a physical condition relating to the property or improvements thereon at the time of the effective date of the ordinance [from which this chapter is derived], or alleviate a hardship by granting a reasonable modification to a property or improvements thereon requested by, or on behalf of, a person with a disability, and:
    - a. When a property owner can show that his property was acquired in good faith and any hardship was not created by the applicant for the variance;
    - b. The granting of the variance will not be of substantial detriment to adjacent property and nearby properties in the proximity of that geographical area;
    - c. 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 [from which this chapter is derived];

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- d. The granting of the variance does not result in a use that is not otherwise permitted on such property or a change in the zoning classification of the property; and,
  - e. The relief or remedy sought by the variance application is not available through a special exception process that is authorized in the ordinance pursuant to Code of Virginia, § 15.2-2309(6) or the process for modification of a zoning ordinance pursuant to Code of Virginia, § 15.2-2286(A)(4) at the time of the filing of the variance application.
- (4) The BZA must consider the guidance of the floodplain administrator for any variance requests within the special flood hazard area (SFHA).
  - (5) No variance shall be authorized except after notice and hearing as required by Code of Virginia, § 15.2-2204. However, when giving any required notice to the owners, their agents or the occupants of abutting property and property immediately across the street or road from the property affected, the BZA may give such notice by first-class mail rather than by registered or certified mail.
  - (6) 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 being and will continue to be complied with.
- (b) In exercising its powers, the BZA may, in conformity with the provisions of this chapter, reverse or affirm, wholly or partly, or modify the order, requirement, decision, or determination appealed from and may make such order, requirement, decision or determination as ought to be made.
  - (c) Notwithstanding any other provision of law, the property upon which a property owner has been granted a variance shall be treated as conforming for all purposes under state law and local ordinance; however, any expansion within an area of the site or part of the structure for which a variance has been granted, the approval of an additional variance shall be required.
  - (d) To hear and decide applications for interpretation of the district map where there is any uncertainty as to the location of a district boundary. After notice to the owners of the property affected by the question, and after public hearing with notice as required by Code of Virginia, § 15.2-2204, the BZA may interpret the map in such way as to carry out the intent and purpose of this chapter for the particular section or district in question. However, when giving any required notice to the owners, their agents or the occupants of abutting property and property immediately across the street or road from the property affected, the BZA may give such notice by first-class mail rather than by registered or certified mail. The BZA shall not have the power to change substantially the locations of district boundaries as established by ordinance.
  - (e) No provision of this section shall be construed as granting any BZA the power to rezone property or to base BZA decisions on the merits of the purpose and intent of local ordinances duly adopted by the board of supervisors.
  - (f) The BZA by resolution may designate a schedule of regular meetings, and may also designate the day or days to which any meeting shall be continued if the chairman, or vice-chairman if the chairman is unable to act, finds, and declares that weather or other conditions are such that it is hazardous for members to attend the meeting. Such finding shall be communicated to the members and the press as promptly as possible. All hearings and other matters previously advertised for such meeting in accordance with Code of Virginia, § 15.2-2312 shall be conducted at the continued meeting, and no further advertisement is required.
  - (g) The BZA shall keep a complete record of its proceedings; and be responsible for the custody and preservation of its papers and documents.
  - (h) The board of zoning appeals shall submit a report of its activities to the board of supervisors at least once each year.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

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State law reference(s)—Powers and duties of board, Code of Virginia, § 15.2-2309.

**Secs. 86-25—86-27. Reserved.**

### *DIVISION 3. HISTORIC PRESERVATION ARCHITECTURAL REVIEW BOARD*

#### **Sec. 86-28. Historic preservation architectural review board (HPARB) intent and establishment.**

The intent of this section is to implement the comprehensive plan goal of protecting our natural, scenic and historic resources and provide a means to recognize and protect the historic, architectural, cultural, and artistic heritage of the community, and to promote and protect the health, safety, recreational, educational, economical and general welfare of the community through the identification, preservation and enhancement of buildings, structures, districts, sites, objects, neighborhoods, landscapes, places and areas which have special historical, cultural, artistic, architectural or archaeological significance as provided by the Code of Virginia, § 15.2-2306, hereinafter the "Virginia Code."

It is hereby recognized that the deterioration, destruction or alteration of said buildings, structures, districts, sites, objects, landscapes, places and areas may cause the permanent loss of unique resources which are of great value to current and future generations of our community, the Commonwealth of Virginia, and the nation, and that the special controls and incentives are warranted to ensure that such losses are avoided.

The purpose for establishing a historic district are:

- (1) To protect the historic significance and integrity of the properties within the historic district(s) which are or may be recognized for having association with historic events that have made a significant contribution to the broad patterns of our history; or have association with significant persons; or possess distinctive characteristics of a type, period, or method of construction of that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction; or have the potential to yield information important to prehistory or history.
- (2) To preserve and improve the quality of life and sense of place for residents by protecting familiar and treasured tangible, visual elements in the area.
- (3) To promote tourism and other economic benefits by protecting historical, architectural, archaeological, and cultural resources, including historic landscapes attractive to visitors and thereby supporting local business and industry.
- (4) To stabilize and improve property values by providing incentives for the upkeep and rehabilitation of significant older buildings and structures and encourage appropriate land use planning and development that will enhance both the economic viability and historic character of the district.
- (5) To educate residents, students and tourists about the local cultural and historic heritage as embodied in the historic district(s) through the preservation of our architectural and archaeological past that demonstrates the social and artistic development pattern of our predecessors.
- (6) To promote local historic preservation efforts and to encourage the identification and nomination by their owners of eligible individual historic properties to the National Register of Historic Places and the Virginia Landmarks Register.

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- (7) The promotion of harmony of style, geographical context, form, color, proportion, scale, height, width, spacing, setback, orientation, rhythm, traditional quality, appearance, texture, finish and material between buildings of historic design and those of more modern design.
  - (8) To develop the historic areas, not in a vacuum, but as a vital area in which each succeeding generation may build with the quality and sensitivity of past generations.
  - (9) Encourage sound stewardship and foster a sense of pride in heritage resources.

For the purpose of administering the requirements of the historic preservation district (HP), the county historic preservation architectural review board (HPARB) is hereby established and shall consist of at least five voting members, of which at least four shall be residents of the county and who shall have demonstrated a knowledge of and interest in the preservation of historical and architectural landmarks. Members shall be appointed by the board of supervisors for terms of four years, except that the board of supervisors may elect to make any of the initial appointments for terms of less than four years to provide for staggered terms of office. Each HPARB member shall serve until a successor is appointed. An appointment to fill a vacancy shall be only for the unexpired term. At least one member of the HPARB should have professional training or equivalent experience in architecture, history, architectural history, archaeology, or planning.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

### **Sec. 86-29. Organization of the HPARB.**

The presence of a majority of the members of the HPARB shall be required to conduct business, and all decisions shall be made by majority vote of those present. The HPARB shall, from time to time, elect its officers and shall adopt rules of procedures not inconsistent with this chapter or with state law.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

### **Sec. 86-30. Powers and duties of the HPARB.**

The HPARB:

- (1) May adopt rules and standards for the transaction of its business such as bylaws and design guidelines without amendment to this chapter as approved by the board of supervisors.
- (2) Shall hear and decide all applications for certificates of approval;
  - a. No historic landmark, structure, building, or sign, within an HP district shall be erected, reconstructed, substantially altered, moved, razed, destroyed nor restored in an HP district until the plans for such shall have been approved by the historic preservation and architectural review board (HPARB), and a certificate of approval issued. This requirement shall not apply to regular maintenance functions but shall apply to reconstruction, restoration, or new construction and shall not apply to reconstruction, restoration, or improvements that are solely to the interior of structures. The term "signs" shall be deemed to include those located within a building or structure which are, plainly visible from a public street, way, or place.
  - b. The HPARB may, after reviewing the application in any case involving only reconstruction or restoration, waive part or all of the requirements of this section upon a written finding that the application involves reconstruction or restoration only, will not materially affect the exterior appearance of the structure, and will not have an adverse impact on the character of the historic site. This decision of waiver shall constitute a final decision of the HPARB and shall be appealable to the county board of supervisors.

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- (3) Shall review and may make advisory recommendations on all applications for conditional use permits, special exceptions, and variances proposed within a HP district;
  - (4) May propose the establishment of additional historic preservation districts, and revisions to existing HP districts;
  - (5) Shall administer the provisions of this chapter in accordance with duties as set forth in each section;
  - (6) Shall develop and recommend the board of supervisors, as well as periodically review, appropriate design guidelines that are consistent with guidelines established herein and the secretary of the interior's standards and guidelines for rehabilitation, for each such district and which have been approved by the board of supervisors;
  - (7) May, from time to time, recommend areas for designation as historic districts, and additions or deletions to districts;
  - (8) Shall review and approve or deny all applications for certificates of appropriateness in any historic district. Decisions of the board are binding upon applicants, unless and until said decisions are overturned on appeal;
  - (9) Act in an advisory role to other officials and departments of the locality regarding protection of local historic resources;
  - (10) Periodically conduct, or cause to be conducted, a survey of historic resources in the community according to guidelines established by the state historic preservation office;
  - (11) Disseminate information within the locality on historic preservation issues and concerns;
  - (12) Coordinate local preservation efforts with those of local historic and preservation organizations, the Virginia Department of Historic Resources, and other parties, both public and private;
  - (13) Receive and act on public comment;
  - (14) Advise owners of historic properties on issues of preservation, as requested;
  - (15) Make recommendation to the board of supervisors regarding authorization of plaques to commemorate historic resources;
  - (16) Seek out funds to forward the purposes of this chapter, and to make recommendations to the board of supervisors regarding the use of those funds;
  - (17) Investigate and support incentives programs including heritage tourism events and activities; and
  - (18) Investigate and support heritage education activities.
  - (19) Shall make annual reports to the board of supervisors reviewing the activities of the previous year.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

### **Sec. 86-31. Appeals.**

- (a) Any applicant or any owner of property located within the particular HP district in question, when aggrieved by a decision of the HPARB, may appeal such decision to the board of supervisors, which shall review the determination of the HPARB.
- (b) Any applicant or owner of property located within the particular HP district in question, when aggrieved by a final decision of the board of supervisors, may appeal its decision to the circuit court.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

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**Secs. 86-32—86-34. Reserved.**

***DIVISION 4. AMENDMENT PROCEDURE***

**Sec. 86-35. Amendments.**

- (a) *Generally.* Whenever the public necessity, convenience, general welfare, or good zoning practice requires, the board of supervisors may, from time to time, amend, supplement, or change, by ordinance, the boundaries of the districts or the regulations established in this chapter.
- (1) This chapter shall not be amended or reenacted unless the board of supervisors has referred the proposed amendment or reenactment to the local planning commission for its recommendations. If after 100 days no recommendation has been made, the board of supervisors shall assume that the planning commission concurs with the application and supports amending this chapter unless the proposed amendment or reenactment has been withdrawn by the applicant prior to the expiration of the time period. The board of supervisors shall thereafter take any action it deems appropriate.
  - (2) All motions, resolutions, or petitions for amendment to the zoning ordinance and/or map shall be acted upon and a decision made within such reasonable time as may be necessary which shall not exceed 12 months unless the applicant requests or consents to action beyond such period or unless the applicant withdraws his motion, resolution or petition for amendment to the zoning ordinance or map, or both.
  - (3) The zoning administrator shall cause the zoning district map to be updated as frequently as necessary to ensure that zoning data shown thereon are both accurate and current. Accordingly, all changes affecting the zoning district map that are approved by the board of supervisors shall be entered onto the original official zoning district map within not less than 60 days following the approval of such changes. After updating sections of the zoning district map, working prints of any updated section thereof upon which modifications have been made shall be inserted into all sets of the zoning district maps that are used for public viewing and administration.
- (b) *Initiation of change.* Pursuant to Code of Virginia, § 15.2-2286.7, any amendment to this chapter may be initiated by:
- (1) Resolution of the board of supervisors;
  - (2) Resolution of the planning commission; or
  - (3) Petition of the owner, contract purchaser with the owner's written consent, or the owner's agent therefor, of the property which is the subject of the proposed zoning map amendment, addressed to the board of supervisors or the planning commission, who shall forward such petition to the board.
- (c) *Submission procedure.* An application must be submitted in writing on prepared forms provided by the director of community development. The application must be accompanied by the documents specified.
- (1) Documents to be submitted for a zoning map change are as follows:
    - a. A legal description of the property for which the change of zoning is requested.
    - b. The names and addresses as far as practicable of the property owners abutting the property or across the street from it.
    - c. A concept plan which may be general and schematic but shall show the following:
      1. A certified plat of the subject property showing metes and bounds of all property lines, existing streets and subdivisions.

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2. Proposed land uses to be developed.
  3. If any, the approximate total number, density, type, and price range of dwelling units and the range of lot sizes for the various dwelling types.
  4. If any, the general location of proposed open space and recreational areas.
  5. If any, the general location and type of commercial uses to be developed.
  6. The general location and character of the proposed major roads, trails, public utility and storm drainage systems.
  7. A statement on the proposed development schedule.
  8. A written analysis of the public facilities, roadway improvements, and public utilities that will be required to serve the development.
  9. Any additional information as deemed reasonably necessary by the zoning administrator.
- d. A filing fee to defray the cost of processing, including advertising of such petition, which shall be made payable to the county.
  - e. For applications for a zoning map change subject to conditional zoning, additional requirements as established in article V of this chapter.
- (2) Documents to be submitted for a zoning text change are as follows:
- a. Proposed wording or rewording of the text to be amended with references to the article, section, and subsection numbers that are proposed to be amended.
  - b. Narrative description of the purposes to be served by the proposed amendment and how it would change the regulations of this chapter.
  - c. A filing fee to defray the cost of processing, including advertising of such petition, which shall be made payable to the county.
- (d) *Analysis and processing of application.* Upon receipt of application, the director of community development has seven business days to:
- (1) Determine submission completeness.
  - (2) Advise the applicant of any additional material to be submitted.
- (e) Upon receipt of all submission requirements, the director of community development shall take the following actions:
- (1) Notify the applicant that the application has been received and is being processed for public hearing before the planning commission and the board of supervisors.
  - (2) Provide other agencies with copies of appropriate documents, in cases when such agencies are required by other provisions of this chapter to review applications.
  - (3) Arrange for notice of the public hearings to be held before the planning commission and board of supervisors on the proposal and perform other administrative duties required during the amendment process.
  - (4) Prepare an analysis of the proposal and prepare a written report to the planning commission and board of supervisors giving the staff's findings and recommendations concerning the proposal prior to the public hearings.
  - (5) Submit the application to the planning commission and board of supervisors with a certification that all of the conditions for application for rezoning have been met and the filing fee paid.

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(f) *Public notice.*

- (1) In accordance with Code of Virginia, § 15.2-2204 the planning commission shall not recommend nor shall the board of supervisors adopt any plan, ordinance, or amendment until notice of intention to do so has been published once a week for two successive weeks in some newspaper published or having general circulation in the locality, provided that such notice for both the planning commission and the board may be published concurrently. Such notice shall specify the time, place, and nature of a hearing at which persons affected may appear and present their views. The hearing shall be held not less than five days nor more than 21 days after the second advertisement shall appear in such newspaper. Each such advertisement shall contain a reference to the places within the county where copies of the proposed plans, ordinances or amendments may be examined. In addition, the planning commission shall cause the date, time, place, and nature of the hearing to be posted conspicuously on the property in accordance with the rules of the planning commission and a certificate of posting shall become a part of the record of the hearing. In the case of a proposed amendment to the zoning map, the public notice shall state the general usage and density range of the proposed amendment and the general usage and density range, if any, set forth in the applicable part of the comprehensive plan. No land may be zoned to a more intensive use classification than was contained in the public notice without an additional public hearing after notice pursuant to the Code of Virginia, § 15.2-2204.
- (2) The planning commission and board of supervisors may hold a joint public hearing after public notice as set forth herein, and if such joint hearing is held, public notice as set forth above need be given only by the board of supervisors. The term "two successive weeks," as used in this subsection, shall mean that such notice shall be published at least twice in such newspaper, with not less than six days elapsing between the first and second publications.
- (3) As directed by the Code of Virginia, § 15.2-2204, when a proposed amendment of this chapter involves a change in the zoning classification of 25 or fewer parcels of land, then, in addition to the advertising as above required, written notice shall be given at least five days before the hearing to the owner or owners, their agent, or the occupant of each parcel involved, to the owners, their agent or the occupant of all abutting property and property immediately across the street or road from the property affected, and, if any portion of the affected property is within a planned unit development, then to such incorporated property owners' association within the planned unit development that has members owning property located within 2,000 feet of the affected property. Notice shall also be given to the owner, the owner's agent or the occupant of all abutting property and property immediately across the street from the property affected which lies in King William County. Notice sent by first class mail to the last known address of such owner as shown on the current real estate tax assessment records shall be deemed adequate compliance with this requirement. If the hearing is continued, notice shall be remailed.
- (4) When a proposed amendment of this chapter involves a change in the zoning map classification of more than 25 parcels of land, or a change to the applicable ordinance text regulations that decreases the allowed dwelling unit density of more than 25 parcels of land, then, in addition to the advertising as required in this section, written notice shall be given by the Planning Commission, or its representative, at least five days before the hearing to the owner or agent of each parcel of land involved; provided, however, that written notice of such changes to this chapter's text regulations shall not have to be mailed to the owner or agent of lots shown on a subdivision plat approved and recorded pursuant to the provisions of Code of Virginia, § 15.2-2240 et seq. where such lots are less than 11,500 square feet. One notice sent by first class mail to the last known address of such owner as shown on the current real estate tax assessment books or current real estate tax assessment records shall be deemed adequate compliance with this requirement, provided that a representative of the commission shall make affidavit that such mailings have been made and file such affidavit with the papers in the case. Nothing in this subsection shall be construed as to invalidate any subsequently

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- adopted amendment or ordinance because of the inadvertent failure by the representative of the commission to give written notice to the owner or agent of any parcel involved.
- (5) In the case of a condominium or a cooperative, the written notice may be mailed to the unit owners' association or proprietary lessees' association, respectively, in lieu of each individual unit owner.
  - (6) Whenever the notices required hereby are sent by an agency, department, or division of the board of supervisors, or their representative, such notices may be sent by first class mail; however, a representative of such agency, department or division shall make affidavit that such mailings have been made and file such affidavit with the papers in the case.
  - (7) A party's actual notice of, or active participation in, the proceedings for which the written notice provided by this subsection is required shall waive the right of that party to challenge the validity of the proceeding due to failure of the party to receive the written notice.
- (g) *Notice to adjacent jurisdiction.* When any proposed change of a zoning district boundary lies within one-half mile 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 such boundary change.
  - (h) *Additional public notice.* When a proposed change in zoning map classification involves any parcel of land located within 3,000 feet of a boundary of a military base, military installation, military airport, excluding armories operated by the Virginia National Guard, or licensed public-use airport then, in addition to the advertising and written notification as required by this section, written notice shall also be given by the local commission, or its representative, at least 30 days before the hearing to the commander of the military base, military installation, military airport, or owner of such public use airport, and the notice shall advise the military commander or owner of such public-use airport of the opportunity to submit comments or recommendations.
  - (i) *Action by board of supervisors.* In determining what, if any, amendments to this chapter or the zoning district map are to be adopted, the board of supervisors shall:
    - (1) Consider the proper relationship of such amendment to the entire zoning plan.
    - (2) Consider the integrity and validity of the zoning districts described in this chapter.
    - (3) Avoid isolated unplanned spot-zoning changes in the zoning district map.
    - (4) Recognize that a certain element of stability is desirable in land use controls but conditions and standards will change.
    - (5) Consider the right of all citizens to be treated reasonably.
    - (6) Evaluate all changes based on the comprehensive plan and a comprehensive analysis of community conditions.
  - (j) Any amendments adopted by the board of supervisors may be modified from the form in which they were advertised within the limits necessary to relate properly such amendments to the zoning plan and ordinance; provided, however, that no land may be zoned to a more intensive use classification than was contained in the public notice without an additional public hearing after notice as required in this article.
  - (k) *Reconsideration; one-year limitation.*
    - (1) Whenever a petition requesting an amendment, supplement, or change has been denied by the board of supervisors, such petition, or one substantially similar, shall not be reconsidered sooner than 12 months after the previous denial.

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- (2) Whenever a petition requesting an amendment has been withdrawn, such petition, or one substantially the same, shall not be reconsidered within 12 months of the first publication notice of a public hearing with the planning commission. This shall not impair the right of either the planning commission or the board of supervisors to propose any amendment to this chapter on their motion at any time.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

**Secs. 86-36, 86-37. Reserved.**

*DIVISION 5. PERMITS AND APPLICATIONS*

**Sec. 86-38. Permits.**

- (a) *Zoning permit.* No building permit, manufactured home permit, or occupancy permit shall be issued by the building official unless the zoning administrator first shall have issued a zoning permit which acknowledges that the proposed use, structure, or building complies with the provisions of this chapter or authorized variance therefrom.
- (b) *Building permit.* No building or temporary building structure shall be erected, constructed, altered, moved, converted, extended, or enlarged without the owner or owners first having obtained a building permit. Such permit shall require conformity with the provisions of this chapter. When issued, such permit shall be valid for a period of six months unless a longer period of time is specified thereon in accord with the terms of this chapter.
- (c) *Manufactured home permit.* No manufactured home or trailer for any purpose shall be placed for occupancy at any location inside a manufactured home park without the owner or owners first having obtained a placement permit therefor from the zoning administrator.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

**Sec. 86-39. Zoning permit procedure and requirements.**

A zoning permit must be approved prior to obtaining a building permit. The requirements for submitting a zoning permit include the following:

- (1) Completed zoning permit application as provided by the zoning office;
- (2) Professionally sealed plat or site plan;
- (3) Virginia Department of Health and Virginia Department of Transportation (VDOT) approvals, if applicable;
- (4) Schedule a permit application review, if required by the zoning administrator; and,
- (5) Plans as outlined in the section below.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

**Sec. 86-40. Plans to accompany applications for permits.**

All applications for building permits shall be accompanied by a plat drawn by a licensed land surveyor and a drawing or plan in duplicate or as required by the zoning administrator showing, with dimensions, the following:

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- (1) The plat must be drawn to scale and include a graphic scale and north arrow.
  - (2) Building footprint and height for existing and proposed structures including driveways, pedestrian paths, and any accessory structures.
  - (3) Setbacks from all property lines.
  - (4) Limits of clearing and location of silt fence and construction entrance.
  - (5) Topography.
  - (6) Any easements or rights-of-way.
  - (7) Flood zone with limits of the 100-year floodplain and provide the FIRM, community panel number.
  - (8) Chesapeake Bay Preservation Area (RPA-RMA).
  - (9) Location of primary and reserve septic systems and well location.
  - (10) Note any variances that have been approved.
  - (11) For water related construction (piers, bulkheads, rip-rap, boathouse, and other water related structures), application must be submitted with approvals from the Army Corps of Engineers, Virginia Marine Resources Commission and the Local Wetlands Board.
  - (12) Label adjoining road and state route.
  - (13) Suitable notations indicating the proposed use of all land and buildings, including the number of families or dwelling units or rental units proposed.
  - (14) And such other information as may be necessary to provide for the enforcement of the regulations of this chapter;
  - (15) If necessary and required in a specific case, a boundary survey and a staking of the lot by a competent surveyor and complete construction plans.

A record of the original copy of such applications and plans shall be kept in the offices of the zoning administrator, and a duplicate copy shall be kept at the building site at all times during construction. In a particular case, the zoning administrator may waive the requirement for plans when such plans are clearly unnecessary to a decision or the record on the case.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

#### **Sec. 86-41. Inspections during construction.**

- (a) The owner shall have one set of approved plans, profiles, and specifications available at the site at all times when work is being performed. A designated, responsible employee shall be available for contact by the zoning administrator or inspector.
- (b) Upon satisfactory completion of all installations of the required improvements, the owner shall receive an approval from the zoning administrator, upon application for such approval. Such approval will authorize the release of any bond which may have been furnished for the guarantee of satisfactory installation of such improvements or parts thereof. Inspection is to be made within a reasonable time of the request, and the bond released as quickly as circumstances will permit.
- (c) The installation of improvements as required in this chapter shall in no case serve to bind the county to accept such improvements for maintenance, repair or operation. Improvements shall be subject to the existing regulations for approval of each type of improvement.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

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### **Sec. 86-42. Certificate of occupancy.**

- (a) No vacant land shall be occupied or used, except for agricultural uses associated with the conduct of a farm, until a certificate of occupancy shall have been issued by the building official.
- (b) No premises shall be used, and no buildings hereafter erected or structurally altered shall be used, occupied or changed in use, until a certificate of occupancy and compliance have been issued by the building official, stating that the building or proposed use of a building or premises complies with the building laws and the provisions of this chapter.
- (c) Certificates of occupancy and compliance shall be applied with the application for a building permit and shall be issued within ten days after the erection or structural alteration of such buildings shall have been completed in conformity with the provisions of this chapter. A record of all certificates shall be kept on file in the office of the building official.
- (d) A certificate of occupancy may be issued for a part of a prepared building or development or section thereof completed in accord with the terms of this chapter even though the entire building or development or section thereof has not been completed.
- (e) A certificate of occupancy shall be required of all nonconforming uses.
- (f) The building official may issue a temporary and contingent certificate of occupancy and compliance for a period not to exceed six months where, because of the unusual nature of the uses, a trial period of operation is in his opinion the most appropriate way to determine actual compliance with the terms of this chapter.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

### **Sec. 86-43. Applications to the board of zoning appeals.**

Applications to the board of zoning appeals shall be filed with the secretary to that board for any action or appeal on any matter upon which the board of zoning appeals is required to hear and decide in accordance with the requirements of this article.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

### **Sec. 86-44. Conditional uses.**

- (a) *Generally.* A conditional use may be approved by the board of supervisors for any use specifically identified as a permitted conditional use in the use matrix in article VII of this chapter. In approving these conditional uses, the board of supervisors may, in addition to the general regulations applicable to the zoning district in which the conditional use is located, impose any additional reasonable conditions in connection therewith that it deems necessary to ensure that the conditional use will be consistent with the overall intent and spirit of this chapter. The board of supervisors may require a guarantee or bond to ensure that the conditions imposed are being and will continue to be complied with.
- (b) *Minimal requirement.* A conditional use permit shall not be issued unless the board of supervisors shall find that:
  - (1) The proposed use will not adversely affect the health, safety, or welfare of persons residing or working in the general proximity, of the proposed use. Nor will the proposed use be detrimental to public welfare or injurious to the property or improvements in the neighborhood. Among matters to be considered in this connection are traffic congestion, noise, lights, dust, odor, fumes, and vibrations, with due regard for timing of operation, screening, and other matters which might be regulated to mitigate adverse impact.

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- (2) The proposed use will conform to the comprehensive plan, or to specific elements of such plan, and the official policies adopted in relation thereto, including the purposes and the expressed intent of this chapter.
- (c) *Procedures.* The procedures governing and the documentation required for an application to the board of supervisors requesting approval of a conditional use, where required by this chapter, shall be the same as the procedures, public notice, and documentation required for amending this chapter, as described under section 86-19, except that the application shall also include the following:
- (1) A preliminary site plan in accordance with article XVII of this chapter.
  - (2) The front, side, and rear elevations and floor plans of any proposed buildings or structures.
  - (3) Any special information requested by the zoning administrator which is necessary to evaluate the impact of the proposed use by the planning commission, board of supervisors, state department of transportation, health department, or other public agencies having an interest in the impact of the proposed use.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

### **Sec. 86-45. Joint processing of zoning applications permitted.**

In cases where applications which are related to the same project request amendments to the zoning district map, amendments to the zoning text, application for a conditional use permit, application to establish a floating zone, or other approvals required to be made by the board of supervisors, it is the policy of the county that such applications may be submitted and processed as if they were a single application. Notwithstanding the provisions of this section, in matters of advertising, public hearings, and action by the planning commission and board of supervisors, each application shall be advertised as provided for in this article.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

### **Sec. 86-46. Delinquent taxes; payment.**

Prior to the initiation of an application for a special exception, conditional use permit, variance, rezoning, zoning or land disturbing permit, the applicant shall produce satisfactory evidence that any delinquent real estate taxes owed to the county which have been properly assessed against the subject property have been paid in full.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

### **Sec. 86-47. Filing fees.**

Applicants or appellants shall be required to pay, in advance, filing and processing fees as may be established from time to time by the board of supervisors.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

State law reference(s)—Collection of fees, Code of Virginia, § 15.2-2286(A)(6).

### **Secs. 86-48—86-52. Reserved.**

## *DIVISION 6. VIOLATIONS AND PENALTIES*

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## Sec. 86-53. Violations and penalties.

- (a) As authorized by Code of Virginia, § 15.2-2286(4), it shall be the duty of the zoning administrator, floodplain administrator or authorized representative of King William County to enforce the provisions of this chapter and to refuse to issue any permit for any building or for the use of any premises which would violate any of the provisions of this chapter. It shall also be the duty of all officers and employees of the county to assist the enforcing officer by reporting any seeming violation in new construction, reconstruction, or land uses. The zoning administrator is authorized and directed to institute any appropriate action to put an end to such violation.
- (b) Where there is reasonable cause to believe that a violation of this chapter has occurred, the zoning administrator or authorized representatives may, with written consent of the owner or of the occupier of the premises in question on a form provided by the zoning administrator, enter the premises for the purposes of inspection. Where permission to enter is withheld, the zoning administrator shall seek a court order from the county general district court or a search warrant from a magistrate of the jurisdiction as may be appropriate and authorized by Code of Virginia, § 15.2-2286(15).
- (c) Upon becoming aware of any violation of the provisions of this chapter, the zoning administrator may proceed to issue a civil summons, as authorized by the Code of Virginia, § 62.1-44.15:74(E).
  - (1) Any person who: (i) violates any provision of this article or (ii) violates or fails, neglects, or refuses to obey any final notice, order, rule, regulation, or variance or permit condition authorized under this article shall, upon such finding by the circuit court, be assessed a civil penalty not to exceed \$5,000.00 for each day of violation. Such civil penalties may, at the discretion of the court, be directed to be paid into the treasury of the county for the purpose of abating environmental damage to or restoring Chesapeake Bay Preservation Areas within the county.
  - (2) With the consent of any person who (i) violates any provision of this article or (ii) violates or fails, neglects, or refuses to obey any notice, order, rule, regulation, or variance or permit condition authorized under this article, the director may provide for the issuance of an order against such person for the one-time payment of civil charges for each violation in specific sums, not to exceed \$10,000.00 for each violation. Such civil charges shall be paid into the treasury of the county for the purpose of abating environmental damage to or restoring Chesapeake Bay Preservation Areas within the county. Civil charges shall be in lieu of any appropriate civil penalty that could be imposed under subsection (c)(1). Civil charges may be in addition to the cost of any restoration required or ordered by the director.
- (d) Any person summoned or issued a ticket for a violation may make an appearance in person or in writing by mail to the county treasurer prior to the date set for trial in court. Any person so appearing may enter a waiver of trial, admit liability, and pay the civil penalty established for the offense charged after first agreeing in writing to abate or remedy the violation within a specified timeframe. Such persons shall be informed of their right to stand trial and that a signature to an admission of liability will have the same force and effect as a judgement of court.
- (e) If a person charged with a violation does not elect to enter a waiver of trial and admit liability, the violation shall be tried in the general district court in the same manner and with the same right of appeal as provided for by law.
- (f) Specified violations arising from the same operative set of facts shall not be charged more frequently than once in any ten-day period.
- (g) The violation may be prosecuted as a criminal misdemeanor instead of a civil penalty under Code of Virginia, § 15.2-2286(5).

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- (1) For the imposition of penalties upon conviction of any violation of the zoning chapter. Any such violation shall be a misdemeanor punishable by a fine of not more than \$1,000.00. If the violation is uncorrected at the time of the conviction, the court shall order the violator to abate or remedy the violation in compliance with the zoning chapter, within a time period established by the court. Failure to remove or abate a zoning violation within the specified time period shall constitute a separate misdemeanor offense punishable by a fine of not more than \$1,000.00; any such failure during a succeeding ten-day period shall constitute a separate misdemeanor offense punishable by a fine of not more than \$1,500.00; and any such failure during any succeeding ten-day period shall constitute a separate misdemeanor offense for each ten-day period punishable by a fine of not more than \$2,000.00.
  - (2) Any conviction resulting from a violation of provisions regulating the number of unrelated persons in single-family residential dwellings shall be punishable by a fine of up to \$2,000.00. Failure to abate the violation within the specified time period shall be punishable by a fine of up to \$5,000.00, and any such failure during any succeeding ten-day period shall constitute a separate misdemeanor offense for each ten-day period punishable by a fine of up to \$7,500.00. However, no such fine shall accrue against an owner or managing agent of a single-family residential dwelling unit during the pendency of any legal action commenced by such owner or managing agent of such dwelling unit against a tenant to eliminate an overcrowding condition in accordance with the Virginia Residential Landlord and Tenant Act (§ 55.1-1200 et seq.). A conviction resulting from a violation of provisions regulating the number of unrelated persons in single-family residential dwellings shall not be punishable by a jail term.
- (h) If the violation is uncorrected at the time of the conviction, the court shall order the violator to abate or remedy the violation in compliance with this chapter, within a time period established by the court. Failure to remove or abate a zoning violation within the specified time period shall constitute a separate offense punishable by an additional civil fine and any other penalties as ordered by the court.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

**Secs. 86-54, 86-55. Reserved.**

*DIVISION 7. APPEALS*

**Sec. 86-56. Appeals.**

- (a) An appeal to the board of zoning appeals (BZA) may be taken by any person aggrieved or by any officer, department, or board of the county affected by any decision of the zoning administrator or from any order, requirement, decision or determination made by any other administrative officer in the administration or enforcement of this chapter, any ordinance adopted pursuant to this chapter, or any modification of zoning requirements pursuant to Code of Virginia, § 15.2-2286. Such an appeal shall be taken within 30 calendar days after the decision appealed from by filing with the zoning administrator and with the board of zoning appeals a notice of appeal specifying the grounds thereof. The zoning administrator shall transmit to the board of zoning appeals all the papers constituting the record of the appealed action.
  - (1) Any written notice of a zoning violation or a written order of the zoning administrator shall include a statement informing the recipient that they may have a right to appeal the notice of a zoning violation or a written order within 30 calendar days in accordance with this section, and that the decision shall be final and unappealable if not appealed within 30 calendar days. The zoning violation or written order shall include the applicable appeal fee and a reference to where additional information may be obtained regarding the filing of an appeal. The appeal period shall not commence until the statement is given. A written notice of a zoning violation or a written order of the zoning administrator that includes

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such statement sent by registered or certified mail to, or posted at, the last known address of the property owner as shown on the current real estate tax assessment books or current real estate tax assessment records shall be deemed sufficient notice to the property owner and shall satisfy the notice requirements of this section.

- (2) The fee for filing an appeal shall not exceed the costs of advertising the appeal for public hearing and reasonable costs.
- (3) A decision by the board of zoning appeals on an appeal taken pursuant to this section shall be binding upon the owner of the property, which is the subject of such appeal, only if the owner of such property has been provided notice of the zoning violation or written order of the zoning administrator in accordance with this section. The owner's actual notice of zoning violation or written order or active participation in the appeal hearing shall waive the owner's right to challenge the validity of the board's decision due to failure of the owner to receive the notice of zoning violation or written order.
- (4) For jurisdictions that impose civil penalties for violations of the zoning chapter, any such civil penalty shall not be assessed by a court having jurisdiction during the pendency of the 30-day appeal period.
- (5) An appeal shall stay all proceedings in furtherance of the action appealed from unless the zoning administrator certifies to the board of zoning appeals that by reason of facts stated in the certificate a stay would in his opinion cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order granted by the board of zoning appeals or by a court of record, on application and on notice to the zoning administrator and for good cause shown.
- (6) In no event shall a written order, requirement, decision or determination made by the zoning administrator or other administrative officer be subject to change, modification, or reversal by any zoning administrator or other administrative officer after 60 days have elapsed from the date of the written order, requirement, decision, or determination unless it is proven that such written order, requirement, decision, or determination was obtained through malfeasance of the zoning administrator or other administrative officer or through fraud. The 60-day limitation period shall not apply in any case where, with the concurrence of the attorney for the board of supervisors, modification is required to correct clerical or other nondiscretionary errors.
- (7) In any case where the zoning administrator has certified conformity with the provisions of this chapter 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 this chapter, suit may be filed within 15 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 zoning administrator to the board of zoning appeals.

(b) *Hearing.*

- (1) Pursuant to Code of Virginia, § 15.2-2312, the Board of zoning appeals shall fix a reasonable time for the hearing of an application or appeal and decide such appeal within 90 days.
- (2) Public notice shall be provided as specified below and due notice given to the parties in interest:
  - a. Notice of the hearing shall be published once a week for two successive weeks in some newspaper published or having general circulation in the county. Such notice shall specify the time and place of the hearing at which persons may appear and present their views, not less than five days nor more than 21 days after the second advertisement shall appear in such newspaper. The subject matter of the public hearing need not be advertised in full but may be advertised by reference. Each such advertisement shall contain a reference to the places within the county where copies of the appeal or variance request may be examined. The term "two successive

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weeks," as used in this subsection, shall mean that such notice shall be published at least twice in such newspaper, with not less than six days elapsing between the first and second publications.

- b. Applications for variance requests, the applicant shall give written notice to those persons who own property, any portion of which abuts the subject property, and all property which is directly across the street from any portion of the subject property, as determined by the county's real property tax records. This notice shall give the date, time, and place of the hearing, identify the property which is the subject of the application, and give a brief description of the proposed action. This notice shall be mailed a minimum of ten days prior to the date of the public hearing. The list of property owners and the content of the notice shall be approved by the zoning administrator prior to mailing.
  - c. Applications for variance requests, the applicant shall also place a sign provided by the county on the subject property which indicates that this request is pending. This sign shall be located to be clearly visible from the street.
- (c) *Decision.* The board of zoning appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed. In any appeal, if the Board of Zoning Appeals attempt to reach a decision results in a tie vote, the matter may be carried over until the next scheduled meeting at the request of the person filing the appeal.
- (1) *Appeals to courts.*
- a. Any person or persons jointly or severally aggrieved by any decision of the board, or any taxpayer or any officer, department, board, or bureau of the municipality, may present to the circuit court of the county a petition specifying the grounds on which aggrieved within 30 calendar days after the filing of the decision in the office of the board.
  - b. Upon the presentation of such petition, the court shall allow a writ of certiorari to review the decision of the board of zoning appeals and shall prescribe therein the time within which a return thereto must be made to serve upon the secretary of the board of zoning appeals, which shall not be less than ten business days and may be extended by the court. The allowance of the writ shall not stay proceedings upon the decision appealed from; but the court may, on application, on notice to the board and on due cause shown, grant a restraining order.
  - c. The board 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 such portions thereof as may be called for by such writ. The return shall concisely set forth such other facts as may be pertinent and material to show the grounds of the decision appealed from and shall be verified.
  - d. If, upon the hearing, it shall appear to the court that testimony is necessary for the proper disposition of the matter, it may take evidence or appoint a commissioner to take such evidence as it may direct and report such evidence to the court, with his findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which the determination of the court may reverse or affirm, wholly or partly, or may modify the decision brought up for review.
  - e. Costs shall not be allowed against the board of zoning appeals unless it shall appear to the court that the board of zoning appeals acted in bad faith or with malice in making the decision appealed.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

State law reference(s)—Code of Virginia, § 15.2-2311—15-2314.

**Secs. 86-57—86-69. Reserved.**

## **ARTICLE V. CONDITIONAL ZONING**

### **Sec. 86-70. Purpose of article.**

Traditional zoning methods and procedures are sometimes inadequate when competing and incompatible uses conflict. In such cases, more flexible and adaptable zoning methods are needed to permit differing land uses and at the same time to recognize effects of change. It is the purpose of this article to provide a zoning method as authorized under Code of Virginia, §§ 15.2-2296 and 15.2-2303, whereby a zoning reclassification may be allowed subject to certain conditions proffered by the zoning applicant for the protection of the community even though such conditions may not be generally applicable to land similarly zoned. While the conditions may vary from property to property by reason of the nature of the use and different circumstances at a particular location, it is not the intention of this section to authorize conditions limited to a particular individual or group, owner or operator, and the provisions of this article shall not be used for the purpose of discrimination in housing.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

### **Sec. 86-71. Proffer of conditions.**

- (a) As a part of an application for amendment to the zoning map, the owner of the property which is the subject of the proposed zoning map amendment may proffer, in writing, reasonable conditions provided that:
- (1) The rezoning itself must give rise for the need for the conditions;
  - (2) The conditions shall have a reasonable relation to the rezoning;
  - (3) The conditions shall not include a cash contribution to the locality;
  - (4) The conditions shall not include a requirement that the applicant create a property owners' association under chapter 26 (§ 55-508 et seq.) of title 55 which includes an express further condition that members of a property owners' association pay an assessment for the maintenance of public facilities owned in fee by a public entity, including open space, parks, schools, fire departments and other public facilities not otherwise provided for in Code of Virginia, § 15.2-2241; however, such facilities shall not include pedestrian paths, special street signs or markers, or special street lighting in public rights-of-way not maintained by the department of transportation;
  - (5) The conditions shall not include payment for or construction of off-site improvements except those provided for in Code of Virginia, §§ 15.2-2241 and 15.2-2303.4;
  - (6) No condition shall be proffered that is not related to a need created by the physical development or operation of the property; and
  - (7) All such conditions shall be in conformity with the comprehensive plan as defined in Code of Virginia, § 15.2-2223.
  - (8) At the time each proffer is submitted to the county, it shall be accompanied by a statement signed by the applicant and the owner or their agents which states either:
    - a. "Each proffer made in connection with this application for rezoning was made voluntarily and complies with applicable law. Each proffer is reasonably related both in nature and extent to the impacts of the proposed development. No agent of the county has suggested or demanded a proffer that is unreasonable under applicable law." or

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- b. That the applicant or the owner or both disagree with the statement in subsection (a)(8)a. above and all the facts and reasons which led to that disagreement.
  - (b) Such conditions shall be proffered in advance of the public hearing before the board of supervisors that is required by law. The board of supervisors may also accept amended proffers once the public hearing has begun if the amended proffers do not materially affect the overall proposal.
  - (c) Once proffered and accepted as part of an amendment to the zoning chapter, such conditions shall continue in effect until a subsequent amendment changes the zoning on the property covered by such conditions. However, such conditions shall continue if the subsequent amendment is part of a comprehensive implementation of a new or substantially revised zoning chapter.
  - (d) If proffered conditions that are duly accepted include a requirement for the dedication of real property of substantial value, or substantial cash payments for, or construction of, substantial public improvements, the need for which is not generated solely by the rezoning itself, then no amendment to the zoning map for the property subject to such conditions, nor the conditions themselves, nor any amendments to the text of the zoning chapter with respect to the zoning district applicable thereto initiated by the board of supervisors, which eliminate, or materially restrict, reduce, or modify the uses, the floor area ratio, or the density of use permitted in the zoning district applicable to such property, shall be effective with respect to such property unless there has been mistake, fraud, or a change in circumstances substantially affecting the public health, safety, or welfare.
  - (e) When the county has had population growth of five percent or more from the next-to-latest to latest decennial census year, based on population reported by the United States Bureau of the Census, it may also accept voluntary proffering as allowed in the Code of Virginia, § 15.2-2298.
  - (f) The county may accept certain conditional rezoning proffers for residential projects as long as it is not deemed unreasonable as outlined in the Code of Virginia, § 15.2-2303.4. No agent of the county is authorized to suggest, demand, or accept a condition that is unreasonable under applicable law.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

State law reference(s)—Similar provisions, Code of Virginia, § 15.2-2297.

### **Sec. 86-72. Interpretation of proffered conditions.**

- (a) For the purpose of this chapter, proffered conditions shall be interpreted to include written statements, development plans, profiles, elevations, and/or demonstrative materials. Materials of whatever nature and intended as conditions shall be referenced and incorporated in a written statement meeting the requirements for recording in the land records of the County and approved as to form by the county attorney.
- (b) Once accepted such conditions shall become a part of the zoning regulations applicable to the property in question, regardless of changes in ownership or operation, unless subsequently changed by an amendment to the zoning district map, and such conditions shall be in addition to the specific regulations set forth in this chapter for the zoning district in question.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

### **Sec. 86-73. Enforcement of conditions.**

In accordance with Code of Virginia, § 15.2-2299, the zoning administrator shall be vested with all necessary authority on behalf of the board of supervisors to administer and enforce conditions attached to such rezoning or amendment to the zoning district map, including the ordering in writing of the remedy of any noncompliance with such conditions; the bringing of legal action to ensure compliance with such conditions, including injunction,

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abatement or other appropriate action or proceeding; and requiring a guarantee, satisfactory to the county, in an amount sufficient for and conditioned upon the construction of any physical improvements required by the conditions, or a contract for the construction of such improvements and the contractor's guarantee, in like amount and so conditioned, which guarantee shall be reduced or released by the board of supervisors, or agent thereof, upon the submission of satisfactory evidence that construction of such improvements has been completed in whole or in part. Failure to meet all conditions shall constitute cause to deny the issuance of any of the required use, occupancy, or building permits, as may be appropriate.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

### **Sec. 86-74. Conformity with development plans.**

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

(Ord. No. 09-21R2, Att. A, 9-27-2021)

### **Sec. 86-75. Change of approved conditions.**

In accordance with Code of Virginia, § 15.2-2302, once proffered conditions have been approved, and there is cause for an amendment which would not be in substantial conformity with the proffered conditions, then an application shall be filed for an amendment. Such amendment shall be the subject of public hearing in accordance with the requirements for a new application except that when an amendment is requested which does not affect conditions of use or density, the board of supervisors may, in its discretion, waive the required public hearing. Once approved, such proffered conditions, as amended, shall apply to the property and be enforced in the same manner as the original proffered conditions.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

### **Sec. 86-76. Review of zoning administrator's decision.**

Any zoning applicant or any other person who is aggrieved by a decision of the zoning administrator made pursuant to the provisions of enforcement may petition the board of supervisors for review of the decision of the zoning administrator. All petitions for review shall be filed with the zoning administrator and with the clerk of the board of supervisors within 30 days from the date of the decision for which review is sought and shall specify the grounds upon which the petitioner is aggrieved. A decision by the board of supervisors on an appeal taken pursuant to this section shall be binding upon the owner of the property which is the subject of such appeal only if the owner of such property has been provided written notice of the zoning violation, written determination, or other appealable decision.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

State law reference(s)—Similar provisions, Code of Virginia, § 15.2-2301.

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**Sec. 86-77. Records for conditional zoning.**

The zoning map shall show by an appropriate symbol on the map the existence of conditions attached to the zoning on the map. The zoning administrator shall keep in their office and make available for public inspection, a conditional zoning index. The index shall provide ready access to the chapter creating conditions in addition to the regulations provided for in a particular zoning district or zone. The index shall also provide ready access to all proffered cash payments and expenditures disclosure reports prepared by the local governing body pursuant to Code of Virginia, § 15.2-2303.2. The zoning administrator shall update the index annually and no later than November 30 of each year.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

State law reference(s)—Same; records, Code of Virginia, § 15.2-2300.

**Secs. 86-78—86-89. Reserved.**

**ARTICLE VI. ZONING DISTRICTS**

**Sec. 86-90. Zoning districts established.**

In order to regulate and restrict the location and use of buildings and land for trade, industry, residence, and other purposes in accordance with the objectives of the comprehensive plan; to regulate and restrict the location, height, and size of buildings hereafter erected or structurally altered, the size of yards and other open spaces, and the density of population, the following zoning districts are hereby established:

- (1) *Primary zoning districts.* The entire territory under the jurisdiction of the county is hereby classified into one of the following primary zoning districts to be known and cited as indicated:
  - a. A-C agricultural conservation district
  - b. R-R rural residential district
  - c. R-1 suburban residential district
  - d. B-1 local business district
  - e. B-2 general business district
  - f. I industrial district
- (2) *Special purpose zoning districts and protection areas.* In addition to the primary zoning classifications, special purpose zoning districts and protection areas are established to be known and cited according to the following:
  - a. PUD planned unit development district
  - b. HP historic preservation district
  - c. BMA Business Management Area
  - d. CBPA Chesapeake Bay Protection Area
  - i. RPA resource protection area
  - ii. RMA resource management area

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- (3) Special purpose district and protection area regulations, supplement, rather than replace, the regulations of the primary zoning districts that otherwise apply to the same land.

(Ord. No. 09-21R2, Att. A, 9-27-2021, Ord. 12-24, 7-8-24)

### **Sec. 86-91. Reference to district names.**

For the purpose of reference hereafter in this chapter, unless specifically provided to the contrary, the term "residence district" shall include the agricultural conservation district, the rural residential district, and the suburban residential district. The term "business district" shall include all business districts; and the term "industrial district" shall include all the industrial districts.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

### **Sec. 86-92. Establishment of zoning district map.**

Such land and the district classification thereof shall be as shown on the map designated as the "Zoning District Map of King William County, Virginia," dated and signed by the chairman of the board of supervisors and attested by the clerk to the board of supervisors, upon adoption. The zoning district map, and all notations, dimensions, references, and symbols shown thereon pertaining to such districts shall be as much a part of this chapter as if fully described in this section and shall be filed as part of this chapter by the zoning administrator. The zoning district map shall be available for public inspection in the office of the zoning administrator. The zoning district map shall be marked: "Original copy not to be altered or removed from the zoning administrator's office except in the custody of the zoning administrator." This map together with subsequent applicable amendments shall be conclusive as to the current zoning status of land.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

### **Sec. 86-93. Periodic updating of the zoning district map.**

In accordance with the Code of Virginia, § 15.2-2285, the zoning administrator shall cause the zoning district map to be updated as frequently as necessary to ensure that zoning data shown thereon are both accurate and current. Accordingly, all changes affecting the zoning district map that are approved by the board of supervisors shall be entered onto the original official zoning district map within not less than 60 days following the approval of such changes. After updating sections of the zoning district map, working prints of any updated section thereof upon which modifications have been made shall be inserted into all sets of the zoning district maps that are used for public viewing and administration.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

### **Sec. 86-94. Informational copies of zoning district map.**

- (a) Informational copies of the zoning district map shall be made available for inspection at the office of the zoning administrator and such other locations as may be necessary or convenient. These maps shall be revised, as described in this article, to show changes in zoning district boundaries as officially approved. New streets, highways, subdivisions, major governmental installations, public lands and other major features shall be shown.
- (b) 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.

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- (c) Any person desiring a copy of any sheet of such zoning district map shall pay a reasonable fee as established by the zoning 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.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

**Sec. 86-95. Periodic review.**

- (a) At least once every five years, the planning commission shall review the zoning regulations and the zoning district map for the following purposes:
- (1) To determine whether it is advisable to amend the regulations or the map, or both, and to bring them in accord with the objectives of the comprehensive plan;
  - (2) To take advantage of new techniques or to encourage improved building practices which may have been developed and which may have application in the county;
  - (3) To correct deficiencies or difficulties which may have developed in administration; or
  - (4) For such other reasons as the planning commission may determine.

The commission shall submit reports on their findings and recommendations to the board of supervisors. In the preparation of their reports, the commission may consult with the county administrator, the director of planning, the zoning administrator, other officials in the county or a special advisory committee comprised of citizens of the county who they believe may contribute to the review. The planning commission may also request that special studies be made by the county staff and/or professional consultants to obtain such data and/or services as it may require subject to appropriations by the board of supervisors.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

**Sec. 86-96. 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 this article, the following rules apply:
- (1) In cases where a boundary line is given a position within a road, street or alley, navigable or unnavigable stream, it shall be deemed to be in the center of the right-of-way of the road, street, alley, or stream, and if the actual location of such road, 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 road or street line or other physical feature, this distance shall control.
  - (3) Where the district boundaries shown on the zoning district maps approximately coincide with lot lines or county limit line, such 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 road or 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.

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- (5) If, because of error or omission in the zoning district map, any property in the jurisdiction of this chapter is not shown as being in a zoning district, such property shall be classified A-C agricultural-conservation district until changed by amendment.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

**Sec. 86-97. Regulations of areas under water.**

All areas within the county which 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 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 limit line.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

**Secs. 86-98, 86-99. Reserved.**

*DIVISION 1. PRIMARY ZONING DISTRICTS*

**Sec. 86-100. Intent of primary zoning districts.**

- (a) *Intent of the A-C agricultural-conservation district.* The A-C district is to encourage continued agricultural and forestal uses and preserve the natural beauty of rural areas of the county where urban services, such as sewer and water mains, are not planned. At the same time, the A-C district is intended to provide for limited residential development for those who choose to live in a rural environment and to protect this development where it occurs. In order to aid in reduction of access points and traffic hazards, wider lots and deeper front yards are required when fronting on major thoroughfares. In order to protect against premature subdivision of land and the formation of urban clusters where none are planned, major subdivisions are not intended in the A-C district.
- (b) *Intent of the R-R rural residential district.* The R-R district is to provide for very low-density residential development together with recreational facilities, public uses and accessory uses as may be necessary or are normally compatible with residential surroundings. Since substantial tracts of vacant land are or may be included in the R-R district, agricultural and open uses are expected to be intermixed with rural cluster subdivisions which emphasize conservation of agricultural and forestal lands. Major subdivisions with very low densities and no central water system are envisioned as the major development style of this R-R district, although slightly higher densities are acceptable where public water is provided for larger subdivisions.
- (c) *Intent of the R-1 suburban residential district.* The R-1 district is to provide for higher residential development together with recreational facilities, public uses, and accessory uses as may be necessary or are normally compatible with residential surroundings. Since substantial tracts of vacant land are or may be included in the R-1 district, agricultural and open uses are permitted, but in general, urbanization is planned, and utilities and public services exist or are planned which will be adequate for the types of development contemplated. While a major purpose of the R-1 district is to protect and conserve areas of predominantly single-family detached residences, 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 ensured by means of careful planning and the process of subdivision plat review and approval.

- (d) *Intent of the B-1 local business district.* The B-1 district is to provide primarily for retail shopping and personal service uses, to be developed either as a unit or in individual parcels, and to serve the needs of families living in the county or the needs of the traveling public on the highways. To enhance the general character of the B-1 district, its function of local service, and its compatibility with its surroundings, the size of certain uses is limited.
- (e) *Intent of the B-2 general business district.* The B-2 district is to provide sufficient space in appropriate locations for a wide variety of commercial and light industrial activities, serving a wide area of the county and generally located in or near development centers where a 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, odor, and noise, associated with medium or heavy industrial activity.
- (f) *Intent of the I industrial district.* The I district is to provide for a wide variety of manufacturing, fabricating, processing, wholesale distributing and warehousing uses appropriately located for access by highways and providing a controlled environment within which signage is limited, uses are to be conducted generally within completely enclosed buildings, and a moderate amount of landscaping is required. In order to preserve the land for industry, to reduce extraneous traffic, and avoid future conflicts between industry and other uses, business and service uses are limited primarily to those which will be useful to employees in the I district and residential uses are restricted.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

**Secs. 86-101—86-109. Reserved.**

***DIVISION 2. PRIMARY ZONING DISTRICT YARD, HEIGHT AND BULK REQUIREMENTS***

**Sec. 86-110. Minimum site area and dimensional regulations for primary zoning districts.**

TABLE OF MINIMUM SITE AREA AND DIMENSIONAL REGULATIONS FOR PRIMARY ZONING DISTRICTS						
	A-C	R-R	R-1	B-1	B-2	I
<b>Minimum Lot Area</b>						
	5-acres <sup>1</sup>	3-acres	Dependent upon public utilities <sup>2</sup>	N/A	N/A	N/A
<b>Minimum Lot Depth (in feet)</b>						
	500	300	150	100	100	100
<b>Minimum Lot Frontage (in feet)</b>						
Fronting Primary Highway	400	200	200	100	100	100
Fronting Secondary Highway or Subdivision Street (50' or greater right-of-way)	300	200	150	100	100	100
Fronting Subdivision Street (less than 50' right-of-way)	150	150	100	100	100	100

Minimum Front Setback (in feet) –measured from the front property line – *See Comprehensive Plan for Street Designations*

From <b>Principal Arterial, Minor Arterial, Major &amp; Minor Collector</b>	100	75	75	75	75	75
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Minimum Front Setback (in feet) –measured from the front property line – *See Comprehensive Plan for Street Designations*

From <b>Local Road or Subdivision Street (50' or greater right-of-way)</b>	75	50	40	50	50	50
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From <b>Unclassified or Subdivision Street (less than 50' right-of-way)<sup>10</sup></b>	50	50	40	50	50	50
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Minimum Yard (main building—in feet)

Side	25	25	15	0 <sup>3</sup>	0 <sup>3</sup>	04
Rear	50	50	40	0 <sup>3</sup>	03	0 <sup>4</sup>

Minimum Yard (accessory buildings—in feet)

Side	15 <sup>5</sup>	15	5	0 <sup>6</sup>	0 <sup>6</sup>	0 <sup>6</sup>
Rear	15 <sup>5</sup>	15	5	0 <sup>6</sup>	0 <sup>6</sup>	0 <sup>6</sup>

Maximum Height (in feet)

	45 <sup>7</sup>	45	45	45	100 <sup>8</sup>	100 <sup>8</sup>
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<sup>1</sup> The minimum lot area for a parcel created by a family subdivision in accordance with Sec. 86-440, as amended, shall be 3 acres; provided, however, that in order to qualify for a reduced lot size, there shall be no less than eight (8) acres in the A-C zoning district and the parent parcel shall be no less than five acres. There shall be no less than six (6) acres in the R-R zoning district and the parent parcel shall be no less than three acres.

<sup>2</sup> 15,000 square feet (sf) for properties served by both public water and sewer;  
 20,000 sf served by public water only or public sewer only;  
 30,000 sf not served by public water or public sewer

<sup>3</sup> 50 foot main building setback required from any residentially zoned parcel

<sup>4</sup> 100 foot main building setback required from any residentially zoned parcel

<sup>5</sup> For non-agricultural accessory buildings only

<sup>6</sup> 25 foot accessory building setback required from any residentially zoned parcel.

<sup>7</sup> Agricultural structures may exceed 45 feet in height as long as they are exempt under the building code.

<sup>8</sup> No part of a building that is located within 200 horizontal feet of any R-R or R-1 residential zoning district may exceed 45 feet in height.

<sup>9</sup> The minimum lot size, area, and setbacks do not apply to public utility parcels owned or operated by the County.

<sup>10</sup> On prescriptive easements, the front setback is measured from the centerline of the easement and 15' shall be added to the front setback for that zoning category.

(Ord. No. 09-21R2, Att. A, 9-27-2021; Ord. No. 08-22, 8-22-2022, Ord. No. 2-24, 2-26-24. Ord. 2-25, 2-10-25; Ord 06-25, 8-25-25; Ord 15-25, 12-8-25))

### **Sec. 86-111. Adjustments and special provisions to lot area and dimensional regulations in the A-C zoning district.**

Adjustments and special provisions to lot area and dimensional regulations in the A-C zoning districts are as follows:

Minimum Lot Size and Dimensions			
	Area	Width	Depth
Veterinary hospital: large animals	10 acres	500 feet	300 feet
Veterinary hospital: small animals, open pens, or kennels	5 acres	300 feet	300 feet
Stable, commercial	10 acres	-	-
Stable, private	2 acres	200 feet	200 feet

(Ord. No. 09-21R2, Att. A, 9-27-2021)

### **Sec. 86-112. Modifications to lot area regulations.**

- (a) Requirements for lot area per family do not apply to dormitories, fraternities, sororities, and other similar living quarters which are accessory to a permitted use and which have no cooking facilities in individual rooms or apartments.
- (b) Requirements for lot area per family do not apply to rental units in a hotel, motel, motor lodge or rooms in a rooming house, boardinghouse, or lodging house or an accessory dwelling unit.
- (c) Multiple buildings on a single lot: More than one main building may be located upon a lot or tract only in the following instances:
  - (1) Institutional buildings;
  - (2) Public or semipublic buildings;
  - (3) Multiple-family dwellings or condominiums under approved site plans;
  - (4) Attached single-family dwellings with two times the required lot area for a single-family dwelling;
  - (5) Convalescent or nursing homes for the aged; and
  - (6) Tenant houses on a farm in accord with applicable district regulations.
- (d) The provisions of this section shall not be construed to allow the location or erection of any building or portion of a building outside of the buildable area of the lot.

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(Ord. No. 09-21R2, Att. A, 9-27-2021; Ord. No. 08-22, 8-22-2022; Ord 06-25, 8-25-25)

**Sec. 86-113. Yards and open space generally.**

- (a) Except for vegetation every part of a required yard shall be open from the ground upward, except as authorized by this article, and except ordinary projections of sills, belt courses, window air conditioning units, chimneys, cornices, and ornamental features which may project to a distance not to exceed 24 inches into a required yard.
- (b) Open space partially surrounded by buildings. Where an open space is more than 50 percent surrounded by a building, the minimum width of the open space shall be at least 20 feet for one-story buildings, 30 feet for two-story buildings, and 40 feet for three-story buildings.
- (c) Terraces, steps, chimneys, open, unenclosed porches, platforms, or paved terraces, not covered by roof or canopy and which do not extend above the level of the first floor of the building, may extend or project into a required front, side, or rear yard setback not more than six feet; provided, that no such projection may be closer than thirty (30) feet to the front property line and ten (10) feet to any side or rear property line.

(Ord. No. 09-21R2, Att. A, 9-27-2021, Ord. No. 2-24, 2-26-24)

**Sec. 86-114. Front yards.**

- (a) Where an official line has been established by an officially adopted detailed plan on file with the zoning administrator for the future widening or opening of a street or major thoroughfare upon which a lot abuts, then the depth of a front or side yard shall be measured from such official line to the nearest line of the building.
- (b) The depth of a building setback line for a particular lot is generally the same dimension as the required front yard of a zoning district except in cases where a greater setback line is approved for planned residential developments, cluster subdivisions, or for some unique subdivision design. In cases where a greater setback line is established on a subdivision plat pursuant to such approval, the setback line recorded on the subdivision plat shall be considered to be the minimum building setback line.
- (c) Unless otherwise provided in design standards, there shall be a required front yard setback of the side street of a corner lot in any district; provided, however, that the buildable width of a lot of record at the time of passage of this chapter shall not be reduced to less than 30 feet.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

**Sec. 86-115. Side yards.**

- (a) Open, unenclosed porches, platforms, or paved terraces, not covered by roof or canopy and which do not extend above the level of the first floor of the building, may extend or project into a required side yard not more than six feet.
- (b) For the purpose of the side yard regulations, a group of office, business, or industrial buildings separated by common or party walls shall be considered as one building occupying one lot.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

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### **Sec. 86-116. Rear yards.**

Open or lattice-enclosed fire escapes, outside stairways, and balconies opening upon fire towers, and the ordinary projection of chimneys and flues may project into the required rear yard for a distance of not more than five feet, but only where the same or so placed as not to obstruct light and ventilation.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

### **Sec. 86-117. Height regulations.**

- (a) The height limitations of this chapter shall not apply to:
- (1) Belfries, cupolas;
  - (2) Chimneys, flues;
  - (3) Church spires;
  - (4) Conveyors;
  - (5) Cooling towers;
  - (6) Elevator bulkheads;
  - (7) Fire and parapet walls extending no more than four feet above the roof;
  - (8) Fire towers;
  - (9) Flagpoles;
  - (10) Ornamental towers and spires, domes or cupolas;
  - (11) Public monuments;
  - (12) Silos and grain dryers, tanks barns and farm-related buildings;
  - (13) Smokestacks;
  - (14) Stage towers or scenery lofts; and,
  - (15) Water towers and standpipes.
- (b) *Radio, microwave and television towers.* In all commercial, industrial, and business districts, radio and television towers may be erected to a height not exceeding 125 feet. In all residential districts, such towers shall not exceed 25 feet above the highest point of the nearest building and shall be limited to noncommercial use.
- (c) *Storage buildings.* Buildings located in commercial or industrial zoning districts that are to be used for storage purposes only, may not exceed the height permitted in such districts.

(Ord. No. 09-21R2, Att. A, 9-27-2021; Ord 06-25, 8-25-25)

### **Sec. 86-118. Permitted lot frontage adjustment.**

- (a) Except for camp cabins and summer cottages for seasonal occupancy, no lot shall be used in whole or in part for dwelling purposes unless such lots abuts upon a road in accordance with the minimum frontage requirements of this chapter. No lot or parcel of land abutting the terminus of a public road shall be deemed to comply with road frontage requirements unless such lot abuts on an approved permanent cul-de-sac.
- (b) Where lot lines are established radially from a curved street so as to increase the width of the lot with the distance from the street line, the frontage of such lots thus created may be reduced to not less than 70

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percent of the lot width at the building line; and provided further, that the frontage of any lot located on the turnaround of a cul-de-sac (dead-end street) may be reduced to not less than 50 percent of the lot width.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

**Sec. 86-119. Reference to Virginia Condominium Act.**

- (a) Nothing within this chapter shall be interpreted to prohibit condominiums as such by reason of form of ownership inherent therein. Neither shall any condominium be treated differently under any provision in this chapter which would permit a physically identical project or development under a different form of ownership.
- (b) All condominium projects or developments hereafter constructed shall comply with the provisions of this chapter.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

**Sec. 86-120. Parking, loading, landscaping, drainage and sign requirements for all districts.**

- (a) *Parking and loading.* Off-street parking and loading shall be provided for all uses in accordance with the requirements of article XIII of this chapter.
- (b) *Landscaping.* Any part of the lot or project area not used for buildings or other structures, parking, loading, and access ways, shall be maintained in a neat and orderly condition landscaped with grass, trees, shrubs, or pedestrian walks or maintained as crops or natural forest, or as a lake or pond and in accordance with the requirements of article XI of this chapter.
- (c) *Drainage.* Provision shall be made for proper stormwater drainage from parking and loading areas. Water shall not be permitted to drain from such areas onto adjacent property except into a natural watercourse or a drainage easement. Provision shall be made for protection against erosion and sedimentation in accord with applicable county ordinances.
- (d) *Signs.* When permitted in zoning districts, signs shall be in accordance with the regulations in article X of this chapter.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

**Secs. 86-121—86-129. Reserved.**

*DIVISION 3. SPECIAL PURPOSE ZONING DISTRICTS*

**Sec. 86-130. Intent of special zoning districts.**

- (a) *Intent of the PUD planned unit development district.* The PUD district is intended to provide for variety and flexibility in design necessary to implement the varied goals of the county as set forth in the comprehensive plan. Through a planned unit development district approach, the regulations of this division are intended to accomplish the purposes of zoning and other applicable regulations to the same extent as regulations of conventional districts. PUDs should be established in areas designated as mixed use, commercial use, or special planning areas on the future land use map and be established in areas with adequate infrastructure including roadway, water, sewer, and the like. Planned developments allow for a higher density of development for a more efficient use of the land. Other benefits of a planned development include less

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infrastructure costs, more efficient provision of public safety services, less environmental impact, and through the provision of affordable housing achieve significant economic and social integration.

- (b) *Intent of the HP historic preservation overlay district.* The HP overlay district is created for the purpose of promoting the general welfare, education, and recreational pleasure of the public, through the perpetuation of the character of those general areas or individual structures and premises that have been officially designated by the board of supervisors as having historic, architectural or cultural significance. These districts are intended to protect against destruction of or encroachment upon such areas, structures, and premises; to encourage uses which will lead to their continuance, conservation, and improvement in a manner appropriate to the preservation of the cultural, social, economic, political, architectural, or archeological heritage of the county; to prevent creation of environmental influences and uses adverse to such purposes; and to ensure that new structures and uses within such HP districts will be in keeping with the historic and cultural character to be preserved and enhanced.
- (c) *Intent of the BMA Business Management Area.* The BMA is to provide for the orderly development of properties along primary highway frontages within the county, to reduce or prevent congestion in the public streets, provide convenience of access and to facilitate the creation of a convenient, attractive and harmonious community. The BMA shall be in addition to and shall overlay on other zoning districts so that any parcel of land lying in the district shall also lie in one or more of the other zoning districts.
- (d) *Intent of the CBPA.* The area is enacted pursuant to and for the purpose of implementing the Chesapeake Bay Preservation Act and regulating the use of lands in King William County for the protection of water quality. While this is not a district, there are two areas identified. The Chesapeake Bay Resource Protection Area (RPA) and the Chesapeake Bay Resource Management Area (RMA) each have their own boundaries, criteria and restrictions to preserve and protect the Chesapeake Bay.

(Ord. No. 09-21R2, Att. A, 9-27-2021, Ord. No. 12-24, 7-8-24)

## *DIVISION 4. SPECIAL PURPOSE ZONING DISTRICTS REQUIREMENTS*

### **Sec. 86-131. HP historic preservation district.**

- (a) *Establishment.*
  - (1) The boundaries of an HP district shall in general be drawn to include:
    - a. Areas containing historic landmarks as established by the Virginia Board of Historic Resources, and any other concentration, linkage or continuity of buildings, structures or places in which historic events occurred or having special public value because of notable architectural or other features relating to the cultural or artistic heritage of the community of such significance and integrity as to warrant conservation and preservation. The district may include either individual buildings or places of such character and a reasonable distance beyond to incorporate the contributing setting, or it may include areas or groupings of resources which have significance relative to their patterns of development or social and economic or architectural interrelationships even though some in the defined area might not possess significant merit when considered alone.
    - b. Historic district boundaries may also be drawn to include any area of unique architectural value located within designated conservation, rehabilitation or redevelopment districts and land contiguous to arterial streets or highways, as designated under Title 33.1 of the Code of Virginia, 1950, as amended, found by the governing body to be significant routes of tourist access to the locality or to designated historic districts, landmarks, buildings or structures.

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- c. Any other concentration, linkage or continuity of buildings, structures or places in which historic events occurred or having special public value because of notable architectural or other features relating to the cultural or artistic heritage of the community of such significance and integrity as to warrant conservation and preservation.
  - d. Any land contiguous to arterial streets or highways and found by the board of supervisors to be significant routes of tourist access to the locality or to designated historic districts, landmarks, buildings or structures.
- (2) The boundaries of a historic district shall conform to the boundaries of individual lots of record to the extent possible. Where a street is proposed as a historic district boundary, the edge right-of-way adjoining the district shall be deemed the district boundary.
  - (3) HP districts may be established by the board of supervisors when such designation of historic sites would serve the purposes of this division, as stated in section 86-100.
  - (4) HP districts shall be established in the same manner and by the same procedures set forth for zoning districts provided for in this chapter, unless such procedures are qualified by requirements of this division.
  - (5) Applications for the creation of an HP district may be made by resolution of the county board of supervisors or the county planning commission, or by application of property owners within the proposed HP district. The application shall contain information prescribed by the zoning administrator. A property owner may petition the board of supervisors for initiation of an HP district application including properties not owned by the petitioner. The historic preservation architectural review board (HPARB) may also petition for initiation of an application.
  - (6) The historic preservation overlay districts (HP) are adopted as follows:
    - a. Chelsea Plantation: Parcels 57-2 and 57-2B, Spotswood Subdivision and any future divisions therefore found on the tax map, section 57.
    - b. Elsing Green Plantation: A portion of parcel 51-15 extending to a width of 1,200 feet to the north and the south from the center of the private entrance to the plantation perpendicular to Route 632 and for a depth that runs to the parcel 51-15 property line at the Pamunkey River and any future division thereof as found on the tax map, section 51.
    - c. King William Courthouse: Parcels 37-75, 37-76A, 37-76B, 37-77, 37-78, 37-78A, 37-80, 37-87, portion of parcels 37-75B and 37-76 extending for a depth of 600 feet on the west side of State Highway 30, the portion of parcels 37-81, 37-102 and 37-102A extending to a depth of 600 feet on the east side between State Highway 30 and Route 1301, and any future divisions thereof as found on the tax map, section 37.
    - d. Mangohick Church: Parcels 11-48, 11-48A, 11-63A, 11-63B, 11-66, 11-67, 11-68, 11-69, 11-69A, 11-71, 11-73A, the portion of Parcel 11-63 to the east of Parcel 11-63B, and any future divisions thereof found on the tax map, section 11; Divisions 11-B-1, 11B-5.
    - e. Seven Springs: Parcel 26-3 and any future division thereof as found on tax map, section 26.
    - f. St. John's Church: Parcels 54-65, 54-66, 54-67, and a portion of parcel 54-64 on the east side of State Highway 30 and any future divisions thereof as found on the tax map, section 54; Portion of parcel 55-1 extending for 600 feet in depth on the east side of State Highway 30 and any future divisions thereof as found on tax map, section 55.
    - g. Sweet Hall Plantation: Parcels 61-10, 61-11, 61-11A, 61-11B, 61-11C, 61-11D and the portion of parcel 61-8 extending 600 feet from Route 634 and any future divisions thereof as found on the tax map, section 61.

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(7) Regulations generally:

- a. No historic landmark, structure, building, or sign, within an HP district shall be erected, reconstructed, substantially altered, moved, razed, destroyed or restored in an HP district until the plans for such shall have been approved by the historic preservation and architectural review board (HPARB), and a certificate of approval issued. This requirement shall not apply to regular maintenance functions but shall apply to reconstruction, restoration or new construction and shall not apply to reconstruction, restoration or improvements that are solely to the interior of structures. The term "signs" shall be deemed to include those located within a building or structure which are, plainly visible from a public street, way or place.
- b. The HPARB may, after reviewing the application in any case involving only reconstruction or restoration, waive part or all of the requirements of this section upon a written finding that the application involves reconstruction or restoration only, will not materially affect the exterior appearance of the structure, and will not have an adverse impact on the character of the historic site. This decision of waiver shall constitute a final decision of the HPARB and shall be appealable to the county board of supervisors.
- c. All uses permitted by the district of which the HP district is overlaid shall be permitted, with the exception of the following uses which are prohibited:
  1. All industrial uses found in the I district with the exception of offices, restaurants, and light retail uses.
  2. Automobile dealership.
  3. Salvage and scrap service.
  4. Gasoline station.
  5. Automobile repair service.
  6. Laundromats.
  7. Lumber and building supply stores.
  8. Warehousing and distribution.
  9. Recreational vehicle sales and service.
  10. Non-accessory general advertising signs.
  11. Multi-family dwellings.
  12. Single-wide and double-wide manufactured homes.

(b) *Certificate of approval.*

- (1) No activity regulated by this division shall be commenced within a designated HP district unless and until a certificate of approval shall have been issued by the HPARB, as provided in this division. No certificate of approval shall be required in cases of buildings primarily used or to be used for agricultural or horticultural purposes in which the requested change would not have a clear and substantial detrimental impact on the character of the HP district as determined by the HPARB.
- (2) Any party aggrieved by the determination of the HPARB may appeal to the board of supervisors.

(c) *Applications and procedures for certificate of approval.*

- (1) Applications for certificates of approval shall be made to the zoning administrator on forms supplied by the zoning administrator. The zoning administrator shall refer all applications to the HPARB.

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- (2) Changes, additions, and deletions to historic preservation boundary districts shall be preceded by at least one public hearing held by the HPARB at which time any interested party, including the applicant or his representative, shall be heard. The applicant shall provide any additional information requested by the HPARB.
  - (3) All approvals or disapprovals by the HPARB shall include a statement of the reasons for such action. The HPARB may approve the application, approve the application with conditions or deny the application. In the case of denial, the HPARB may make recommendations to the applicant.
  - (4) No substantially similar application for a certificate of approval shall be accepted by the zoning administrator within 12 months of denial of an application by the HPARB.
  - (5) A certificate of approval shall be null and void 12 months after the date on which it was issued unless within such period the work authorized by the HPARB is commenced or an extension is granted by the HPARB.
- (d) *Review of applications for rezoning, land division, conditional use permits; special exceptions and variances.* The HPARB shall review all applications for rezoning, land division, conditional use permits, special exceptions, or variances proposed within an HP district and may make recommendations thereon to the board or commission charged with the issuance of such rezoning, land division, conditional use permit, special exception, or variance.
- (e) *Criteria for approval of certificate application.*
- (1) The HPARB shall review each completed application for a certificate of approval. In reviewing such applications for the erection, construction, reconstruction, remodeling, exterior alteration, razing, demolition, moving or restoration of a building or structure, the HPARB shall not consider interior arrangement or features not subject to any public view and shall not make any requirements except for the purpose of preventing developments incompatible with the purposes of the HP district. The HPARB shall use the latest edition of the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Structures published by the U.S. Department of the Interior and shall consider the following in determining the appropriateness of the issuance of a certificate of approval:
    - (2) The exterior architectural features, including all signs incorporated in such construction, which are subject to public view from a public street, way or place;
    - (3) The general design, arrangement, texture, material, color, and fenestration of the building or structure and their relation to similar features of buildings or structures in the HP district;
    - (4) The extent to which the construction or alteration of the building or structure would be harmonious with or architecturally incompatible with the character of the HP district;
    - (5) The extent to which the construction or alteration of the building or structure promotes the purpose of the HP district; and
    - (6) The extent to which denial of a certificate of approval would constitute a deprivation to the owner of a reasonable use of his property.
  - (7) In reviewing an application for a certificate of approval for a permit for the razing or demolition of a historic landmark, building, structure or improvement, the HPARB shall, in addition to the applicable factors stated in subsection (a) of this section, review the circumstances and the condition of the structure or part proposed and shall report its finding based on consideration of any or all of the following criteria:
    - a. Whether the landmark, building, structure or improvement is of such architectural or historical interest that its removal would be to the detriment of the public interest.

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- b. Whether the landmark, building, structure or improvement is of such old and unusual or uncommon design, texture, and material that it could be reproduced only with great difficulty.
  - c. Whether retention of the landmark, building, structure or improvement would help preserve and protect a historic site.
- (8) In reviewing a certificate of approval application for a permit to move or relocate an historic landmark, building, or structure, the HPARB shall consider the following criteria:
- a. Whether the proposed relocation would have a detrimental effect on the structural soundness of the landmark, building, structure, or improvement.
  - b. Whether the proposed relocation would have a detrimental effect on the character of the HP district.
  - c. Whether relocation would provide new surroundings which would be harmonious with or incongruous to the historical and architectural aspects of the landmark, building, structure, or improvement.
- (f) *Appeals.*
- (1) Any applicant or any owner of property located within the particular HP district in question, when aggrieved by a decision of the HPARB, may, as allowed by the Code of Virginia, § 15.2-2306, appeal such decision to the board of supervisors, which shall review the determination of the HPARB.
  - (2) Any applicant or owner of property located within the particular HP district in question, when aggrieved by a final decision of the board of supervisors, may appeal its decision to the circuit court in accordance with the Code of Virginia, § 15.2-2306.

(g) *Razing or demolition.*

No historic landmark or contributing building or structure, which accompanies this chapter shall be partly or fully demolished until a certificate of appropriateness is issued by the HPARB, with right of direct appeal from an adverse decision to the board of supervisors, as hereinafter provided. An appeal for final decision by the board of supervisors shall be automatic and mandatory in the case of approval of the demolition of a building or structure so designated as a landmark. The zoning administrator may approve the demolition of a building or structure within the historic district(s), which has not been designated either as a landmark or contributing structure on said inventory map.

The HPARB shall consider the following criteria in determining whether or not to grant a certificate of appropriateness for razing or demolition:

- (1) Whether or not the historic landmark, contributing building or structure is of such architectural or historic significance that its removal would be to the detriment of the public interest, to education, cultural heritage, the architectural history of the locality and would cause a loss of a visual tangible demonstration of local history and the social and artistic pattern of community development and planning.
- (2) Whether or not the contributing building or structure is of such interest or historic significance that it would qualify as a national, state, or local historic landmark through individual listing on the Virginia Landmarks Register or National Register of Historic Places.
- (3) Whether or not the historic landmark, contributing building or structure embodies the distinctive characteristics of a type, period, style, method of construction, represents the work of a master, possesses high artistic values or represents a significant or distinguishable entity whose components may lack individual distinction or whether the resource is associated with events that have made a significant contribution to the broad pattern of history or is associated with significant persons.

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- (4) Whether or not retention of the historic landmark, contributing building or structure would help to preserve and protect a historic or architecturally significant place, the quality of life and pride of place or area of historic interest in the locality and promotes the purposes and intent of historic district zoning including tourism.
  - (5) Whether or not the historic landmark, contributing building or structure has retained integrity or authenticity of its historic identity of design, materials, workmanship, setting, location, association and feeling and whether its unusual design, quality and workmanship of traditional materials and details of character defining features could be easily produced.
  - (6) Whether the proposed razing or demolition will affect the archaeological potential to yield information important to prehistory or history at this site.
- (h) *Razing or demolition when certificate of approval denied.*
- (1) In accordance with the Code of Virginia, § 15.2-2306 A., addition to the right of appeal set forth in this division, the owner of a historic landmark, building, structure or improvement, the razing or demolition of which is subject to the restrictions of the HP district, shall, as a matter of right, be entitled to raze or demolish such landmark, building, or structure, provided that:
    - a. Applicant has applied to the board of supervisors for such right.
    - b. The owner has, for the period of time, set forth in the schedule set out in this section and at a price reasonably related to its fair market value, made a bona fide offer to sell such landmark, building, or structure, and the land pertaining thereto, to such county or municipality or to any person, firm, corporation, or government agency thereof, which gives reasonable assurance that it is willing to preserve and restore the landmark, building, or structure and the land pertaining thereto.
    - c. No bona fide contract, binding upon all parties thereto, shall have been executed for the sale of any such landmark, building, or structure, and the land pertaining thereto, prior to the expiration of the applicable time period set forth in the time schedule contained in this section.
    - d. The time schedule for offers of sale shall be six months.
  - (2) The fact that an appeal has been made to the county circuit court from a decision of the board of supervisors shall not affect the right of the owner to make the bona fide offer to sell referred to in subsection (b) of this section. No offer to sell shall be made more than one year after a final decision by the board of supervisors, but thereafter the owner may renew his request to approve the razing or demolition of the historic landmark, building, or structure. The time schedule for offers to sell shall be in accordance with the Code of Virginia, § 15.2-2306.
- (i) *Moving or relocation.* No building or structure officially designated as a historic landmark or contributing building or structure within the district on the inventory map which accompanies this chapter shall be moved or relocated unless the same is approved by the HPARB and a certificate of appropriateness issued with right of direct appeal of an adverse decision to the board of supervisors shall be automatic and mandatory in the case of approval of the moving or relocation of a building or structure so designated as a historic landmark. The zoning administrator may approve the moving or relocation of the building or structure within the historic district, which has not been designated either as a historic landmark, contributing building or structure on said inventory map.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

**Secs. 86-132—86-135. Reserved.**

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## Sec. 86-136. Business Management Area.

- (a) *Establishment.* For the purposes enumerated in section 86-100, a special overlay zoning district is hereby established to be known as the Business Management Area (BMA).
- (b) *Boundaries.* The boundaries of the Business Management Area are hereby established on the county's zoning district map and made a part of the applicable regulations for all properties shown on the zoning district map. The BMA boundaries are defined as follows:
  - (1) *Route 360.* Properties with frontage on U.S. Highway 360 for its entire length through the county and extending 700 feet on either side from the centerline of such highway or to the depth of the property, whichever is less; and,
  - (2) *Route 30.* Properties with frontage on State Highway 30, for its entire length through the county and extending 500 feet on either side from the centerline of State Highway 30, or to the depth of the property, whichever is less.
  - (3) *For properties that front two roads.* The entrance to the property will determine the frontage. If the frontage is on a secondary road, a vegetated buffer will be required where the property adjoins U.S. Highway 360.
  - (4) The Business Management Area Overlay boundaries shall be clearly depicted on the plat, concept plan, or site plan as appropriate and shall be determined by the Engineer or Surveyor.
- (c) *Applicability.* Regulations in the BMA shall apply to all commercial and industrial sites developed, redeveloped, or expanded and any subdivisions after the establishment of the district. The regulations district shall not apply to a single residential or agricultural use or on commercial and industrial sites developed prior to its establishment, unless there is an expansion of floor area in excess of a cumulative total of 50 percent or 5,000 square feet, whichever is less. A one-time expansion consisting of 1,200 square feet or less of additional floor area shall be exempt from the requirements of the Business Management Area.
- (d) *Permitted uses.* Permitted uses in the Business Management Area are uses permitted in the underlying primary zoning.
- (e) *Standards of development.* All applications for development or redevelopment in the BMA except those exempted by section 86-136(c) must satisfy the following standards as well as applicable provisions of article XVII of this chapter (site plans).
  - (1) *Frontage landscaping.* Along the property's border on U.S. Highway 360 or State Highway 30, a buffer shall be provided as follows:
    - a. A landscape buffer of at least 25 feet in width shall be landscaped with at least one deciduous tree, at least two inches in caliper measured six inches from the ground when planted, with branching no closer than five feet to the ground, or one evergreen tree, at least six feet in height when planted, for each 50 feet of lineal frontage; as well as at least one shrub, at least 18 inches in spread when planted, for each 30 feet of lineal frontage, planted and maintained at 24 inches in height or lower; and other ground cover reasonably dispersed throughout the buffer.
    - b. Vegetation planted in the buffer shall be of a type and/or positioned so as to not interfere with overhead or underground utility lines when fully grown.
    - c. All landscaping shall be installed in accord with good horticultural practices. The owner of the property shall be responsible for the perpetual maintenance and replacement of all required landscaping materials. All plant materials shall be maintained in a healthy, growing condition and free from refuse and debris at all times.

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- d. Existing trees that are to be preserved may be included to meet all or part of the tree canopy requirements.
  - e. Landscaping shall not obstruct the view of motorists, private driveways, parking isles, or the approach to any street intersection so as to constitute a traffic hazard or a condition dangerous to the public safety. The buffer shall adhere to all sight distance requirements as determined by VDOT.
  - f. An additional buffer of ten feet along the property's frontage shall be preserved for future road or pedestrian improvements.
- (2) *Buffers.* Buffers shall be provided in accordance with the requirements of section 86-294.
  - (3) *Screening, loading, and storage.* Screening shall be required in accordance with the requirements of section 86-295. Loading docks shall be provided at the side or rear only. All outside storage shall be located only in the rear or side yard and shall be screened from view at the property line from a public road or adjoining A-C, R-R, or R-1.
  - (4) *Installation of landscaping.* Required landscaping shall be installed in accordance with the requirements of section 86-293.
  - (5) *Access.* Each B-1, B-2, or I development site shall meet the VDOT requirement standards. A-C, R-R, or R-1 parcels subdivided after the effective date of this section shall be required to share a single entrance on U.S. Highway 360 or State Highway 30.
  - (6) *Building exteriors.* Building exteriors visible from U.S. Highway 360 or State Highway 30 shall meet the criteria listed in (6) a. or be reviewed and approved by the Planning Commission.
    - a. Stucco, drivit, galvalume, brick, stone, decorative block, split-face block, neutral colored cementitious siding or other materials with similar texture and appearance are considered appropriate to the county character and shall be provided on the main building facades. Nationally recognized and/or trademarked colors, logos, pictures, or similar type features may be permitted on the building facades, awnings, or other complimentary architectural features with the approval of the Director of Planning. Vinyl siding, T-111, and other materials not listed shall not be used for exterior siding material on any building except that vinyl siding may be used as trim material. The exterior covering material shall extend to the ground, except that when a solid brick or masonry perimeter foundation is used, exterior covering material need not extend below the top of the foundation.
    - b. Mechanical equipment, including duct work, air compressors and other fixed operating machinery shall be either screened from view with either a solid wall, solid fence, or landscaping, or located so that such items are not visible from the public right-of-way. Utility meters, above-ground tanks, satellite dishes, antennas, etc., shall be similarly treated. Roof-mounted mechanical equipment shall be opaquely screened from view at grade by parapet walls or other similar structures that reflect the architecture of the building.
  - (7) *Roofs.* Roofing materials shall consist of wood, tin, copper, slate, terra cotta, standing seam metal or dimensional fiberglass shingles. A minimum of a 2/12 pitched roof shall be provided. A parapet wall shall be provided to screen any roof mounted equipment.
  - (8) *Architectural.* All principal buildings within a single development project shall have a complementary architectural appearance with the use of similar building materials, scale, color and other architectural features.
  - (9) *Signs.* All business identification signs shall be monument signs not to exceed 15 feet in height for individual businesses and 20 feet in height for businesses with multiple tenants. Pole signs and free-standing signs shall be prohibited. Electronic or digital display signage, as permitted pursuant to article

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X, shall be equipped with a device to automatically dim the brightness during night or low-light conditions.

- (10) *Lighting.* Any on-site lighting shall be "shoe-box" style lighting fixtures, or equivalent, to conceal the lighting source and minimize spillover or glare on adjoining properties. Any lighting used under canopies shall be recessed to minimize glare. Lighting shall be reduced to no more than a security level following close of daily operations.
- (11) *Underground utilities.* Utility lines, including, but not limited to, electric, CATV, and telephone, shall be placed underground if possible. This requirement applies to lines serving individual sites within the development as well as utility lines providing service to the development. Existing overhead utility lines may be extended to a terminal pole at the property line, as needed, and thence placed underground.
- (12) Fencing along the public right-of-way is discouraged, but if used, such fencing shall be landscaped to minimize visibility from the public right-of-way or be of a style which is harmonious with the rural, agricultural, and historical character of the county.
- (13) No medium scale, or utility scale solar facilities shall be permitted in the Transportation Corridor Overlay District.

(f) Exceptions to the Business Management Overlay District Requirements. Exceptions to the development requirements and standards specified in this section may be granted by Resolution from the Board of Supervisors following a recommendation by the Planning Commission.

(Ord. No. 09-21R2, Att. A, 9-27-2021, Ord. No. 2-24, 2-26-24, Ord. No. 12-24, 7-8-24, Ord. No. 02-26, 2-9-26)

### **Sec. 86-137. Chesapeake Bay Preservation Area.**

- (a) *Applicability.* The requirements of this article shall apply to all development and redevelopment involving land disturbance, the creation of a construction footprint or a change in an existing construction footprint. Agricultural activities and silvicultural activities are subject to the specific provisions applicable to those activities, as noted herein.
- (b) *Chesapeake Bay Resource Protection Area (RPA) boundaries.* Resource protection areas or "RPAs" shall consist of:
  - (1) Tidal wetlands;
  - (2) Non-tidal wetlands connected by surface flow and contiguous to tidal wetlands or water bodies with perennial flow;
  - (3) Tidal shores;
  - (4) A vegetated buffer area not less than 100 feet in width located adjacent to and landward of the components listed above, and along both sides of any water body with perennial flow. The full buffer area shall be designated as the landward component of the RPA notwithstanding the presence of permitted uses, encroachments, and permitted vegetation clearing in compliance with this article.
- (c) *Chesapeake Bay Resource Management Area (RMA) boundaries.* The resource management area or "RMA" shall be provided contiguous to the entire inland boundary of the RPA and shall include all lands within the County not otherwise designated as an RPA.
- (d) *Chesapeake Bay Preservation Area maps to be maintained; site-specific delineation.* The director shall maintain maps generally locating identified Chesapeake Bay Preservation Areas (CBPAs). These maps are not conclusive evidence of inclusion or exclusion, and therefore, each applicant shall provide either the certification referred to in section 86-137(j), or a reliable, site-specific evaluation and delineation prepared

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by a qualified professional. Such delineation shall be in accordance with the latest edition of guidance documents issued by the Chesapeake Bay Local Assistance Board and acceptable to the director. Such delineation or certification shall include all information requested by the director, to supplement the application for approval of construction plans, land disturbance permit, building permit, site plan or subdivision plat, or with the water quality impact assessment.

- (e) *Use regulations.* Permitted uses, special permit uses, accessory uses and special exceptions shall be as established by the underlying zoning district unless specifically modified by the requirements set forth herein.
- (f) *Lot size.* Lot size shall be subject to the requirements of the underlying zoning district(s), provided that any lots shall have sufficient area outside the RPA to accommodate an intended development, in accordance with the standards in the section titled General performance criteria for CBPA, when such development is not otherwise allowed in the RPA.
- (g) *General performance criteria for Chesapeake Bay Preservation Area.* Any use, development or redevelopment of land within the CBPA shall meet the following performance criteria:
  - (1) No more land shall be disturbed than is necessary to provide for the proposed use or development.
  - (2) The limits of land disturbance, development or redevelopment, including clearing or grading, shall be strictly defined by the construction footprint shown on the approved building permit, site plan, subdivision plat or water quality impact assessment. These limits shall be clearly shown on all plans and physically marked on the development site prior to any clearing or grading.
  - (3) Ingress and egress to any site during construction shall be limited to one access point, unless otherwise approved by the director.
  - (4) Notwithstanding any other provisions of this article or exceptions or exemptions, any land disturbing activity exceeding 2,500 square feet, including construction of single-family houses, septic tanks and drainfields, shall comply with the erosion and sediment control requirements of state law. Any such proposed development shall be the subject of a land disturbance permit, certification, building permit, site plan, subdivision plat or water quality impact assessment found by the director to be consistent with this article.
  - (5) Indigenous vegetation shall be preserved to the maximum extent practicable consistent with the use or development proposed.
  - (6) Diseased trees or trees weakened by age, storm, fire or other injury may be removed.
  - (7) Clearing shall be allowed only to provide necessary access, construction of improvements, positive site drainage, water quality best management practices, and the installation of utilities, as approved by the director.
  - (8) Prior to clearing or grading, suitable protective barriers, such as safety fencing, shall be erected five feet outside of the dripline of any tree or stand of trees to be preserved. These protective barriers shall remain so erected throughout all phases of construction. The storage of equipment, materials, debris, or fill shall not be allowed within the area protected by the barrier.
  - (9) Land development shall minimize impervious cover consistent with the use or development proposed. Unless otherwise approved by the director, grid and modular pavements that promote infiltration shall be used for any required parking area, alley, or low traffic driveway.
  - (10) All sewage disposal systems, except those requiring a Virginia Pollutant Discharge Elimination System permit, shall comply with the following:
    - a. Systems shall be pumped out at least once every five years, unless the owner submits documentation, 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

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have the effluent pumped out of it. As an alternative to the mandatory pump-out or documentation, a plastic filter approved by the health department may be installed and maintained in the outflow pipe from the septic tank to filter solid material from the effluent. Such a filter shall satisfy standards established in the sewage handling and disposal regulations administered by the Virginia Department of Health.

- b. A reserve sewage disposal site with a capacity at least equal to that of the primary sewage disposal site shall be provided on each lot or parcel proposed for new construction. 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, as determined by the local health department, is not sufficient in capacity to accommodate a reserve sewage disposal site.
- (11) Building or construction of any impervious surface shall be prohibited on the area of all sewage disposal sites until the development is served by public sewer or an on-site sewage treatment system that operates under a permit issued by the state water control board.
- (12) For stormwater management, any land disturbance, development or redevelopment shall comply with all stormwater management criteria of the Virginia Stormwater Management Regulations contained in the Code of Virginia. The following stormwater management options shall be considered to comply with the requirements of this section:
- a. Incorporation on the site of best management practices that achieve the required control.
  - b. Compliance with a site-specific Virginia Pollution Discharge Elimination System permit issued by the Virginia Department of Environmental Quality, provided that the director determines that the permit requires measures that collectively achieve water quality protection equivalent to that required by this subsection.
  - c. Any maintenance, alteration, use of, or improvement to an existing structure which does not degrade the quality of surface water discharge, as determined by the director, may be exempted from the requirements of this subsection.
  - d. Where utilization of best management practices requires regular or periodic maintenance, such maintenance shall be ensured through a maintenance agreement or other mechanism approved by the director which achieves an equivalent objective.
- (h) *Agricultural activities.* Land upon which agricultural activities are being conducted, including but not limited to crop production, pasture, and dairy and feedlot operations, shall have a soil and water quality conservation assessment conducted that evaluates the effectiveness of existing practices pertaining to soil erosion and sediment control, nutrient management, and management of pesticides, and, where necessary, results in a plan that outlines additional practices needed to ensure that water quality protection is being accomplished consistent with the act and regulations, approved by the soil and water conservation district board.
- (i) *Development criteria for resource protection areas (RPAs).*
- (1) *Restriction.* Land development within an RPA may be allowed pursuant to this article when such development either is water-dependent, constitutes redevelopment, is a new use established pursuant to a permitted encroachment, is a road or driveway crossing, or is a flood control or stormwater management facility, and when such proposed development satisfies the conditions set forth below:
- a. A water quality impact assessment is approved;
  - b. For a new or expanded water-dependent facility, demonstration that:
    - 1. The development of the facility does not conflict with the King William County Comprehensive Plan;
    - 2. The development complies with the performance criteria of this article;

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3. Any nonwater-dependent component is located outside of RPAs; and
  4. Access to the water-dependent facility will be provided with minimum disturbance necessary. Where practicable, a single point of access is provided.
- c. For redevelopment, there is no increase in the amount of impervious cover and no further encroachment within the RPA, and there is conformance with all applicable federal, state and county erosion and sediment control and stormwater management laws and with the regulations.
- d. For nonexempt roads and driveways, each of the following conditions is met:
1. The director finds that there are no reasonable alternatives to aligning the road or driveway in or across the RPA;
  2. The proposed alignment, design and construction of the road or driveway is optimized to minimize encroachment in the RPA and adverse effects on water quality; and
  3. The design and construction of the road or driveway conform to all applicable criteria of this article, including submission of a water quality impact assessment; and
  4. The director reviews the plan for the proposed road or driveway in coordination with construction plan, land disturbance, site plan, subdivision or building permit approvals, and finds that the plan is consistent with this article.
- e. For flood control and stormwater management facilities that drain or treat water from multiple development projects or from a significant portion of a watershed;
1. The director establishes that location of the facility within the RPA is the optimum location;
  2. The size of the facility is the minimum necessary to provide necessary flood control or stormwater treatment, or both;
  3. The facility is consistent with a stormwater management program that has been approved by the Chesapeake Bay Local Assistance Board as a phase I modification to the county's program;
  4. All applicable permits for construction in state or federal waters have been obtained from the appropriate state and federal agencies;
  5. Approval has been received from the director prior to construction; and
  6. Maintenance agreements in a form and with content acceptable to the director have been executed, to allow the county to perform routine maintenance on such facilities to assure that they continue to function as designed. This subsection shall not be construed to allow a best management practice to be located within the RPA that collects and treats runoff from only an individual lot or portion thereof.
- (2) *Buffer area requirements.*
- a. The 100-foot wide buffer area shall be the landward component of the RPA. Notwithstanding permitted uses, encroachments, and vegetation clearing, as set forth in this article, the 100-foot wide buffer area shall not be reduced in width. To minimize the adverse effects of human activities on the other components of the RPA, state waters, and aquatic life, a 100-foot wide buffer area of vegetation that is effective in retarding runoff, preventing erosion, and filtering nonpoint source pollution from runoff shall be retained if present and established where it does not exist.
  - b. The 100-foot wide buffer area shall be deemed to achieve a 75 percent reduction of sediments and a 40 percent reduction of nutrients.

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- c. Where land uses such as agriculture or silviculture within the buffer area cease and the lands converted to other uses, the full 100-foot wide buffer shall be reestablished. In reestablishing the buffer, measures shall be taken to establish woody vegetation that assures the required buffer functions.
  - d. Permitted encroachments into the buffer area:
    - 1. When providing the buffer area would result in the loss of a buildable area on a lot or parcel recorded prior to October 1, 1989, encroachments into the buffer area may be allowed by the director in accordance with the following criteria:
      - i. Encroachments shall be the minimum necessary to achieve a reasonable buildable area for a principal structure and necessary utilities;
      - ii. A vegetated area is established elsewhere on the lot or parcel, if practicable, that is equal to the area of encroachment into the buffer and will mitigate the effects of the encroachment;
      - iii. The encroachment does not extend into the seaward 50 feet of the buffer.
    - 2. When providing the buffer area would result in the loss of a buildable area on a lot or parcel recorded between October 1, 1989 and March 1, 2002, encroachments into the buffer area may be allowed by the director in accordance with the following criteria:
      - i. The lot or parcel was created as a result of a legal process conducted in conformity with the subdivision article;
      - ii. Conditions or mitigation measures imposed through a previously approved exception are met;
      - iii. Any previously required best management practice (BMP) continues to function effectively or, if necessary, is reestablished or repaired and maintained; and
      - iv. The three criteria set forth previously for permitted encroachments also are met.
    - 3. Permitted modifications of the buffer area:
      - i. Vegetation in the buffer area may be removed only as approved by the director pursuant to an application and a plan submitted for such removal and only to provide for reasonable sight lines, access paths, general woodlot management, and best management practices as follows:
        - (A) Trees may be pruned or removed as necessary to provide for sight lines and vistas, provided that were removed, they shall be replaced with other vegetation that is equally effective in retarding runoff, preventing erosion, and filtering pollution from runoff;
        - (B) Any path is constructed and surfaced so as to effectively control erosion;
        - (C) Dead, diseased, or dying trees or shrubbery and noxious weeds (such as Johnson grass, kudzu and multiflora rose) may be removed and thinning of trees may be allowed pursuant to sound horticultural practices;
        - (D) For shoreline erosion control projects, trees and woody vegetation may be removed, necessary control techniques employed, and appropriate vegetation established in accordance with the best available technical advice and applicable permit(s).
      - ii. On agricultural lands the agricultural buffer area shall be managed in a manner approved by the staff of the soil and water conservation district board to

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prevent concentrated flows of surface water from breaching the buffer area and 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:

- (A) Agricultural activities may encroach into the landward 50 feet of the 100-foot wide buffer area when at least one agricultural best management practice which, in the opinion of the 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 100-foot wide buffer area. If nutrient management is identified as the predominant water quality issue, a nutrient management plan, including soil tests, must be developed consistent with the Virginia Nutrient Management Training and Certification Regulations (4VAC5-15) administered by the Virginia Department of Conservation and Recreation.
- (B) Agricultural activities may encroach within the landward 75 feet of the 100-foot wide buffer area when agricultural best management practices which address erosion control, nutrient management, and pest chemical control, are being implemented on the adjacent land. The erosion control practices must prevent erosion from exceeding the soil loss tolerance level, referred to as "T," as defined in the "National Soil Survey Handbook" of November 1996 in the "Field Office Technical Guide" of the U.S. Department of Agriculture Natural Resource Conservation Service. A nutrient management plan, including soil tests, must be developed, consistent with the Virginia Nutrient Management Training and Certification Regulations (4VAC5-15) 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.
- (C) 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 on the adjacent land (either erosion control or nutrient management) is being implemented on the adjacent land.

(j) *Certification by director.*

- (1) Any applicant for a building permit to construct a single-family dwelling or accessory building or structure may request a determination from the director whether the proposed construction is in compliance with the requirements of this article, provided that the proposed construction meets the following criteria:
  - a. The development of the lot as represented in the building permit does not require subdivision approval; and
  - b. The area of any land disturbance is located outside the limits of the RPA as defined in the section on RPA boundaries, and outside of any drainage feature, area of concentrated surface water flow, wetlands, or floodplain; and

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- c. Land disturbance in excess of 2,500 square feet is subject to an erosion and sediment control permit.
  - (2) Any applicant proposing development resulting in land disturbance of less than 2,500 square feet may request the director to make a site-specific determination of compliance with this article.
  - (3) Application for a determination of compliance shall be made in a form and with information satisfactory to the director. If the director is unable to determine the boundaries of CBPAs after consulting available maps and resources, or if the director determines that the proposed construction does not comply with the criteria set out in this section, the applicant shall provide a certification or a water quality impact assessment as provided for hereinafter.
- (k) *Certification submitted by applicant.* Compliance with this article may be certified by a qualified professional when the proposed development or redevelopment will not result in land disturbance within an RPA and when the land disturbance does not exceed 2,500 square feet. Such certification shall also ensure that no drainage structure will be emplaced nor will concentrated flows occur from a disturbed area of more than 2,500 square feet to be located elsewhere on the property. The certification shall be made in a form acceptable to the director and shall be submitted at the time of application either for a land disturbance permit, building permit, site plan, preliminary or final subdivision approval. If multiple applications for approval are required, the certification shall be submitted with the first application filed. If an applicant chooses not to submit such certification or if the certification is not approved by the director, the applicant shall submit a water quality impact assessment.
- (l) *Water quality impact assessment (WQIA).*
- (1) Except as noted previously herein, a water quality impact assessment (WQIA) prepared and submitted by a qualified professional shall be approved by the director prior to:
    - a. Any proposed land disturbance, development or redevelopment within an RPA;
    - b. Any proposed land disturbance, development or redevelopment that will result in land disturbance in excess of 2,500 square feet;
    - c. The placement of a drainage structure or discharge of concentrated flows resulting from land disturbance in excess of 2,500 square feet located elsewhere on the property.
  - (2) The WQIA shall identify the impact of the proposed development or buffer area encroachment on water quality and on lands in RPAs and demonstrate compliance with the requirements of this article.
  - (3) If the director determines that potential impacts created by the proposal are not mitigated as required by this article, the director may require additional mitigation measures as a condition of approval. When, in the opinion of the director the proposed land disturbance, development or redevelopment does not comply with the requirements of this article, the director shall disapprove the WQIA. Any person aggrieved by such decision may appeal the decision in accordance with procedures set forth in article IV of the zoning chapter or other applicable state law.
  - (4) There shall be two levels of water quality impact assessments; a minor assessment and a major assessment. The information required shall in each case be supplemented by the applicant if the director finds it necessary. All WQIAs shall include a site-specific evaluation identifying the location of CPBA features. Designations shall be based on that site-specific information.
  - (5) Minor water quality impact assessment.
    - a. A minor water quality impact assessment is required for proposed land disturbance, development and redevelopment under the following circumstances:
      - 1. Where land disturbance outside the RPA will exceed 2,500 square feet but not more than 50,000 square feet. In this case, the WQIA must demonstrate that the rate and pollutant

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loading of post development runoff will meet the general performance criteria set out previously.

2. Where the placement of a drainage structure is proposed or where concentrated flows will occur from a disturbed area greater than 2,500 square feet anywhere on the property. In this case, the WQIA must demonstrate that the proposed development meets the general performance criteria set out previously.
- b. A minor WQIA shall include a site drawing to scale showing the following:
1. Delineation of all components of the CBPA based on a site-specific evaluation;
  2. The construction footprint;
  3. Wetlands delineations, which shall be performed in accordance with the procedures specified in the current regulations of the federal government pursuant to Section 404 of the Clean Water Act;
  4. Location and nature of the proposed project including, as appropriate: 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;
  5. Type and location of proposed best management practices.
- (6) *Major water quality impact assessment.*
- a. A major water quality impact assessment shall be required for any proposed land disturbance, development or redevelopment which (i) exceeds 50,000 square feet of land disturbance; or (ii) disturbs any portion of the RPA. The following elements shall be included in the major WQIA:
    1. All of the information required in a minor WQIA;
    2. A hydro-geological element that:
      - i. Describes the existing topography, soils, hydrology of the site and adjacent lands.
      - ii. Describes the impacts of the proposed development on topography, soils, hydrology on the site and adjacent lands.
      - iii. Indicates the following:
        - (A) Any disturbance or destruction of wetlands and justification for such action;
        - (B) Any disruptions or reductions in the supply of water to wetlands, streams, lakes, rivers or other water bodies;
        - (C) Any disruptions to existing hydrology including wetland and stream circulation patterns;
        - (D) Source location and description of proposed fill material;
        - (E) Location of dredge material and location of dumping area for such material;
        - (F) Estimation of pre- and post-development pollutant loads in runoff;
        - (G) Calculation of impervious surface on site and type(s) of surfacing materials used;
        - (H) Limits of disturbance;
        - (I) Anticipated duration and phasing schedule of construction project; and

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- (J) Listing of all requisite permits from all applicable agencies necessary to develop the project.
  - iv. Describes the proposed mitigation measures for the potential hydrogeological impacts. Mitigation measures include:
    - (A) Erosion and sediment control plan;
    - (B) Stormwater management system;
    - (C) Creation of wetlands to replace those lost;
    - (D) Minimizing cut and fill.
  - 3. A landscape element that:
    - i. Identifies and delineates all significant existing and proposed plant material, including all trees six inches or greater in diameter measured outside the bark at a point four and one-half feet above the ground. Where there are groups of trees, stands may be outlined.
    - ii. Shows the impacts the development or use will have on the existing vegetation. Information shall include:
      - (A) General limits of clearing, based on all anticipated improvements, including buildings, drives, and utilities;
      - (B) Delineation of all trees or stands of trees which will be removed, including a description of the horticultural practice being followed in any removal;
      - (C) If additional vegetation is required in the buffer, a landscape plan showing location, type and size of materials, ground cover and trees to be used.
    - iii. Shows measures for mitigation. Possible mitigation measures include:
      - (A) Replanting schedule for trees and other significant vegetation removed for construction, showing plants and trees to be used;
      - (B) Preservation to the greatest extent possible of any significant trees and vegetation on the site to provide maximum erosion control and overland flow benefits;
      - (C) Indigenous plants used to the greatest extent possible;
      - (D) Landscaping, ground cover and trees are of the appropriate species and are planted in a manner that will maintain water quality.
- (7) *WQIA submission and review requirements.*
- a. Copies of all drawings, plats, and other applicable information shall be submitted to the director for review in accordance with procedures established by the director.
  - b. All information included in the WQIA shall be certified as complete and accurate by a qualified professional.
  - c. The WQIA shall be submitted with the application for a land disturbance permit, building permit, or with the application for site plan, or preliminary or final subdivision approval. If multiple applications for approval are required for a development, the WQIA shall be submitted with the first application filed.

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- d. As part of any WQIA submittal, the director may request review by the Department of Conservation and Recreation (DCR) Chesapeake Bay Local Assistance Division. The director shall determine if such review is warranted for approval of the WQIA, in which case the director will request DCR/CBLA to review the WQIA and respond with written comments. Comments received from DCR/CBLA will be incorporated into the final review of the WQIA by the director.

(8) *Evaluation procedure.*

- a. The director will evaluate the WQIA to determine if the proposed development is consistent with this article and make a finding based upon the following criteria:
  - 1. Within any RPA, the proposed development is water-dependent, redevelopment or otherwise conforms to the requirements of this article;
  - 2. The disturbance of wetlands will be minimized;
  - 3. The development will not result in significant disruption of the hydrology of the site;
  - 4. The development will not result in unnecessary destruction of plant materials on site;
  - 5. Proposed erosion and sediment control concepts are adequate to achieve the required reductions in runoff and prevent off-site sedimentation;
  - 6. Proposed stormwater management techniques are adequate to control runoff and achieve the required standard for pollutant control;
  - 7. Proposed revegetation of disturbed areas will provide adequate erosion and sediment control benefits;
  - 8. The design and location of any proposed drainfield will be in accordance with the requirements of this article;
  - 9. The development, as proposed, is consistent, to the extent possible, with the purpose and intent of this article.

(m) *Plan of development process.*

- (1) Prior to any development preparation activities such as clearing and grading, or the issuance of any building permit, the director shall ensure that the provisions of this article are met. This shall be accomplished either by requiring a certification as provided for in sections 86-137(j) and (k) of this article, or with the requirement for a minor or major WQIA as provided for in section 86-137(l) of this article. A duly approved certification or WQIA shall serve, in conjunction with an approved erosion and sediment control plan as provided for in chapter 30, article III of the Code of King William County, as an environmental site assessment for purposes of meeting regulations applicable to CBPAs.
- (2) Compliance, as applicable, with the provisions either for subdivision approval as set forth in article XVIII, or site plan approval as set forth in article XVII, supplemented by an environmental site assessment shall be a prerequisite to any land disturbance, development or redevelopment. Further, the director shall require evidence of all wetlands and other permits required by law prior to authorizing grading or other on-site activities.
- (3) The installation and completion of all features represented in the WQIA shall be required prior to issuance of a certificate of occupancy except that, in lieu of installation of landscaping prior to occupancy, the director may accept a performance agreement requiring installation within one year. All other required measures, including stormwater management facilities, shall be completed prior to issuance of any occupancy permit, or, in the case of subdivision, shall be secured and completed in accordance with requirements of the subdivision article.
- (4) Notations shall be required, as applicable, concerning provisions for maintenance of an undisturbed and vegetated 100-foot buffer, and locations of reserve sewage disposal sites and the five-year septic

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pump-out requirement, with respect to all construction plans, land disturbance permits, building permits, site plans and subdivision plats. The director shall also require those plans, permits and plats to include delineation of the buildable area allowed on each lot, based on the requirements of this article, zoning requirements and any other relevant easements or limitations regarding lot coverage, and a notation on plats stating that permitted development in the resource protection area is limited to water-dependent facilities or redevelopment.

- (n) *Exemptions for public utilities, railroads, public roads and facilities.*
- (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:
    - a. Regulations promulgated pursuant to the Virginia Erosion and Sediment Control Law and the Virginia Stormwater Management Act;
    - b. An erosion and sediment control plan and a stormwater management plan approved by the Virginia Department of Conservation and Recreation; or
    - c. Local water quality protection criteria at least as stringent as the above state requirements will be deemed to constitute compliance with this article.
  - (2) The exemption of public roads is further conditioned on the optimization of the road alignment and design, consistent with other applicable requirements, to prevent or otherwise minimize:
    - a. Encroachment in the RPA; and
    - b. Adverse effects on water quality. Appurtenant structures include but are not limited to bridges, culverts, guard rails, drainage facilities, lighting, traffic control devices, fences and berms.
  - (3) Construction, installation, and maintenance of water, sewer, natural gas, fiber-optic and underground telecommunications and cable television lines owned, permitted or both, by the county, shall be exempt from the requirements of this article provided that the director determines that:
    - a. To the degree possible, the location of such utilities and facilities is outside the RPA;
    - b. No more land will be disturbed than is necessary to provide for the proposed utility installation;
    - c. All construction, installation, and maintenance of such utilities and facilities are in compliance with all other applicable federal, state and local requirements and permits and designed and conducted in a manner that protects water quality; and
    - d. Any land disturbance exceeding 2,500 square feet complies with the erosion and sediment control ordinance.
  - (4) Silvicultural activities are exempt from the requirements of this article provided that such activities adhere to water quality protection procedures prescribed by the Virginia Department of Forestry in "Virginia's Forestry Best Management Practices for Water Quality."
  - (5) The following land disturbances in RPAs shall be exempted by the director from the requirements of this article; provided that any land disturbance exceeding 2,500 square feet shall comply with the erosion and sediment control article:
    - a. Water wells and passive recreation facilities such as boardwalks, trails, and pathways, provided that the applicant submits a WQIA or other information deemed necessary by the director demonstrating that the intended use will not significantly deteriorate water quality; and
    - b. Historic preservation and archaeological activities, provided that the applicant submits a WQIA or other information deemed necessary by the director demonstrating that:

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1. Any required permits, except those to which this exemption specifically applies, shall have been issued; and
  2. The intended activity will not significantly degrade water quality.

(o) *Exceptions.*

- (1) Exceptions to development established for the RPA shall only be permitted pursuant to specific approval for such encroachment granted by the planning commission in accordance with 9VAC25-830-150. Any such exception to the RPA requirements set forth in sections on RPA lot size and development criteria shall occur only upon a finding by the planning commission, following public notice and a public hearing, that the following provisions are met:
  - a. The requested exception is the minimum necessary to afford relief;
  - b. Granting the request will not confer upon the applicant special privileges that are denied to other property owners who are similarly situated;
  - c. The exception is in harmony with the purpose and intent of this section and is not of substantial detriment to water quality;
  - d. The exception request is not based on conditions or circumstances that are self-created or self-imposed;
  - e. There is compliance with all requirements of this section other than those for which an exception is granted; and
  - f. Water quality shall be preserved by imposing reasonable and appropriate conditions, as warranted, that will prevent the allowed activity from causing a degradation of water quality.
- (2) The planning commission may require any information necessary to make a determination regarding a request for such exception including, but not limited to, a WQIA as set forth in section 86-137(l).
- (3) Exceptions to the required provisions of this article, other than as noted heretofore in section 86-137(o), may be granted upon written request to the director provided that the director determines through an administrative process that the following provisions are met:
  - a. The exception is the minimum necessary to afford relief; and
  - b. Reasonable and appropriate conditions are applied, as necessary, to meet the purpose and intent of this article.
  - c. A requested exception to the general performance criteria set forth in section 86-137(g) is found to comply with the standards set forth in section 86-117(o)(1)a. through f.

(p) *Nonconforming uses and noncomplying structures.* The lawful use of a building or structure which existed on November 22, 2004, and which is not in conformity with the provisions of this section may be continued pursuant to article IX, entitled nonconforming uses, of the King William County Zoning Ordinance and other applicable regulations contained in this chapter and state law.

(q) *Supplemental regulations; more restrictive apply.* The regulations of this section shall serve as a supplement to applicable federal, state and local laws and regulations, including the zoning and subdivision ordinances. In the event there is a conflict, the more restrictive requirements shall apply.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

State law reference(s)—Chesapeake Bay Preservation Act, Code of Virginia, § 10.1-2100 et seq.; board to develop criteria, Code of Virginia, § 10.1-2107; local Chesapeake Bay Preservation Areas, Code of Virginia, § 10.1-2109; wetlands, Code of Virginia, § 28.2-1300 et seq.; Ground Water Management Act of 1992, Code of Virginia, § 62.1-254 et seq.

Secs. 86-138, 86-139. Reserved.

**ARTICLE VII. USE MATRIX**

**Sec. 86-140. Use matrix.**

- (a) The following table provides all use types and all zoning districts where the use type is permitted ("R") or permitted with approval of a conditional use permit ("C") in accordance with the requirements of this chapter.
- (b) All uses listed in Tables 1 and 2 not specifically permitted ("R") or permitted with approval of a conditional use permit ("C") are prohibited.
- (c) *Overlay districts.* Regardless of whether the use table lists a use type as permitted or permitted with approval of a conditional use permit, the use type shall be restricted or prohibited by the requirements of any overlay district.

King William County Use Matrix						
Uses by Category	AC	RR	R-1	B-1	B-2	I
<b>R = by-right use</b>						
<b>C = conditional use</b>						
<b>AGRICULTURAL</b>						
Abattoir	C					C
Agriculture	R	R				
Agriculture, intensive	R					
Agritourism	R					
Biomass	R					R
Conservation easement	R	R	R	R	R	R
Fish hatchery	R					
Forestry	R	R				R
Greenhouse, commercial	R			C	C	R
Greenhouse, private	R	R	R			
Livestock market	C					
Nursery	R			R	R	R
Sawmill, permanent	C					R
Sawmill, temporary	R					R
Small-scale conversion of biomass	R					R
Stable, commercial	R					
Stable, private	R	R	R			
Stockyard	C					C
Wayside stand	R			R	R	
Wildlife reservation	R					
Winery	R					
Wood yard	R					R
<b>RESIDENTIAL</b>						
Accessory Dwelling Unit	R	C	C			

Boathouse – Residential >16’ in height	C	C	C			
Boathouse – Residential <16’ in height	R	R	R			
Boatshed	R	R	R	C	C	C
Dwelling, attached single-family	C	C	R			
Dwelling, detached single-family	R	R	R			
Dwelling, manufactured home	R	R	R			
Dwelling, modular home	R	R	R			
Dwelling, multi-family		C	C			
Dwelling, townhouse	C	C	C			
Dwelling, two-family	C	C	R			
Family health care structure, temporary	R	R	R			
Group home	R	R	R			
Guesthouse	R					
Living quarters	R			R	R	
Manufactured home park		C				
<b>COMMERCIAL</b>						
Auction house				R	R	R
Automobile auction house					R	R
Automobile repair service					R	R
Automobile dealership					R	R
Bed and breakfast	R	C		R		
Boarding house (rooming house)	C			C	C	
Boathouse – Commercial	C	C	C	C	C	C
Brewery or distillery					R	R
Brewpub or tasting room				R	R	R
Campground	C					
Camp, day or youth	C					
Camp, recreational	C					
Car wash				C	R	
Commercial indoor amusement				R	R	
Commercial indoor entertainment				R	R	
Commercial indoor sports and recreation					R	R
Commercial outdoor entertainment				C	C	R
Commercial outdoor sports and recreation	C			C	C	C

Commercial vehicle repair service					R	R
Consumer repair service				R	R	
Convalescent home				R	R	
Crematory				R	R	R
Day care center				R	R	
Equipment sales and rental					R	R
Event venue	C	C	C	C	C	
Extermination business					R	R
Family day home (5–12 individuals)	C	C	C			
Farm supply and service establishment					R	
Farmer's market	R			R	R	
Financial institution				R	R	
Flea market, indoor				R	R	
Flea market, outdoor					C	R
Funeral home	C			R	R	R
Garden center				R	R	
Gasoline station				R	R	
General retail				R	R	
Halfway house	C			C	C	
Home occupation, Type I	R	R	R			
Home occupation, Type II	C	C	C			
Hotel	C			C	C	
Kennel, commercial	C			C	C	R
Life care facility				R	R	
Manufactured home sales					R	R
Marina	C			C	C	
Mini-warehouse facility					R	R
Office, general				R	R	R
Office, medical				R	R	
Outdoor storage				C	C	R
Parking facility				C	R	R
Pawn shop				C	C	
Personal improvement services				R	R	
Personal services				R	R	
Recreational vehicle sales and service					R	R
Restaurant, drive-in				R	R	
Restaurant, fast food				R	R	
Restaurant, general				R	R	
Restaurant, mobile				R	R	R
Restaurant, small				R	R	
Shooting range, indoor				C	C	C

Shooting range, outdoor	C					
Shooting range, private	R	R				
Shopping center				R	R	
Short term business rental	R	C	C			
Specialty food shop	C			R	R	
Specialty shop				R	R	
Store, grocery					R	
Store, neighborhood convenience	C			R	R	
Taxidermy	C				R	R
Trade school	C			R	R	R
Veterinary hospital	C			R	R	R
Wholesale sales					R	R
<b>INDUSTRIAL</b>						
Industry, heavy						C
Industry, light					C	R
Industry, medium						R
Petroleum or chemical storage over 30,000 gallons						C
Petroleum or chemical storage up to 30,000 gallons						R
Power generation plant						C
Railroad facility						C
Research and development				R	R	R
Resource extraction	C					R
Salvage and scrap service						C
Sanitary landfill						C
Truck/freight terminal						R
Warehousing and distribution						R
<b>CIVIC</b>						
Community center			R	R	R	
Correctional institution						C
Cultural institution	C	C	C	R	R	C
Educational facility	C	C	C	R	R	
Emergency shelter	C			R	R	R
Governmental facility				R	R	R
Greenway	R	R	R	R	R	R
Hospital				R	R	
On-site sewage disposal	R	R	R	R	R	R
On-site water supply	R	R	R	R	R	R
Post office				R	R	R
Public assembly					C	C

Public maintenance and service facility					R	R
Public park and recreational area	R	R	R	R	R	R
Public recreation assembly	R	R	R	R	C	
Public water system	R	R	R	R	R	R
Public sewer system	C	C	R	R	R	R
Recreation facility, public	C			C	R	
Recycling center					C	R
Refuse collection site						C
Religious assembly	R	R	R	R	C	C
Transfer station	R	R	R	R	R	R
Utility service, major	C	C	C	C	C	R
Utility service, minor	R	R	R	R	R	R
Water control structure	R	R	R	R	R	R
Water tower			R	R	R	R
<b>MISCELLANEOUS</b>						
Accessory structure	R	R	R	R	R	R
Airport or helipad	C					C
Bikeway	R	R	R	R	R	R
Cemetery	R	R		R	R	
Club, private	C			R	R	R
Country Club	C	C	C	C	C	
Hunt camp	R					
Kennel, private	R	R	C			
Picnic shelter or area	R	R	R	R	R	R
Pier, private	R	R	R	R	R	R
Pier, commercial	C	C	C	C	C	R
Pier, community	C	C	C			
Pier gazebo, large	C	C	C	C	C	C
Pier gazebo, small	R	R	R	R	R	R
Recreation facility, private	R	R	R			
Shooting, private recreational	R	R				
<b>TELECOMMUNICATIONS AND SOLAR FACILITIES</b>						
Amateur radio antenna	R	R	R	R	R	R
Antenna, private	R	R	R	R	R	R
Base station						R
Broadcasting or communication tower	C					C
Communications service					C	R
Micro-wireless facility	R	R		R	R	R
Small-cell facility	R	R	R	R	R	R
Solar facility, accessory	C			C	C	R
Solar facility, roof small-scale	R	R	R	R	R	R

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Solar facility, utility-scale	C					
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(Ord. No. 09-21R2, Att. A, 9-27-2021; Ord. No. 08-22, 8-22-2022, Ord. 13-24, 7-22-24)

**Secs. 86-141—86-150. Reserved.**

## **ARTICLE VIII. USE AND DESIGN STANDARDS**

### **DIVISION 1. AGRICULTURAL USES**

**Sec. 86-151. Agriculture, intensive.**

Intensive agriculture includes the commercial raising of cattle, swine, poultry, and the drying and storage of grains, peas, beans and other agriculture products except for hay. All such facilities shall:

- (1) Setback 100 feet from any public road;
- (2) Setback 200 feet from any residential district;
- (3) Setback 400 feet from any residence not located on the same parcel, religious assemblies, public or private schools, and other public-owned facilities;
- (4) Submit an approved nutrient management plan and any federal and state permits.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

**Sec. 86-152. Agritourism.**

- (a) *Findings.* The board hereby finds that the standards and restrictions in this section were established by considering their economic impact on agricultural operations and the agricultural nature of the events and activities authorized herein. The board further finds that one or more substantial impacts on the public health, safety, or welfare have been identified when a conditional use permit is required by this section. In addition, the board finds that the thresholds and standards established herein are the minimum necessary in order to prevent substantial impacts and thereby endanger the public health, safety, or welfare.
- (b) *Applicability.* This section applies only to the events and activities and does not apply to the agricultural operation itself.
- (c) *Agritourism shall comply with the following general standards or apply for a conditional use permit:*
  - (1) Any agriculture operation event established in the county on or after the date of adoption of this chapter, may be held only if the agricultural operation to which it is subordinate has a minimum of five acres of land devoted to agricultural production on-site, or on any abutting lot under the same ownership, and at least one growing season each calendar year.
  - (2) The event or activity will generate less than 100 visitor vehicle trips per day and each event or activity would have 150 or fewer attendees at any single time.
  - (3) Parking may be provided on a pervious or impervious surface.

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- (4) There shall be no outdoor use of amplified music between 9:00 p.m. and 7:00 a.m. on Sunday through Thursday and 10:00 p.m. and 7:00 a.m. on Friday through Saturday.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

**Sec. 86-153. Small-scale conversion of biomass.**

Small-scale conversion of biomass is subject to the following:

- (1) At least 50 percent of the feedstock is produced either on site or by the owner of the conversion equipment;
- (2) Any structure used for the processing of the feedstock into energy occupies less than 4,000 square feet, not including the space required for storage of feedstock;
- (3) The facility is setback 100 feet from any public road;
- (4) The facility is setback 200 feet from any residential or business district;
- (5) The facility is setback 400 feet from any residence no located on the same parcel, religious assemblies, public or private schools, and other public-owned facilities.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

*DIVISION 2. RESIDENTIAL USES*

**Sec. 86-154. Accessory dwelling unit.**

An accessory dwelling unit shall be located only on a parcel with an existing principal dwelling, subject to these restrictions and all other applicable ordinance requirements.

- (1) Only one accessory dwelling is allowed per parcel (inside the existing dwelling, attached to the existing dwelling or a detached structure).
- (2) An accessory dwelling unit that is wholly contained within the footprint of the existing primary dwelling, such as a basement, attic, or additional level is allowed in the A-C, R-R and R-1 Districts.
- (3) An accessory dwelling unit that is attached as an expansion of the primary single-family dwelling, or a dwelling unit located above a detached accessory structure, shall be no more than 25% of the size of the finished above-grade square footage of the primary dwelling unit located on the subject property is allowed in the A-C, R-R and R-1 Districts.
- (4) An accessory dwelling unit that is detached shall be no more than 1000 square feet of finished living space. Detached accessory dwelling structures are only allowed in the A-C and R-R districts. The addition of an attached garage to serve a detached ADU may be allowed if a conditional use permit is approved by the Board of Supervisors.
- (5) Detached accessory dwelling units shall not be located in a cluster subdivision.
- (6) Accessory dwelling units shall only be occupied by an immediate family member. For the purpose of this section, a member of the immediate family is defined as stated in the Code of Virginia, § 15.2-2244 A. as any person who is a natural or legally defined offspring, stepchild, spouse, sibling, grandchild, grandparent or parent of the owner.
- (7) A recreational vehicle, travel trailer, camper, or similar vehicle shall not be used as an accessory dwelling.

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- (8) An accessory dwelling shall obtain all proper permits and comply with all applicable requirements of the Virginia Department of Health.
  - (9) Accessory dwellings shall comply with all applicable provisions of the Industrialized Building Safety Law (§ 36-70 et seq.) and the Uniform Statewide Building Code (§ 36-97 et seq.).

(Ord. No. 09-21R2, Att. A, 9-27-2021; Ord. No. 08-22, 8-22-2022; Ord. No. 05-2026, 2-9-2026)

### **Sec. 86-155. Dishes.**

Microwave antennae (dishes) in excess of 24 inches in diameter used for reception of television signals from satellites shall not be located within the minimum front yard setback.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

### **Sec. 86-156. Electric, telephone, cable TV, and service lines.**

House service lines and cables for electric power utilities, telephone and cable television service to residential uses shall be considered an accessory use under this chapter.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

### **Sec. 86-157. Family health care structures, temporary.**

Temporary family health care structures shall be subject to the following standards:

- (1) Such structures shall comply with all setback requirements that apply to the primary structure.
- (2) Only one family health care structure shall be allowed on a lot or parcel of land.
- (3) The structure shall be no more than 300 gross square feet and shall comply with all applicable provisions of the Industrialized Building Safety Law (§ 36-70 et seq.) and the Uniform Statewide Building Code (§ 36-97 et seq.).
- (4) Prior to installing a temporary family health care structure, a permit must be obtained from the county and associated fees paid.
- (5) Any family health care structure shall comply with all applicable requirements of the Virginia Department of Health.
- (6) No signage advertising or promoting the existence of the structure shall be permitted on the exterior of the structure or anywhere on the property.
- (7) Any temporary family health care structure shall be removed within 60 days of the date on which the temporary family health care structure was last occupied by a mentally or physically impaired family member receiving services or assistance.
- (8) The county may revoke the permit if the permit holder violates any provision of this section.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

State law reference(s)—Code of Virginia, § 15.2-2292.1.

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### **Sec. 86-158. Living quarters.**

On-site living quarters shall only be an accessory to a commercial use and shall be subject to the following:

- (1) Living quarters may be occupied only by owners or employees of the establishments, including on-site security officers, scientists, and lab technicians.
- (2) Any dwelling may be detached from the establishment to which it pertains or within the same structure as the establishment, subject to King William County building official and fire official approvals.
- (3) Not more than one dwelling unit or living quarters shall be permitted per establishment.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

### **Sec. 86-159. Manufactured home park.**

- (a) The park shall contain not less than two contiguous acres and shall be under single ownership or control, except that minimum area may be one acre where the proposed park is to be located adjacent to an existing manufactured home park containing an area of one acre or more.
- (b) The minimum width and/or depth for a manufactured home park shall be 200 feet.
- (c) A portion of a manufactured home park consisting of not more than 25 percent of the area of the park may be designated for temporary parking of travel trailers, campers, or other recreational vehicles.
- (d) The overall density of the manufactured home park shall not exceed six units per gross acre and the net density of any particular acre within such park, whether used for manufactured homes or travel trailers, shall not exceed 12 units per acre. Land subject to flooding or otherwise unsuitable for residential use shall be excluded from density computations.
- (e) The minimum site area for individual manufactured homes shall be 3,600 square feet, and no manufactured home shall occupy more than 25 percent of the area of the lot on which it is situated. The minimum width for each lot shall be two and one-half times the width of the manufactured home, or 25 feet, whichever is greater. Minimum lot widths shall be measured at right angles to the long axis of the lot at the setback line or rear of the parking stand, whichever is less. No more than one manufactured home shall be parked on any one site, and no manufactured homes shall be offered for sale or sold. The minimum site area for travel trailer or camper sites shall be 2,500 square feet.
- (f) The manufactured home park shall comply with all sanitary and other requirements prescribed by law or regulations. Each manufactured home site shall be provided with individual water and sewer connections to central sewer and water systems designed to serve the entire manufactured home park.
- (g) Each manufactured home site shall be provided with electrical outlets installed in accordance with applicable codes and ordinances.
- (h) No manufactured home shall be parked closer than 75 feet from a public street or road, ten feet from an interior access drive, or 25 feet from any other manufactured home or service building, and no part of a manufactured home shall extend closer than five feet to the boundaries of the individual manufactured home site.
- (i) Access to the manufactured home park shall not be from a minor residential street. Number and location of access drives shall be controlled for traffic safety and protection of surrounding properties, and no manufactured home space shall be designed for direct access to a street outside the boundaries of the park. Interior access drives shall be properly lighted and maintain a right-of-way 50 feet in width, hard surfaced and maintained at least 20 feet in width in accord with applicable county specifications and ordinances. Turning radius at the end of a cul-de-sac shall be 35 feet.

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- (j) At least one off-street parking space shall be provided on each manufactured home site, and in addition one off-street parking space shall be provided per manufactured home in other locations convenient to groups of homes. On-street parking shall not be counted toward this requirement.
  - (k) The topography of the site shall be such as to facilitate drainage, and adequate drainage facilities shall be provided.
  - (l) The overall design shall evidence a reasonable effort to preserve the natural amenities of the site.
  - (m) The manufactured home park shall be surrounded by a landscaped or wooded strip of at least 50 feet wide along all street or road frontage and along all exterior boundary lines.
  - (n) Each manufactured home park shall provide not less than one multiple purpose developed recreational area of at least 10,000 square feet in area for the use of occupants of the park.
  - (o) Any part of the manufactured home park not used for buildings or other structures, off-street parking, recreation uses, drying yards, or garbage and trash collection stations or other uses shall be planted with appropriate ground cover, trees, flowers, shrub and grass lawns, all of which shall be properly maintained.
  - (p) Each manufactured home site shall provide an appropriate outdoor living space to supplement limited interior space of a manufactured home. The minimum size of each such space shall be 250 square feet. Every such space shall be convenient to the entrance of the manufactured home, appropriately related to open areas of the lot and other facilities, adapted to terrain and natural features, and related to anticipated manufactured home models.
  - (q) The park owner shall require and the unit owner shall ensure that space beneath each manufactured home shall be skirted with approved material in accordance with the requirements of the zoning administrator.
  - (r) Corners for each manufactured home site shall be clearly defined by permanent ground markers corresponding to the approved site plan.
  - (s) All utilities shall be underground, except control instruments and substations which must be screened by planting or ornamental walls or fences. No overhead wires shall be permitted within the park.
  - (t) No existing manufactured home park shall be enlarged or extended unless the entire park is brought into substantial compliance with all requirements for a new manufactured home park.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

### **Sec. 86-160. Recreational vehicles for permanent living quarters.**

No recreational vehicle or similar equipment shall be used for permanent living, sleeping, or other occupancy when parked or stored on a residential lot, or in any other location not approved for such use.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

### **Sec. 86-161. Temporary emergency housing.**

Nothing in this chapter shall prohibit the temporary placement of a manufactured home on a lot as an accessory structure strictly for the purpose of providing emergency housing for displaced occupants; provided, however, that:

- (1) The emergency housing is necessitated because an occupied single-family dwelling or manufactured home was substantially destroyed or rendered unlivable because of burning, flooding, or was otherwise damaged or destroyed by any cause to a degree so as to make it unsafe or unhealthy for human occupancy.

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- (2) The manufactured home is placed in the location on the property specified by the zoning administrator.
  - (3) The manufactured home is provided with a water supply and sewage disposal system approved by the health officer.
  - (4) The manufactured home shall be removed from the site when the damaged dwelling is repaired or replaced or within 12 months, whichever shall come first. The zoning administrator may, however, grant an extension not to exceed an additional six months.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

**Sec. 86-162. Townhouse and single family attached dwellings.**

- (a) No more than eight units shall be constructed contiguously.
- (b) The façades of individual units within any contiguous row shall be sufficiently varied in their materials, design, or appearance as to visually distinguish them as individual dwelling units.
- (c) Any provided open space shall be owned and maintained by the developer, until such time as it is turned over to the ownership and maintenance of an approved homeowners' association.
- (d) Public water and public sewer service shall be provided.
- (e) Each unit shall be erected or placed on a specifically designated land area or on a lot containing not less than 2,000 square feet. The remaining area required to meet minimum district lot area requirements shall be incorporated into useable and accessible common open space or spaces and/or private vehicular access or parking areas.
- (f) The development or project shall be designed to promote harmonious relationships with surrounding adjacent and nearby developed properties and to this end may employ such design techniques as may be appropriate to a particular case.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

**Secs. 86-163—86-169. Reserved.**

*DIVISION 3. CIVIC USES*

**Sec. 86-170. Cemeteries.**

- (a) The approval of a cemetery shall include the following uses without further zoning approval required: all uses necessarily or customarily associated with interment of human remains, benches, ledges, walls, graves, roads, paths, landscaping, and soil storage consistent with federal, state, and local laws on erosion and sediment control.
- (b) Mausoleums, columbaria, chapels, administrative offices, and maintenance storage areas that are shown in the applicant's plan of development shall not require additional local legislative approval provided such structures and uses are developed in accordance with the original plan of development. This subsection shall not supersede any permission adopted pursuant to Code of Virginia, § 15.2-2306.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

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**Sec. 86-171. Public maintenance and service facility.**

- (a) The outside storage for supplies, materials, or heavy equipment must be in the rear yard and screened from any non-industrial zoned parcels or rights-of-way in accordance with the landscape section of this chapter.
- (b) Outside storage areas shall not exceed 35 percent of the total area of the site.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

**Sec. 86-172. Recreation facility, public.**

- (a) *General standards.* Any outdoor activity area, swimming pool, ball field, or court which adjoins a residential use type shall include screening and buffering in accordance with the landscape section of this chapter.
- (b) Where nighttime lighting is proposed it shall be fully shielded and large evergreen trees shall be required to appropriately screen any adjoining residences in accordance with the landscape section of this chapter. Any such night-time lighting shall be constructed in accordance with the lighting standards set forth in this chapter.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

**Secs. 86-173—86-179. Reserved.**

*DIVISION 4. COMMERCIAL USES*

**Sec. 86-180. Business district generally.**

Permitted stores, shops, offices, or businesses in the B-1 and B-2 districts shall in general be conducted wholly within a completely enclosed building and except for temporary display items as limited by the regulations of this chapter there shall be no exterior storage of merchandise or materials unless these are enclosed within a masonry wall, screening fence, hedge, or landscape screen not less than six feet in height.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

**Sec. 86-181. Accessory apartments.**

- (a) The principal use of the property is primarily for business;
- (b) The floor area occupied by the accessory apartment shall be no larger than one-half the area of the total floor area occupied by the main business building, but in no case shall the accessory apartment occupy more than 1,200 square feet; and
- (c) The residential use is in accord with the on-site business and adjacent land uses within the community.
- (d) Parking for the business must meet the requirements outlined in the parking section of this chapter plus one space per apartment.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

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### **Sec. 86-182. Automobile repair service.**

All automobile repair services shall meet the following minimum standards:

- (a) All vehicles stored on the premises in excess of 72 hours shall be placed in a storage yard.
- (b) No exterior display or storage of new or used automobile parts is permitted.
- (c) There shall be no storage of motor vehicles in landscaped areas or within ten feet of the public road right-of-way.
- (d) The use shall be designed to ensure proper functioning of the site in regard to vehicle stacking, circulation, and turning movements.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

### **Sec. 86-183. Bed and breakfast.**

Bed and breakfasts shall be subject to the following minimum standards:

- (1) The operator shall hold a valid business license from the county and, where applicable, a permit from the Department of Health.
- (2) A registration book must be maintained for one year and be made available for review by the county upon request.
- (3) Every room occupied for sleeping purposes shall comply with Uniform Statewide Building Code.
- (4) Signage must comply with the signage regulations of this chapter.
- (5) No changes shall be made to the building exterior that would detract from its appearance as a single family dwelling.
- (6) Physical and aesthetic impact of required off-street parking shall not be detrimental to the existing character of the house and lot or to the surrounding neighborhood.
- (7) Any additions or modifications for the bed and breakfast shall be residential in appearance and compatible with the original structure and surrounding structures and the overall footprint of the original structure.
- (8) Bed and breakfasts are to be integrated into the residential fabric of the neighborhood in which they are located. A proposed bed and breakfast should not affect the integrity or character of the single-family residential neighborhood for which it is proposed.
- (9) Off-street parking shall be screened from surrounding family residences by landscaping or fencing which is compatible with the neighborhood.
- (10) Guest rooms shall not have cooking facilities.
- (11) The maximum stay for a guest shall be 14 days.
- (12) Bed and breakfast establishments are permitted solely to provide lodging and breakfast accommodations. Additional activities, including receptions, parties and other events, are not permitted unless specifically authorized by the conditional use permit. Authorization for additional activities will be based on the suitability of the house and property for hosting such events. Specific consideration will be given to the floor plan of the house, the proximity of the house to neighboring houses, the size of the lot, provisions to buffer the effects of such activities from adjacent property and the ability to provide parking for such events.

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(13) Bed and breakfast establishments must be occupied by the owner except as outlined in the definitions.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

**Sec. 86-184. Camp, day or youth.**

- (a) The youth group cabin and campgrounds are for the exclusive use of youth groups, which are defined as recognized, nonprofit organizations, or affiliated with a school, church, or recognized youth organization whose members are 17 or younger. A recognized group must be organized with by-laws, have an Article of Incorporation filed with the Secretary of State, and be insured with a current certificate of insurance on file.
- (b) Only members of qualifying groups with their accompanying leaders may camp in these areas.
- (c) Adult supervision of one group leader 21 or older for every ten members 17 or younger is mandatory for the duration of the stay.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

**Sec. 86-185. Campgrounds or camping area.**

- (a) The area shall contain not less than two contiguous acres.
- (b) The overall density of camping sites shall not exceed 20 units per acre, and no site shall be less than 2,000 square feet in area.
- (c) The camping area shall be properly located with respect to access roads and existing and future developed areas.
- (d) The camping area shall comply with all sanitary and other requirements prescribed by law or regulations.
- (e) The overall design shall evidence a reasonable effort to preserve the natural amenities of the site.
- (f) Accessory structures or recreation facilities, washrooms, swimming pools, game courts, and the like shall not be located closer than 100 feet to any campground boundary or closer than 200 feet to any property line.
- (g) Campsites in a campground are limited to one camping unit and a maximum of six persons or immediate family members.
- (h) No person directly or indirectly, shall conduct, control, manage, operate, or maintain a campground, or offer campsites for occupancy within the county without first making application for and receiving a valid permit from the health department for the operation of the campground or campsite.
- (i) Camping is limited to 14 consecutive days.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

**Sec. 86-186. Car wash.**

All car washes shall comply with the following general standards:

- (1) Car washes shall be located and designed so that vehicular circulation does not conflict with traffic movements in adjacent streets, service drives, and/or parking areas.
- (2) Car washes shall be constructed in a design similar to the building character of the surrounding area.
- (3) Parking shall be located behind the front line of the principal building.
- (4) Any use that has a car wash shall treat the car wash as a primary use

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(5) No sales, repair, or outside storage of motor vehicles shall be conducted on the site.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

**Sec. 86-187. Commercial outdoor sports and recreation.**

- (a) Commercial outdoor sports and recreation areas shall include screening and buffering in accordance with the landscape section of this chapter.
- (b) Where nighttime lighting is proposed, it shall be fully shielded, and large evergreen trees shall be required to appropriately screen adjoining residences.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

**Sec. 86-188. Crematories.**

- (a) The minimum lot size is ten contiguous acres.
- (b) The minimum setback to existing off-site dwellings not owned by the subject property owner shall be 200 feet.
- (c) The minimum setback to property lines and/or rights-of-way not owned by the subject property owner shall be 100 feet.
- (d) The unit may not be used for disposal of waste, household trash, or garbage.
- (e) Only one animal or human may be cremated at a time.
- (f) The unit shall either be fully concealed within a building to appear as a garage, shed, barn or other permitted residential or agricultural accessory structure or shall be fully screened from view from adjacent properties not owned by the subject property owner and any public roads, rights-of-way or easements, by an opaque fence, new evergreen plantings, existing vegetation or natural topography, which must be maintained or replaced as needed to screen the unit.
- (g) The unit shall be located or constructed so that deliveries and pick-ups for cremation shall not be at any time visible from adjacent properties not owned by the subject property owner and any public roads, rights-of-way, or easements.
- (h) Any subjects not cremated immediately upon delivery shall be kept in refrigerated storage to prevent decomposition.
- (i) There shall be no on-site burials.
- (j) No on-site advertising signage shall be permitted for the use.
- (k) The use shall not produce hazardous, objectionable or offensive conditions at or beyond property line boundaries by reasons of dust, odor, lint, smoke, cinders, fumes, noise, vibration, heat, glare, solid and liquid wastes.
- (l) The use shall comply with all local, state and federal requirements, including, but not limited to, EPA and DEQ standards for air quality emissions.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

**Sec. 86-189. Day care center.**

The following general standards shall be applicable to day care centers.

- (1) All day care centers shall comply with any and all requirements of county and state codes, including but not limited to, obtaining a zoning permit, maintenance of a county business license, and maintain a state license in accordance with the state code, as applicable.
- (2) *Parking.* Designated arrival and departure zones shall be located adjacent to the day care center in such a manner that children do not have to cross vehicle traffic aisles to enter or exit the center. Arrival and departure areas shall include at least one parking/stacking space per ten children.
- (3) Outdoor recreation areas shall be safely separated from all parking, loading, and service areas.
- (4) *Fencing.* A fence a minimum of four feet in height shall completely enclose the outdoor recreation area so that children are safely contained.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

**Sec. 86-190. Drive-thru facilities.**

The following general standards shall apply to all drive-thru facilities:

- (1) All drive-thru entrances must be at least 50 feet from an intersection. The distance is measured along the property line from the junction of the two street lot lines to the nearest edge of the entrance.
- (2) Drive-thru facilities shall be located and designed so that vehicular circulation does not conflict with traffic movements in adjacent streets, service drives, and/or parking areas.
- (3) Off-street stacking spaces shall be provided in accordance with the following requirements:
  - a. Stacking spaces shall not interfere with travelway traffic or designated parking spaces.
  - b. Stacking spaces shall be at a minimum of 18 feet in length.
  - c. Stacking spaces shall be located to the side or rear of the principal structure and shall not be adjacent to any street right-of-way.
  - d. Off-street stacking spaces shall be provided in accordance with the following table:

<b>Stacking Space Requirements</b>		
Type of Activity	Required Number of Stacking Spaces	Start Point for Stacking Spaces
Financial Institutions—Automated teller machine	3	Teller machine
Financial Institutions—Bank teller lane	3	Teller window/tube
Professional Personal Service—dry-cleaning/laundry	3	Cleaner/laundry window
Retail Sales—Pharmacy	3	Pharmacy window
Restaurant	6	Order box/speaker
	4*	Pick-up window
Other	To be determined by County. Such determination shall consider any study prepared by an engineer or other qualified design professional.	
* These spaces are required in addition to the stacking spaces required to be located behind the order box/speaker and shall be located between the pickup window and the order box/speaker.		

(Ord. No. 09-21R2, Att. A, 9-27-2021)

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**Sec. 86-191. Event venue.**

Event venues shall comply with the following general standards:

- (1) Structures used for an event in whole or in part and requiring a building permit by King William County code must have a valid certificate of occupancy prior to use.
- (2) The minimum yard setbacks for the district shall apply to all structures, including but not limited to, tents and portable toilets that are used in whole or in part for the event.
- (3) Parking may be provided on a pervious or impervious surface. If the parking area is on grass or in a field, the applicant shall reseed or restore the parking area within 30 days of the event.
- (4) The private water supply and onsite sewage system serving the event shall be approved by the Virginia Department of Health.
- (5) Temporary improvements to accommodate the event, such as but not limited to tents and portable toilets, must be removed within 48 hours of the event's cessation.
- (6) Signs advertising the event must comply with the sign article of this chapter.
- (7) Lighting for the event must comply with the exterior lighting standards article of this chapter.
- (8) There shall be no outdoor use of amplified sound later than 9:00 p.m. on Sundays through Thursdays or later than 10:00 p.m. on Fridays or Saturdays.
- (9) The zoning administrator must be notified at least 30 days prior to each event.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

**Sec. 86-192. Financial institutions.**

Financial institutions shall comply with the following general standards:

- (1) Exterior lighting shall be compatible with the surrounding neighborhood and follow the standards in the article XII, lighting.
- (2) Entrances to the site shall be minimized and located in such a way as to maximize safety, maximize efficient traffic circulation, and minimize the impact on any surrounding residential neighborhood.
- (3) Loading areas shall be located as to minimize the impact on the surrounding neighborhood.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

**Sec. 86-193. Funeral home.**

The funeral home shall have a buffer between it and any residentially-zoned property abutting or directly across the street from the funeral home use in accordance with the landscape section of this chapter.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

**Sec. 86-194. Gasoline station.**

Gasoline stations shall be subject to the following general standards:

- (1) Applicants shall demonstrate that the use will be compatible with the neighborhood with regards to traffic circulation, parking, and appearance and size of structures.

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- (2) Entrances to the site shall be minimized and located in a manner promoting safe and efficient traffic circulating while minimizing the impact on the surrounding neighborhood.
  - (3) Dumpsters shall be located to minimize view from off-site areas and shall be fully screened by a wall constructed of the same material and color as the principal structure.
  - (4) The zoning administrator may require a traffic analysis to be provided by the applicant. Such analysis may include, but not be limited to, the proposed traffic flows, sight visibility for emerging vehicles, and other public safety factors.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

### **Sec. 86-195. Home occupations.**

All home occupations shall be subject to the following general standards:

- (1) The area devoted to the home occupation shall not exceed more than the equivalent of one-half of one floor of the dwelling unit.
- (2) Use shall be conducted as an accessory use and shall not change the character of the dwelling unit nor have any exterior evidence of its use.
- (3) No commodity is stored or sold, except such as are made on the premises.
- (4) The type and volume of traffic generated by a home occupation shall be consistent with the traffic generation characteristics of other dwellings in the area.
- (5) The home occupation shall not increase the demand on public water, public sewer, or garbage collection services to the extent that its use combined with the residential use of the dwelling shall not be significantly higher than is normal for residential uses.
- (6) The equipment used by the home-based business and the operation of the business shall not create any noise, vibration, heat, glare, dust, odor or smoke discernible at the property lines or use or store hazardous materials in excess of quantities permitted in residential structures.
- (7) The operator of a home occupation use shall secure a county business license and obtain a home occupation use permit.
- (8) Approval of a home occupation use shall be revocable at any time by the county because of the failure of the owner or operator of the use covered by the approval to observe all requirements of law with respect to the maintenance and conduct of the use and all conditions imposed in connection with the approval.
- (9) Approval of a home occupation use shall stand revoked, without any action by the county, if the use authorized has been intentionally abandoned, has ceased for a period of one year, has not commenced within one year of approval, or does not have a current business license.
- (10) No displays or signs shall be allowed indicating that the building is being utilized as a business.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

### **Sec. 86-196. Hotel.**

Additional standards in the B-2 district.

- (1) Parking shall be located behind the front line of the principal building.

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- (2) The structure shall match the scale and mass of the surrounding structures as determined by the zoning administrator.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

### **Sec. 86-197. Kennel, commercial**

All commercial kennels must:

- (1) Setback 100 feet from the property lines;
- (2) Setback 200 feet from any residence not on the associated parcel;
- (3) Provide screening that is approved by the zoning administrator that visually blocks the front and closest side property lines.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

### **Sec. 86-198. Marina or yacht club.**

- (a) The marina or yacht club shall comply with all other codes, regulations, laws, and ordinances, including the requirements of the U.S. Army Corps of Engineers.
- (b) The proposed design shall be satisfactory as regards to such safety features as location of fueling points, fuel stations, effect on navigation, and possibilities for water pollution.
- (c) The marina or yacht club shall be properly located with respect to access roads and existing and future developed areas.
- (d) The location of piers, docks, ramps, and other facilities and dredged areas shall be such as to minimize damage to wetlands.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

### **Sec. 86-199. Mini-warehouse facility.**

- (a) Ministorage warehouse buildings shall have the outer walls of such buildings made of material approved to be fire resistant under the Virginia Uniform Statewide Building Code.
- (b) Parking requirements shall be based on the number of storage units provided and the square footage of the office area. Parking spaces shall be located near the office at the rate of one space per 400 square feet of office area (minimum two spaces) plus one space per 50 storage units or fraction (minimum two spaces) plus one handicapped parking space.
- (c) Space shall be provided near the door to each storage unit, or near the access door for storage units inside a multistory building, sufficient for a car or truck to unload. Within the project, aisles which have units (doors) on both sides shall be a minimum of 30 feet wide (two ten-foot parking lanes; one ten-foot travel lane); for aisles with units (doors) on one side only, the aisle shall be a minimum of 25 feet (one ten-foot parking lane; one 15-foot travel lane). The aisle width from the road to the storage facility's entrance gate shall be a minimum of 25 feet wide.
- (d) The storage buildings shall be limited to three stories, with a maximum of 45 feet in height.
- (e) All storage buildings constructed along the perimeter of the site shall face the center of the property. All circulation on-site shall be designed to be internal; no aisles shall be placed between a building and a property line unless only one building is proposed on a site.

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- (f) The property shall be screened around the perimeter with the rear wall of a building, a six-foot fence, or plantings to serve as continuous screening.
  - (g) All on-site lighting shall be located and shielded to keep glare off of adjoining properties.
  - (h) Conversion of any self-storage facilities to any other uses shall require review for zoning compliance.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

### **Sec. 86-200. Office, medical.**

The following general standards shall apply to all medical offices.

- (1) Entrances to the site shall be minimized and located in such a way as to maximize safety, maintain efficient traffic circulation, and minimize the impact on any surrounding residential neighborhood.
- (2) Loading areas shall be sited in such a way to minimize the impact on any surrounding neighborhood.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

### **Sec. 86-201. Outdoor display.**

Areas associated with retail uses shall be subject to the following standards:

- (1) Shall be limited to a maximum of five percent of the total lot area.
- (2) All surfaces will be graded and drained as to dispose of all surface water accumulated within the area to a public storm drain or on-site detention at the approval of the county.
- (3) Asphalt or concrete walkways or aisles shall be provided to permit all-weather customer access to all areas of the outdoor display.

For all uses, outdoor display shall be prohibited in the following areas:

- (1) Any off-street parking or loading areas used to meet the minimum requirements of this chapter;
- (2) Fire lanes;
- (3) Travelways; or
- (4) Sidewalks five feet or less in width.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

### **Sec. 86-202. Pawn shop.**

No outdoor display of goods or storage shall be permitted.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

### **Sec. 86-203. Restaurant, drive-in.**

The following general standards shall apply to all drive-in restaurants:

- (1) Stacking spaces shall not interfere with the travel way traffic or designated parking spaces.
- (2) Stacking spaces shall be located to the side or rear of the principle structure and shall not be adjacent to any street right-of-way.

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- (3) Six stacking spaces shall be located behind the order speaker and four stacking spaces shall be located between the order speaker and the pickup window.
  - (4) Extended awnings, canopies, or umbrellas are permitted.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

### **Sec. 86-204. Restaurant, mobile.**

The following additional requirements apply to sales from a mobile restaurant operating on private property or within public spaces or rights-of-way, except when operating in conjunction with temporary, special events permitted under applicable sections of the county code:

- (1) Mobile restaurants must obtain a county mobile restaurant permit at least three business days prior to initial operation.
- (2) Mobile restaurants must maintain a valid business license issued by the county and a valid health permit issued by the Virginia Department of Health.
- (3) A mobile restaurant may operate on either public property or private business zoned property with written permission from the owner.
- (4) No items shall be sold other than food and beverages.
- (5) No music shall be played that is audible outside of the vehicle.
- (6) Mobile restaurant vehicles shall not block (i) the main entry drive isles or impact pedestrian or vehicular circulation overall, (ii) other access to loading areas, or (iii) emergency access and fire lanes. The mobile restaurant must also be positioned at least 15 feet away from fire hydrants, any fire department connection (FDC), driveway entrances, alleys, and handicapped parking spaces.
- (7) The vehicle and all accessory structures shall be removed each day.
- (8) No signs may be displayed except 1) those permanently affixed to the vehicle and 2) one, A-framed sign not to exceed four feet in height and six square feet of display for each of the two sides and the sign cannot block any passageways.
- (9) Trash receptacles shall be provided and all trash, refuse, or recyclables generated by the use shall be properly disposed of.
- (10) No liquid wastes shall be discharged from the mobile restaurant.
- (11) No mobile restaurant shall locate within 100 feet of the entrance to a business that sells food for consumption (determined by measuring from the edge of the mobile restaurant to the main public entrance of the restaurant) unless permission of the restaurant owner is provided.
- (12) No mobile restaurant shall locate within 100 feet of a single family or two-family residential use.
- (13) A mobile restaurant may operate at any farmer's market held on public or private property, if the food truck vendor is legally parked at the farmer's market and has received written permission from the farmer's market manager and displays such written permission upon request.
- (14) The operation of the mobile restaurant or use of a generator should not be loud enough to be plainly audible at 100 feet away. Excessive complaints about vehicle or generator noise will be grounds for the zoning administrator to require that the mobile restaurant vendor change location on the site or move to another property.

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- (15) The requirements of this section shall not apply to mobile restaurant vendors at catered events (events where the food is not sold through individual sales but provided to a group pursuant to a catering contract with a single payer).
  - (16) A mobile restaurant permit may be revoked by the zoning administrator at any time, due to the failure of the property owner or operator of the mobile restaurant permit to observe all requirements for the operation of mobile restaurants. Notice of revocation shall be made in writing to address of record for mobile restaurant permit holder. Any person aggrieved by such notice may appeal the revocation to the board of zoning appeals.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

### **Sec. 86-205. Sales offices; temporary.**

In any zoning district, a temporary office trailer designed as an office and lacking kitchen facilities may be placed on any active construction site for the duration of the construction project. Any such temporary office shall be removed from the site within ten days after completion of construction. A similar temporary office may be used as a sales office in any major subdivision as defined in article XVIII, subdivisions, provided that such office shall be removed from the subdivision within ten days after sale of the last lot, or six months after recordation of the final plat, whichever is sooner.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

### **Sec. 86-206. Shooting range, indoor.**

1. Applicants must clearly demonstrate that the use will be compatible with the neighborhood, particularly with regard to traffic circulation, parking and appearance. Drop-off areas may be located in the front yard but shall maintain a residential character and appearance.
2. Exterior lighting shall be compatible with the surrounding neighborhood and follow the lighting restrictions and guidelines of this chapter.
3. Entrances to the site should be minimized and placed in such a way as to maximize safety, maximize efficient traffic circulation, and minimize the impact on any surrounding residential neighborhood.
4. The scale, massing, and building design shall be compatible with the surrounding neighborhood.
5. The location, design, and construction of the site buildings shall prevent noise from being heard beyond the property boundaries.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

### **Sec. 86-207. Shooting range, outdoor.**

All such turkey shoots or shooting matches that use number eight shot shall be held such that all ranges shall be at least 300 feet from any and all property lines, and other size shot shall require a range of adequate distance as deemed appropriate by the zoning administrator utilizing information received from local or state law enforcement agencies or private ballistics experts.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

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### **Sec. 86-208. Shooting range, private.**

All private shooting ranges shall be at least 100 feet from a road and 300 feet from any dwelling that is not located on the subject property.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

### **Sec. 86-209. Shopping center.**

The following general standards shall apply to all shopping centers:

- (1) Entrances to the site shall be minimized and located in such a way as to maximize safety, maintain efficient traffic circulation, and minimize the impact on any surrounding residential neighborhood.
- (2) The scale, massing, and building design shall be compatible with surrounding developments. The structures shall be street oriented with pedestrian entrances from the street.
- (3) No outdoor display of goods shall be permitted.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

### **Sec. 86-210. Short term business rental.**

(a) *Definitions.* As used in this article, unless the context requires a different meaning:

*Booking transaction* means any transaction in which there is a charge to a transient by a host for the occupancy of any dwelling, sleeping, or lodging accommodations.

*Guest or transient* means a person who occupies a short-term business rental unit.

*Short term business rental* means a legally permitted dwelling unit or any portion of any legally permitted dwelling unit that is used or advertised for occupancy, for dwelling, lodging or sleeping purposes for a period of less than 30 consecutive days. This use type does not include bed and breakfast establishments and does not apply to month to month extensions following completion of a year's lease.

*Primary resident (or host)* means the owner of the short-term business rental, or lessee of the short-term business rental with a lease agreement that is one year or greater in length.

*Residential dwelling unit* means a residence where one or more persons maintain a household.

(b) *Business license and other requirements.*

- (1) No host shall operate a short-term business rental without first obtaining an annual business license from the county.
- (2) A registration book must be maintained for one year and be made available for review by the county upon request.
- (3) No signage advertising a short-term business rental shall be allowed.
- (4) License may be revoked if more than three substantiated complaints are received within a one-year period. Revocation is for a minimum of one year but may be permanent at the discretion of the county.
- (5) Any short-term business rental in violation of zoning regulations, including operation without a license, is subject to all relevant penalties as set forth by the county.
- (6) The physical and aesthetic impact of required off-street parking shall not be detrimental to the existing character of the house and lot or to the surrounding neighborhood.

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- (c) *Safety.* The unit shall meet all applicable building codes for a rental unit and the county may inspect any short-term business rental once per year for compliance with applicable building codes.
- (d) *Site address.* Building (dwelling) will have an approved address placed in a position that is plainly legible and visible from the street fronting the property. Structures obscured from street view or access roads in excess of 150 feet in length shall additionally post the numerical address at the roadway entrance.
- (e) *Use regulations.*
- (1) No recreational vehicles may be used in conjunction with the short-term business rental to increase the occupancy of the rental unit.
  - (2) The host shall not permit occupancy of a short-term business rental unit for a period of less than overnight.
  - (3) The name and telephone number of the host or the host's designee shall be conspicuously posted within the rental unit for guest(s).
  - (4) The principal guest of a short-term business rental unit shall be at least 18 years of age.
  - (5) The maximum number of adult guests in a short-term business rental unit is limited to six.
- (f) *Business license suspension or cancellation.*
- (1) A short-term rental business license may be suspended or cancelled for the following reasons:
    - a. Failure to collect and/or remit the transient occupancy tax.
    - b. Three or more substantiated complaints (including, but not limited to, noise and excess trash) within a 12-month period.
  - (2) Before any suspension or cancellation can be effective, the zoning administrator shall give written notice to the host. The notice of suspension or cancellation issued under the provisions of this chapter shall contain:
    - a. A description of the violation(s) constituting the basis of the suspension or cancellation;
    - b. If applicable, a statement of acts necessary to correct the violation; and
    - c. A statement that if no written response by the host is received by the planning department within 14 days from the date of the notice, the business license will be suspended or cancelled.
  - (3) The notice shall be given to the host by delivering a copy of the notice in person. If the host cannot be found, such notice shall be sent to the address of record by:
    - a. Certified mail or e-mail to the addresses in the business license form; and
    - b. A copy of the notice shall be posted in a conspicuous place on the premises.
  - (4) A copy of the notice will be provided to the commissioner of revenue to advise the business license may be revoked.
  - (5) Any determination made by the zoning administrator may be appealed to the board of zoning appeals as outlined in article IV.
  - (6) Penalty.
    - a. It shall be unlawful to operate a short-term business rental:
      1. Without obtaining a business license as required by this article,
      2. After a business license has been suspended or cancelled, or
      3. In violation of any other requirement of this article.

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- b. The penalty shall be a fine of \$500.00 per occurrence.

(7) *Exemptions.*

- a. Any residential dwelling unit which, at the time of adoption of this chapter, is being operated as a short term business rental and is properly licensed by the commissioner of revenue of the county shall not be subject to the provisions of this section "short term business rental" set forth below until December 31, 2020:
  - 1. The limitation on the total number of guests set forth in paragraph (e)(5) of this section.
- b. All other provisions of this section not listed above shall apply to all residential dwelling units. Beginning in calendar year 2021, this sunset provision (section (f)(7)a. shall terminate, and the provisions of this chapter shall apply uniformly, without regard to operation prior to the adoption of this chapter. This section (f)(7)a. shall not be construed to allow a short term business rental to operate at any time without a license from the county.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

**Sec. 86-211. Store, grocery.**

Entrances to the site shall be minimized and located in such a way as to maximize safety, ensure efficient traffic circulation, and minimize the impact upon the surrounding neighborhood.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

**Sec. 86-212. Temporary construction structure.**

A temporary building or structure, including a manufactured home, recreational vehicle, or other highway vehicle, may be erected or placed on a construction site in any district as an accessory structure if such building's structures or vehicle are incidental and reasonably necessary to construction work on the premises. Such temporary building, structure, or vehicle shall be placed on a construction site only after a building permit has been issued for the on-site construction work to be performed. When such construction work is completed or abandoned, when the building permit expires or is revoked, whichever comes first, such temporary building, structure, or vehicle shall be removed.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

**Sec. 86-213. Tent or tent-like structures.**

Tents or tent-like structures shall not be erected as buildings. Tents may be erected for temporary events accessory to the primary use or related to a permitted use for the zoning district to last no longer than ten days. Such permits for temporary events shall be subject to any reasonable conditions related to health, safety and transportation that the zoning administrator may require after consultation with the state department of health, sheriff's department and the state department of transportation.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

**Sec. 86-214. Wholesale sales.**

- (a) Loading areas shall be sited in such a way to minimize the impact on any surrounding neighborhood.
- (b) Parking shall be located behind the front line of the principal building.

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(Ord. No. 09-21R2, Att. A, 9-27-2021)

**Secs. 86-215—86-229. Reserved.**

*DIVISION 5. INDUSTRIAL USES*

**Sec. 86-230. Generally.**

- (a) Finished or semi-finished products manufactured on the premises may be stored in the open if screened from a residence district by landscaping, fences or walls.
- (b) All fencing and/or walls shall have a uniform and durable character and shall be properly maintained.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

**Sec. 86-231. Junk, salvage, and auto wrecking yards.**

- (a) No junkyard, salvage yard or automotive wrecking yard or graveyard shall hereafter be established with any portion of its area within 500 feet of a public street, road, or highway.
- (b) All such yards shall be screened effectively from view from public streets or highways, public spaces, and adjacent property in a residence or business district by natural vegetation, topography or other means and shall be surrounded by an opaque structural screen, fence, or wall not less than eight feet in height. All fences and walls shall have a uniform and durable character and shall be properly maintained.
- (c) Inoperative vehicles or parts thereof shall not be collected or stored outside the required fence or in piles more than six feet in height.
- (d) The collection or storage of any material containing or contaminated with dangerous explosives, chemicals, gases, or radioactive substances is prohibited.
- (e) Every junkyard, salvage yard or automobile wrecking yard or graveyard shall be operated and maintained in such a manner as not to allow the breeding of rats, flies, mosquitoes, or other disease-carrying animals and insects.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

**Secs. 86-232—86-244. Reserved.**

*DIVISION 6. MISCELLANEOUS USES*

**Sec. 86-245. Kennel, private.**

All private kennels must:

- (1) Provide a setback of at least 100 feet from the property lines;
- (2) Provide a setback of at least 200 feet from any residence not on the associated parcel;
- (3) Provide screening that is approved by the zoning administrator that visually blocks the front and closest side property lines.

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- (4) Kennels to be located behind the primary residence.

(Ord. No. 09-21R2, Att. A, 9-27-2021; Ord. No. 08-22, 8-22-2022)

### **Sec. 86-246. Parking facility.**

The following general standards shall apply to all parking facilities:

- (1) No motor vehicle work shall be permitted in association with a parking facility except under emergency service work.
- (2) Parking shall be the principal use of all parking facilities. Spaces may be rented for parking but no other business of any kind shall be conducted in the structure except county sanctioned farmer's markets or permitted mobile restaurants.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

### **Sec. 86-247. Resource extraction.**

Excavation or filling, borrow pits, extraction, processing, and removal of sand or gravel and stripping of topsoil and other major excavations in a district where listed as a conditional use permit and subject to the following conditions for major borrow pits, clay pits, mines, quarries, sand, and gravel mining and similar operations:

- (1) The excavations shall be confined to areas located at least 50 feet from all adjoining property lines, at least 100 feet from any and all adjoining property lines in any residential or any business district, and at least 200 feet from any dwelling or any and all property lines in any platted subdivision except that excavations may be conducted within such limits, provided that the written consent of the owners of such adjoining properties is secured.
- (2) The excavation shall be confined to areas located at least 200 feet from the right-of-way lines of any existing or platted street, road or highway, except that where the ground level is higher than the road, the board may permit excavations down to the road level.
- (3) Any building containing power-driven or power-producing machinery or equipment shall be located at least 600 feet from all adjacent property in any residential or business district or the right-of-way lines of any existing or platted street, road, or highway.
- (4) Access shall not be from a minor residential street. All roadways and all vehicular entrances and exits from the premises on which such operations are conducted to any public roads shall be located to secure public safety, lessen congestion and facilitate transportation, and shall be so maintained as to eliminate any nuisance from dust to neighboring properties.
- (5) All equipment used for the production or transportation of materials shall be constructed, maintained and operated in such a manner as to eliminate as far as practicable noises, vibrations, or dust which are injurious or annoying to persons living in the vicinity.
- (6) A specific plan of systematic operation and simultaneous rehabilitation shall be submitted to and approved by the board of Supervisors which shall provide in all respects for the adequate safeguarding and protection of other nearby interests and the general public health, safety, convenience, prosperity, and welfare, and which shall include a satisfactory plan and program showing, by contour maps and otherwise how the land is to be restored to a safe, stable, usable and generally attractive condition by regrading, draining, planting or other suitable treatment to resist erosion and conform substantially with adjacent land characteristics.

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- (7) Whenever the special use exception permit issued by the board of supervisors shall have expired, or whenever the operation shall have ceased for any period exceeding 12 consecutive months, then all plants, buildings, structures (except fences), stockpiles and equipment shall be entirely removed from the premises, and the premises shall be restored as required in this subsection (6).
  - (8) The board of supervisors may renew a permit, after a public hearing, provided that an application therefor is filed within 60 days before its expiration date, in the same manner as for an original permit, provided that the applicant is carrying out the requirements of the existing permit in good faith.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

## **86-248. Accessory Buildings and Structures**

### (a) Standards

- (1) These standards shall only apply to accessory structures in the A-C, R-R and R-1
- (2) An accessory building or structure shall be of a nature customarily incidental and subordinate to the principal use or principal building on the same lot.
- (3) A detached accessory building or structure shall not be used for dwelling, lodging, or sleeping purposes unless approved as an accessory dwelling unit in accordance with Sec. 86-154.
- (4) Attached and detached accessory buildings or structures shall not be used for any business, profession, or trade or occupation, unless otherwise permitted elsewhere in the Zoning Ordinance.
- (5) Agricultural accessory buildings or structures, used for bona fide agricultural purposes, such as barns, silos, bins, and sheds, may be constructed in the A-C district subject to the following conditions:
  - a. The accessory building or structure shall be constructed and intended for use in connection with the agricultural operation.
  - b. The accessory building or structure shall not be used as a permanent, temporary, or seasonal residence or as a dwelling use.
  - c. There shall be no commercial use or commercial storage of property in the accessory building or structure other than in connection with the agricultural operation.
  - d. There shall be no processing or manufacture of non-agricultural products in accessory buildings or structures on the site.
  - e. There shall be no retail sale of any product in accessory buildings or structures on the site, except for sales in connection with the agricultural operation.
- (5) A maximum of 1 (one) accessory building or structure, not to exceed the allowable size in (2)b., may be permitted on a vacant lot located in the A-C zoning district for the sole purpose of maintaining the vacant lot.
- (6) No accessory building or structure shall be constructed, erected, or otherwise placed on a lot that is not occupied by a principal building in the R-1 and R-R zoning districts, for more than six months prior to beginning construction of the main building, and no accessory building shall be used for more than six months unless the main building on the lot is also being used or unless the main building is under construction.
- (7) An accessory building or structure is considered attached to the principal building when it is joined by a fully enclosed structure, a common wall or floor/ceiling assembly to another structure with a door or stairs providing interior access from one space to the other. An accessory building or structure connected to a principal building by means of a breezeway, walkway, steps, or other impervious surface or structure, whether or not at grade, shall not be considered to be attached to the principal building. Such accessory structure shall meet all required size and yard setbacks and the area covered by a breezeway, or lean-to shall be counted in the total square footage of the accessory structure.
- (8) Temporary structures, storage containers, and containers used for shipping purposes or truck compartments or trailers shall not be deemed as principal or accessory structures or buildings and shall not be considered accessory structures.

- (9) Accessory buildings and structures shall not be located so as to restrict access to structures by emergency equipment.
- (10) Accessory buildings and structures shall comply with all applicable building code requirements in effect at the time of building permit approval.

(b) Height, Location, and Size

- (1) Accessory buildings and structures shall be permitted in all agricultural and residential districts, subject to the following limitations:
  - a. On lots in the A-C and R-R zoning districts, accessory buildings, structures, antennas and their support structures, and swimming pools shall be subject to the required yards and setbacks, noted in Section 86-110, Minimum site area and dimensional regulations for primary zoning districts.
  - b. On lots of five (5) acres or more in the A-C zoning district, one accessory building or structure may be located in the front yard provided that the requirements for front yard setbacks in Section 86-110 are met and the building or structure is not located directly in front of the primary dwelling.
  - c. On lots in the R-1 zoning district, accessory buildings and structures shall be allowed only in the rear and side yards and shall be setback a minimum of 5' from any side or rear property line and 25' from any corner side yard property line.
  - d. For any lots where the rear and side yards are located in the Resources Protection Area, one accessory building or structure may be located in a front yard in order to be located outside of the Resource Protection Area but may not be located directly in front of the primary dwelling.
- (2) Accessory Building Area:
  - a. Attached accessory buildings and structures shall be no larger than 50% of the floor area of the principal building.
  - b. Except for agricultural accessory buildings or structures used for bona fide agricultural operations, detached accessory buildings shall be subject to the maximums listed in the following table.

<b>Lot Size</b>	<b>Maximum Square Footage of detached accessory building (R-1, R-R &amp; A-C (non-agricultural))</b>	<b>Maximum number of detached accessory buildings on a parcel (R-1, R-R &amp; A-C (non-agricultural))</b>
Less than 1 acre	1,000 square feet	Total of all buildings not to exceed 1,000 square feet
1 – 1.99 acres	1,500 square feet	Total of all buildings not to exceed 1,500 square feet
2 – 4.99 acres	2,000 square feet	Total of all buildings not to exceed 2,000 square feet
5 – 7.99 acres	3,000 square feet	No limit*
8 – 9.99 acres	4,000 square feet	No limit*
10 – 14.99 acres	5,000 square feet	No limit*
15 – 39.99 acres	6,000 square feet	No limit*
>40 acres	7,000 square feet	No limit*

\*all accessory buildings must meet building separation and setback requirements of the underlying zoning district.

- (3) Accessory Building and Structure Height: Except for agricultural accessory buildings or structures, used for bona fide agricultural operations, the maximum height of any accessory building or structure shall not exceed 60 percent of the allowable maximum height of the principal building permitted in the zoning district in which the parcel resides.

Maximum height of accessory buildings			
	A-C	R-R	R-1
Principal Building	45	45	45
Accessory Building/Structure	27	27	27

(Ord. 06-2025, 8-25-25, Ord. 06-2025 Amended, 2-9-26)

**Secs. 86-249—86-254. Reserved.**

**ARTICLE IX. NONCONFORMING USES**

**Sec. 86-255. May be continued.**

- (a) *Right to continue.* Except as otherwise provided in this article, the lawful use of land or buildings existing at the effective date of the ordinance from which this chapter is derived may be continued although such use does not conform to the provisions of this chapter. Except as provided in this article, such nonconforming use may not be enlarged, extended, reconstructed, or structurally altered except in compliance with the provisions of this chapter.
- (b) *Change of ownership.* A change in occupancy or ownership shall not affect such right to continue such use, building, or structure.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

**Sec. 86-256. Change of use.**

- (a) *Change to another use.* If no structural alterations are made, a nonconforming use of a building may be changed to another nonconforming use of the same or of a more restricted classification. Whenever a nonconforming use of land or buildings has been changed to a more restricted use or to a conforming use, such use shall not thereafter be changed to a less restricted one.
- (b) *Extension of use within existing building.* The nonconforming use of a building may be hereafter extended throughout those parts of a building which are lawfully and manifestly arranged or designed for such use at the time of enactment of this chapter.
- (c) *Enlargement.* A nonconforming structure to be extended or enlarged shall conform with the provisions of this chapter.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

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**Sec. 86-257. Discontinuance.**

A nonconforming use shall lose its nonconforming status, and any further use shall conform to the requirements of this chapter and shall file a site plan, if required by this chapter, if the use is discontinued and remains idle or unused for a continuous period of more than two years.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

**Sec. 86-258. Repair or replacement of nonconforming structures.**

- (a) Nonconforming structures which have been damaged or destroyed by something other than an act of nature, to the extent of more than 50 percent of the fair market value of the structure shall be restored, repaired or replaced, in conformity with the regulations of this chapter. If a nonconforming structure is damaged or destroyed to the extent of less than 50 percent of the fair market value, it may be repaired or reconstructed as before the time of damage. Any restoration, repair or replacement permitted by this paragraph shall be substantially completed within two years of the date of such damage.
- (b) Nonconforming structures damaged by an act of nature as defined by this chapter, shall apply the following:
  - (1) The owner may repair, rebuild, or replace such structure to eliminate or reduce the nonconforming features to the extent feasible, without the need to obtain any otherwise required variance. If such structure cannot be repaired, rebuilt, or replaced, except to restore it to its original nonconforming condition, the owner shall have the right to do so. The owner shall apply for any required building permit and any work done to repair, rebuild, or replace such structure shall be in compliance with the applicable provisions of the Uniform Statewide Building Code (§ 36-97 et seq.) and any work done to repair, rebuild, or replace such structure shall be in compliance with the provisions of any local flood plain regulations adopted as a condition of participation in the National Flood Insurance Program.
  - (2) Unless such structure is repaired, rebuilt or replaced within two years of the date of the act of nature, it shall only be repaired, rebuilt, or replaced in accordance with the provisions of this chapter except that if the nonconforming structure is in an area under a federal disaster declaration and it has been damaged or destroyed as a direct result of conditions that gave rise to the declaration, then the owner shall have four years from the date of the act of nature for the structure to be repaired, rebuilt or replaced as otherwise provided in this section.
- (c) Nothing in this chapter shall prevent the strengthening, repair or restoration to a safe and lawful condition any part of a building or structure declared unsafe or unlawful by order of an authorized county or state official; provided, however, that such building or structure lawfully existed prior to the issuance of the order.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

**Sec. 86-259. Intermittent use.**

The casual, intermittent, temporary, or illegal use of land, structures or buildings shall not be sufficient to establish the existence of a nonconforming use, and the existence of a nonconforming use on a part of a lot or tract shall not be construed to establish a nonconforming use on the entire lot or tract.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

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### **Sec. 86-260. Determination of existence of a nonconforming use.**

When evidence available to the zoning administrator is deemed by him to be inconclusive, whether a nonconforming use exists shall be a question of fact and shall be decided by the board of zoning appeals after public notice and hearing and in accordance with the rules of the board.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

### **Sec. 86-261. Nonconforming lots.**

If the owner of a lot in any district does not own a parcel or tract of land immediately adjacent to such lot, and if the deed or instrument to such lot was lawfully of record prior to the application of zoning regulations and restrictions to the premises, and if such lot does not conform to the requirements of such regulations and restrictions as to area, frontage and dimensions of lots, the provisions and restrictions of such lot area, frontage and dimension regulations shall not prevent the owner of such lot from erecting a single-family dwelling or making other improvements on the lot; provided such improvements conform in all other respects to applicable zoning and health regulations and restrictions. However, no lot of record shall be resubdivided unless all new lots are in conformity with the requirements of the district to which the resubdivision is located.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

### **Sec. 86-262. Nonconforming signs.**

- (a) In a residential district where any sign does not comply with the provisions of this chapter, 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 chapter and may continue in use unless subject to removal of other provisions of this chapter. Removal, replacement, reconstruction, moving or structural alteration for any cause whatsoever shall be considered as loss of nonconforming status. Supporting structures for nonconforming signs may continue in use for a conforming sign if such support structures comply in all respects to the applicable requirements of these regulations and other codes and ordinances.
- (b) Nothing in this section shall be construed to prevent, after making a reasonable attempt to notify such property owner, from ordering the removal of a nonconforming sign that has been abandoned. For purposes of this section, a sign shall be considered abandoned if the business for which the sign was erected has not been in operation for a period of at least two years. If, following such two-year period and after a reasonable attempt to notify the property owner, the county through its own agents or employees may enter the property upon which the sign is located and remove any such sign whenever the owner has refused to do so. The cost of such removal shall be chargeable to the owner of the property. Nothing herein shall prevent the locality from applying to a court of competent jurisdiction for an order requiring the removal of such abandoned nonconforming sign by the owner by means of injunction or other appropriate remedy.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

State law reference(s)—Vested rights not impaired; nonconforming uses, Code of Virginia, § 15.2-2307(G).

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**Sec. 86-263. Nonconforming dwellings in business and industrial districts.**

A dwelling nonconforming as to use in a business or industrial district shall be considered as a conforming use in application of the area and bulk requirements of this chapter.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

**Sec. 86-264. Nonconforming mobile or manufactured home.**

Nothing in this section shall be construed to prevent the landowner 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.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

**Secs. 86-265—86-269. Reserved.**

**ARTICLE X. SIGNS**

**Sec. 86-270. Purpose and intent.**

- (a) The purpose of this chapter and subsequent ordinances is to encourage the orderly, standard and effective use of signs as a means of communication in the County; to maintain and enhance the aesthetic environment and the County's ability to attract sources of economic development and growth; to improve pedestrian, public and traffic safety; to minimize the possible adverse effect of signs on nearby public and private property; and to enable the fair and consistent enforcement of this chapter.
- (b) The design, manufacture, erection and maintenance of signs shall be in accordance with this chapter and all other applicable ordinance provisions.

**Sec. 86-271. Permit required; application.**

- (a) *Permit required.* No sign, unless exempted in this article, shall be erected, constructed, posted, painted, altered, maintained or relocated, until a permit has been issued by the zoning administrator as provided for in this article.
- (b) *Permit process.* Before any permit is issued, an application for a sign permit provided by the zoning administrator shall be filed, together with three sets of drawings and/or specifications (one to be returned to the applicant) as may be necessary to fully advise and acquaint the zoning administrator with the location, construction, materials, manner of illuminating and/or securing or fastening, and number of signs applied for, and the style of the wording of the sign or advertisement to be carried on the sign.
- (c) *Application.* The application shall contain the location of the sign structure, the name and address of the sign owner and of the sign erector, a drawing showing the design and location of the sign, and such other pertinent information as the building and zoning officials may require to ensure compliance with this chapter or other ordinances of the county.

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- (d) *Fees.* Fees for sign permits shall be as fixed from time to time by the board of supervisors and maintained in the office of the zoning administrator.
  - (e) *Building codes and inspections.* All signs which are electrically illuminated (internally or externally) shall require a separate electrical permit and inspection. Structural and safety features and electrical systems shall be in accordance with the requirements of applicable codes and ordinances. No sign shall be approved for use unless it has been inspected by the department issuing the permit and is found to be in compliance with all the requirements of this chapter and applicable technical codes.
  - (f) All signs shall be erected on or before the expiration of 60 days from the date of issuance of the permit. Otherwise, the permit shall become null and void, and a new permit shall be required. Each sign requiring a permit shall be clearly marked with the permit number and name of the person or firm placing the sign on the premises.

### **Sec. 86-272. Exempt signs.**

The following signs are exempted from the provisions of the regulations of this article and may be erected or constructed without a permit but in accordance with the structural and safety requirements of the building code, and as outlined in the definitions and other portions of this article:

- (1) Signs erected by a governmental body or required by law, including official traffic signs or sign structures and provisional warning signs or sign structures, and temporary signs indicating danger;
- (2) Changing of the copy on a bulletin board, poster board, display encasement or marquee;
- (3) Temporary nonilluminated signs erected for not more than 30 consecutive days, including real estate signs, contractor signs, construction signs, agricultural signs, event signs, decorative holiday displays, public demonstrations, and grand opening signs;
- (4) Nonilluminated signs painted, stamped, perforated or stitched on the surface area of an awning, canopy, roller curtain or umbrella not exceeding ten square feet in area with letters not exceeding one foot in height;
- (5) Nonilluminated signs warning trespassers or announcing property as posted;
- (6) Temporary nonilluminated portable signs, not exceeding six square feet in area and six feet in height, in a business or industrial district; one for each 50 feet of street frontage (all portable signs shall be included in the measurement of permitted sign area). The placement of the sign shall not impede pedestrian, wheelchair, or vehicular traffic flow;
- (7) Sign on a truck, bus or other vehicle, while in use in the normal course of business. This section should not be interpreted to permit parking for display purposes of a vehicle to which signs are attached in a district where such signs are not permitted.
- (8) A wall or freestanding sign not exceeding two square feet in area, not exceeding four feet in height, and not illuminated.

### **Sec. 86-273. Prohibited signs.**

The following signs are prohibited:

- (1) Flashing signs;
- (2) Animated signs;

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- (3) Signs or parts of a sign not an integral part of the building design located anywhere on the roof or wall of a building so that they shall extend above or beyond the perimeter of the building's roof, wall or parapet wall of a building;
  - (4) Signs with intermittent lights resembling, or seeming to resemble, the flashing lights customarily associated with danger or such as are customarily used by police, fire or ambulance vehicles, or for navigation purposes;
  - (5) Signs that emit sound, smoke, flame, scent, mist, aerosol, liquid, or gas;
  - (6) Signs so located and so illuminated as to provide a background of colored lights blending with traffic signal lights to the extent of confusing a motorist when viewed from normal approaching position of a vehicle at a distance of 25 to 300 feet;
  - (7) Signs that obstruct the sight-distance triangle at any road intersection, or extend into the public right-of-way or otherwise create a distraction for drivers;
  - (8) Abandoned sign structures;
  - (9) Any signs, including posters and handbills, affixed to or painted on any structures, trees or other natural vegetation, rocks, or poles;
  - (10) Any sign representing or depicting specified sexual activities or specified anatomical areas or sexually oriented goods. Any sign containing obscene text or pictures as defined by the Virginia Code;
  - (11) Signs simulating, or which are likely to be confused with, a traffic control sign or any other sign displayed by a public authority. Any such sign is subject to immediate removal and disposal by an authorized county official as a nuisance;
  - (12) Signs advertising activities or products that are illegal under federal, state, town or county law; and,
  - (13) The following signs shall be prohibited within the historic preservation overlay district:
    - a. Internally illuminated signs;
    - b. Digital Display signs, including message boards;

### **Sec. 86-274. Interpretation.**

Applications for unusual signs or displays which give rise to questions of interpretation of the regulations of this article may be referred by the zoning administrator to the board of zoning appeals for the purpose of interpretation by the board and recommendation for action on the application by the zoning administrator. If, in the opinion of the board, the application is not adequately covered by this article, the board may make recommendations for amendment of this article.

### **Sec. 86-275. Signs for nonconforming uses.**

Permitted signs for a nonconforming business, commercial or industrial use in a residence district shall consist of those signs permitted in the B-1 local business district. Except as otherwise specifically provided in the regulations of this article, all signs shall be subject to the provisions of article IX of this chapter governing nonconforming uses.

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## Sec. 86-276. General requirements for all signs.

- (a) *Quantity.* Except as otherwise provided, the regulations of this article shall be interpreted to permit one sign in accordance with applicable regulations, for each street frontage, for each permitted use on the premises, except that only one combined freestanding sign of 110 square feet or less will be permitted per parcel.
- (b) *Height.* No sign shall exceed a height of 15 feet.
- (c) *Wall signs.* There shall be no wall signs on the front of buildings or on side or rear walls facing, and within 100 feet of an R-1 suburban residential district.
- (d) *Placement.*
  - (1) No sign, portable or otherwise, shall be placed or located to conflict with the vision clearance or other requirements of applicable traffic ordinances.
  - (2) Unless otherwise specified in this article, all signs shall comply with the yard requirements of the district in which they are located, provided that one sign, accessory or otherwise, may occupy required yards in a district where such sign is permitted by this article, if such sign is not more than 32 square feet in area, meets the definition of the particular sign and other requirements of this article are complied with.
- (e) *Sign area computations.*
  - (1) The surface area of any sign permitted under this article is determined by measuring the entire face of the sign including any wall work incidental to its decoration, but excluding support elements whose sole purpose and function is to support the sign, except as noted below:
    - a. The surface area of any sign made up only of individual letters or figures shall include the space between such letters or figures.
    - b. Whenever one sign contains information on both sides, one side only shall be used in computing the surface area of the sign. If one face contains a larger sign area than the other, the larger face shall be used in calculating the sign area.
- (f) *Lighting.* No sign shall be illuminated in such a way that light may shine into on-coming traffic, affect highway safety, or shine directly into a residential zone.
  - a. The LED panel shall not exceed 32 square feet in size, with no less than eight (8) seconds between changes. The display shall not incorporate any technology that allows those seeing the sign to interact with the message displayed on the sign.
  - b.

When Light Emitting Diode (LED), Liquid Crystal Display (LCD), or video display message panels are used, the light emitted by the display shall not exceed 300 nits in commercial and industrial districts and 100 nits in agricultural and residential districts and the diode pitch shall not exceed 25 millimeters.

Digital LED or similar signs with dynamic displays shall be adjusted to a nighttime brightness setting of no more than 20 percent of their maximum brightness setting. LED dynamic displays may operate at up to 100 percent of their maximum brightness during the daytime. Incandescent dynamic displays shall be adjusted to a nighttime brightness setting of no more than 60 percent. Incandescent dynamic displays may operate at up to 100 percent of their maximum brightness during the daytime. Constant nighttime displays of bright or "hot colors" such as, but not limited to, complete red or white display backgrounds shall be prohibited. All dynamic displays shall be equipped with a nighttime, manufacturer auto-dim feature and operated according to manufacturer nighttime intensity specifications. Legal nonconforming dynamic displays without a manufacturer auto-dim feature shall comply with this requirement to the extent feasible within the limits of the dynamic display's programming.

- c. The external illumination of signs shall be permitted subject to the following requirements:
  - I. All fixtures shall be arranged and installed so that the light source is shielded from view from public rights-of-way and from non-commercial and non-industrial districts and so that direct or reflected light shall not produce distracting glare in the public right-of-way.;
  - II. Cutoff or shielded fixtures shall be used and installed atop signage, directed downward, so as to minimize glare, sky glow and light trespass
- d. Electronic service lines shall be underground.
- (g) Electronically controlled message centers may be included as part of a sign but shall be limited to no more than fifty percent (50%) of the area of the sign face. No flashing or scrolling text shall be used, and no message shall be displayed for an interval of less than thirty (30) seconds. Message boards shall not employ dissolve, wipe or other graphic effects and shall be designed to go to black should a malfunction occur.
- (h) *Substitution.* Wherever this article permits a sign with commercial content, non-commercial content is also permitted subject to the same requirements of size, color, illumination, movement, materials, location, height, and construction.
- (g) *District standards: B-1 and B-2 zoning districts.* Any business located within a B-1, B-2 or I zoning district shall be limited to displaying no greater than one square foot of signage per linear foot of business frontage, and in no case shall any business display greater than 32 square feet of signage per building street frontage, except combined businesses erecting a single freestanding sign. In those portions of a PUD district that are used solely for business uses and those portions where residential uses are mixed with business uses, all signs shall conform to the regulations that are applicable for B-1 & B-2 districts.

Individual signs shall be limited in their size and placement according to the following regulations:

Maximum Sign Dimensions—B-1, B-2 and I Zoning Districts			
Sign Type	Number	Area	Height (ft.)
<b>Window (not illuminated)</b>	Not limited	Lesser of 25% of window area or 6 sq. ft.	Not limited
<b>Window Sign (internally illuminated)</b>	Not permitted except one neon window sign not more than 3 sq. ft. <sup>1</sup>	n/a	n/a
<b>Freestanding (monument or ground only)</b>	1 per parcel <sup>2</sup>	32 sq. ft. per building 110 sq. ft. for combined business	15 ft.
<b>Projecting</b>	1 per business per street frontage	9 sq. ft. per side for buildings < 30 ft. frontage; 15 per side for buildings > 30 ft. frontage	No less than 8 ft. and 15 ft. max. above grade level
<b>Wall</b>	1 per business per street frontage	1 sq. ft. per linear ft. of building frontage	15 ft. max. above grade level
<b>Directional</b>	Not limited	2 sq. ft.	4 ft.
<b>Temporary</b>	Not limited	12 sq. ft. max. or an aggregate of 60 sq. ft	4 ft.

<sup>1</sup> Such signs shall not flash and shall be "on" only during posted hours of business.

<sup>2</sup> In the PUD district where multiple businesses are located on one parcel, a sign package for the entire parcel shall be submitted and approved with the first site plan for the parcel.

- (i) *District standards: R-R, and R-1 zoning districts.* Individual signs shall be limited in their size and placement according to the following regulations:

Maximum Sign Dimensions—Residential Zoning Districts (R-R, and R-1)									
	Residential Uses			Residential Projects			Non-Residential Uses		
Sign Type	Number	Area (sq. ft.)	Height (ft.)	Number	Area (sq. ft.)	Height (ft.)	Number	Area (sq. ft.)	Height (ft.)
Freestanding Signs	1 per lot	6 sq. ft.	6 ft.	1 per site entrance	16 sq. ft.	8 ft.	1 per separate road frontage	16 sq. ft.	4 ft.
Portable	Not Allowed	n/a	n/a	1 per lot	60 sq. ft.	6 ft	1 per lot	60 sq. ft.	6 ft
Temporary	4 per lot	4 sq. ft.	4 ft.	4 per lot	12 sq. ft. max. or an aggregate of 60 sq. ft.	4 ft.	2 per separate road frontage	4 sq. ft.	4 ft.

- (j) *District standards: A-C zoning district.* Individual signs shall be limited in their size and placement according to the following regulations:

Maximum Sign Dimensions—Agricultural-Conservation Zoning Districts (A-C)						
	Residential Uses			Agricultural Uses		
Sign Type	Number	Area (sq. ft.)	Height (ft.)	Number	Area (sq. ft.)	Height (ft.)
Freestanding Signs	1 per lot	6 sq. ft.	6 ft.	1 per site entrance	16 sq. ft.	8 ft.
Portable	Not Allowed	n/a	n/a	1 per lot	60 sq. ft.	6 ft
Temporary	4 per lot	4 sq. ft.	4 ft.	4 per lot	12 sq. ft. max. or an aggregate of 60 sq. ft.	4 ft.

**Sec. 86-277. Structural and maintenance requirements.**

All signs shall be maintained in good condition meaning, in appearance and structurally safe. Any sign that has deteriorated to a state of peeling, cracking, splitting, fading, or rusting is in violation of this chapter and subject to enforcement.

**Sec. 86-278. Nonconforming signs.**

- (a) Any sign lawfully in existence on the date of enactment of this article may be maintained even though it does not conform with the provisions of this article.
- (b) The message of a nonconforming sign may be changed.
- (c) No nonconforming sign may be enlarged or altered in such a manner as to expand the nonconformity, nor may illumination be added to any nonconforming sign.

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- (d) A nonconforming sign may not be moved or replaced except to bring the sign into complete conformity with this article.
  - (e) A nonconforming sign destroyed by any cause may not be repaired, reconstructed, or replaced except in conformity with this article. For the purposes of this section, a nonconforming sign is destroyed if damaged to an extent that the cost of repairing the sign to its former condition or replacing it with an equivalent sign equals or exceeds 50 percent of the fair market value of the sign so damaged.
  - (f) A pre-existing sign must be removed if the structure, building, or use to which it is accessory is destroyed, or demolished to an extent exceeding 50 percent of the fair market value of the principal structure, building or use.

### **Sec. 86-279. Enforcement.**

- (a) *Violations.* Violations of this article constitute violations of the zoning code and the county may obtain compliance through any of the methods available for other zoning violations.
- (b) *Removal of signs in violation.* The zoning administrator may order the removal of any sign erected or maintained in violation of this article. The zoning administrator shall give 30 days' notice in writing to the owner of such sign or of the building, structure, or premises on which such sign is located to remove the sign or to bring it into compliance with this article. The zoning administrator may remove a sign immediately and without notice if, in his opinion, the condition of the sign is such as to present an immediate threat to the safety of the public. Any surface exposed by the removal of a sign shall be restored to its original condition by the property owner and be compatible with adjacent surfaces.
- (c) *Removal of abandoned signs.* A sign shall be removed by the owner or lessee of the premises upon which the sign is located when the business which it advertises is no longer conducted on the premises. If the owner or lessee fails to remove such sign, the zoning administrator shall give the owner 30 days' written notice to remove it. Upon failure to comply with this notice, the zoning administrator or his duly authorized representative may remove the sign at cost to the property owner.

### **Sec. 86-280. Appeals.**

Any person aggrieved by any decision or order of the zoning administrator may appeal to the board of zoning appeals by serving written notice to the zoning administrator, who, in turn, shall immediately transmit the notice to the board, which shall meet to hear it within 30 days thereafter. The zoning administrator shall take no further action on the matter, pending the board's decision, except concerning unsafe signs which present an immediate and serious danger to the public.

### **Sec . 86-281 Illustrations**

Fig. 1 Sign Types

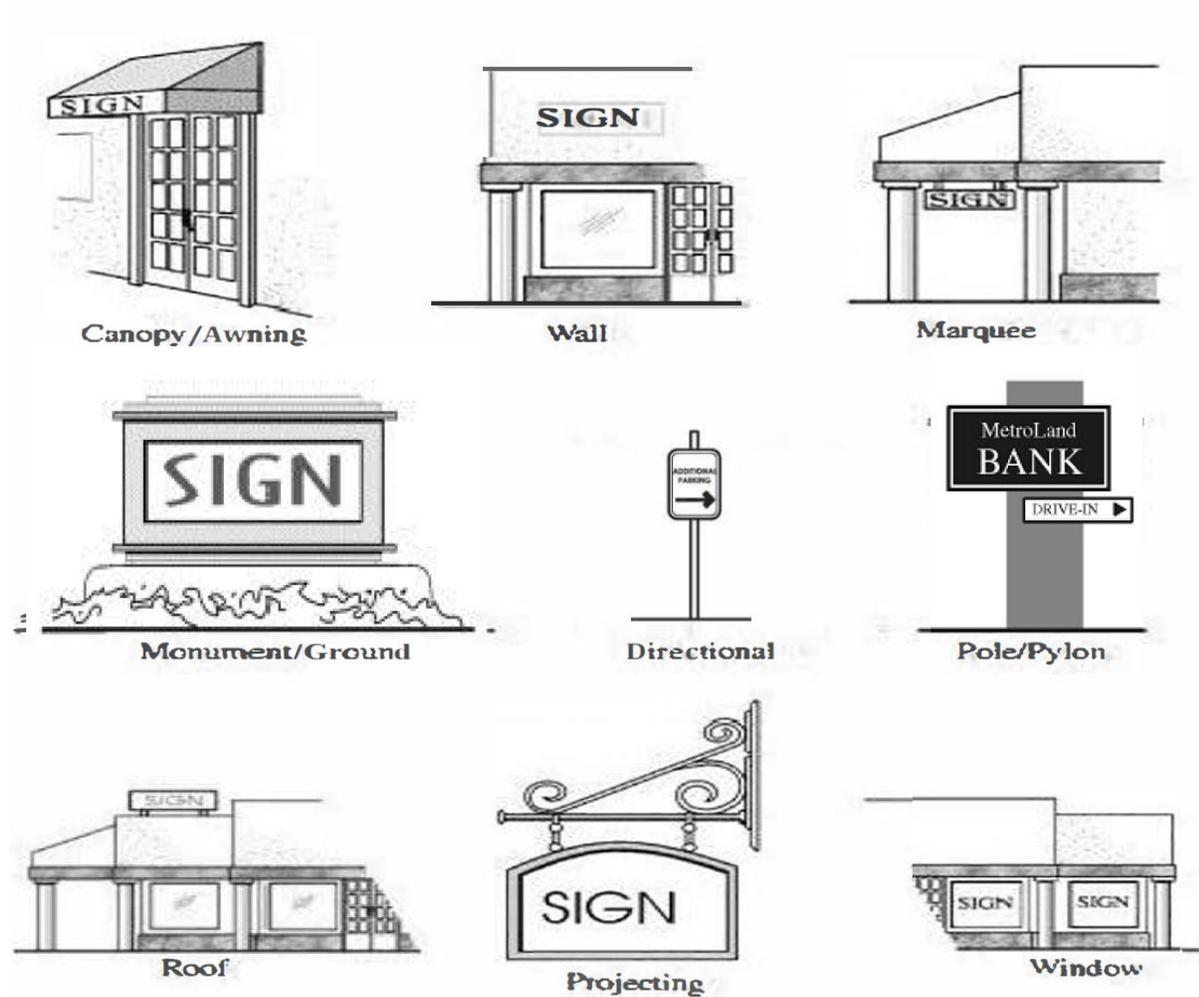


Fig. 3 Temporary Sign Examples

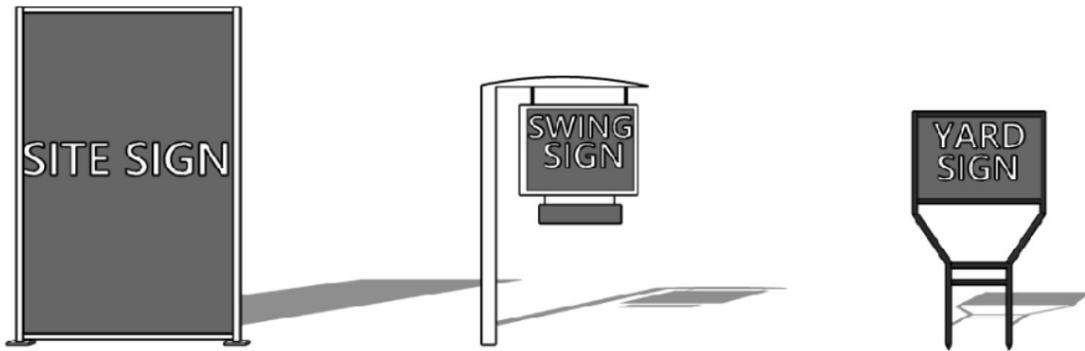
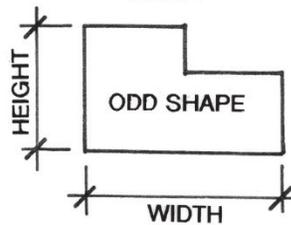
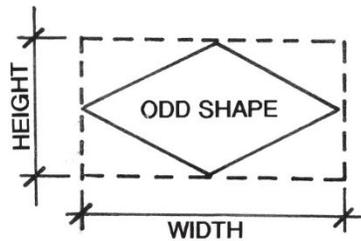
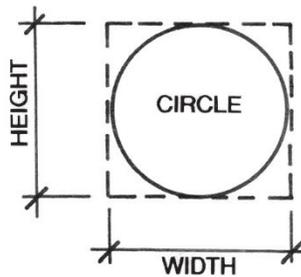
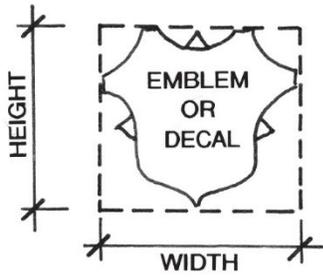
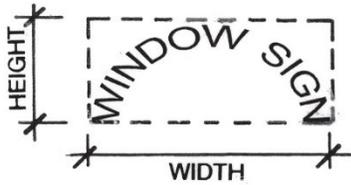
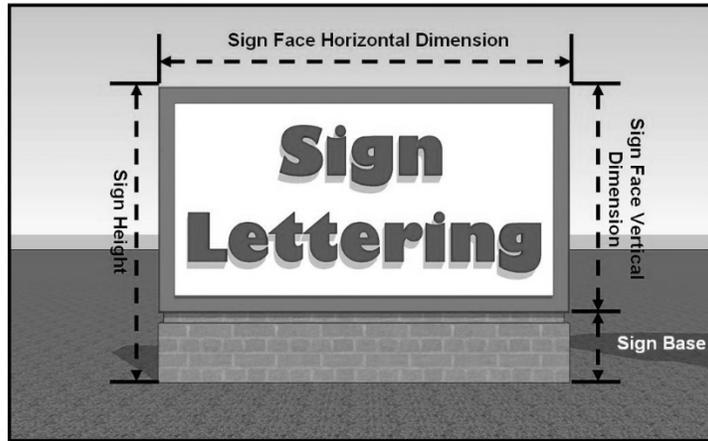
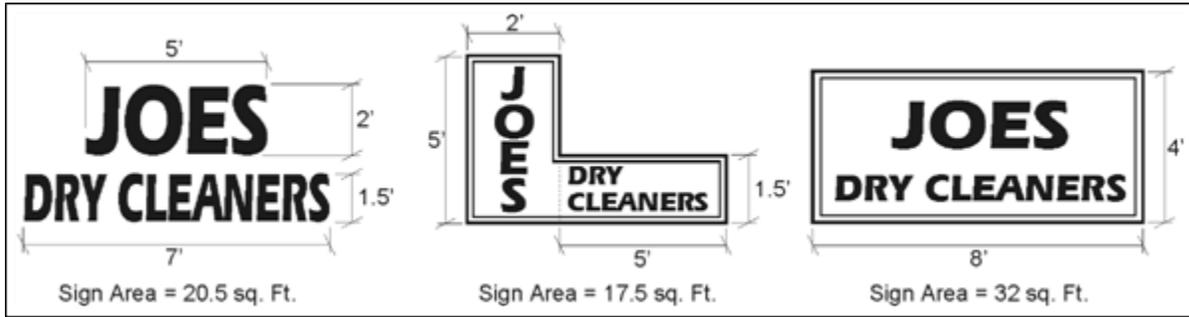


Fig. 2 Sign Area



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(Ord. No. 09-21R2, Att. A, 9-27-2021, Ord. No. 02-26, 2-9-2026)

**Secs. 86-282—86-289. Reserved.**

***ARTICLE XI. LANDSCAPING, SCREENING, AND FENCING***

**Sec. 86-290. Purpose and intent.**

The purpose of this section is to establish standards for landscape architecture, site design, site buffering, and landscape screening. With the intent of preserving and promoting the health, safety, and general welfare of the county, these regulations are based on the following goals:

- (1) Preserve and enhance the aesthetic character of the county;
- (2) Protect the quality of the county's natural rivers, streams, and wetlands;
- (3) Enhance erosion control;
- (4) Improve the relationship between adjacent properties through screening and buffering;
- (5) Promote economic development in the county's neighborhoods, historic districts, and entrance corridors.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

**Sec. 86-291. Application of landscape standards.**

- (a) These landscape requirements shall apply to:
  - (1) All new developments, or redevelopments, requiring an approved site plan as specified by this chapter.
  - (2) All properties seeking rezoning or conditional use permit under the requirements of this chapter.
- (b) These requirements shall not apply to parcels containing single-family detached dwellings or two-family dwellings.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

**Sec. 86-292. Landscape plan requirements.**

The landscape plan shall include:

1. Location, type, size, height, and number of proposed plantings.
2. Planting specifications and installation details.
3. Location and size of all existing plants and trees to be retained during construction, as well as protection measures to be implemented during construction.
4. Location, size and other related design details for all hardscape improvements, signage, recreational improvements and open space areas, fences, walls, barriers and other related elements.
5. Designation of required setbacks, yards and screening areas.

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6. Location of other man-made site features, parking lots, hardscape improvements, overhead structures and underground utilities to ensure that landscape materials will not be in conflict with the placement and operation of these improvements.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

### **Sec. 86-293. General standards.**

- (a) Required landscaping shall be installed prior to the issuance of a certificate of occupancy. When the planting of landscaping conflicts with the planting season, a certificate of occupancy may be issued subject to the owner or developer providing surety in an amount approved by the zoning administrator for any remaining plantings. The owner or developer shall provide a development agreement which sets a deadline by which the plantings will be installed to be approved by the zoning administrator. The surety and agreement must both be in a form approved by the county attorney.
- (b) Existing healthy trees and shrubs shall be credited toward any minimum landscaping required by this section, provided they meet minimum size standards and are protected before and during construction and maintained thereafter in a healthy growing condition.
- (c) The owner of the property upon which the required landscaping or buffering is installed shall be responsible for maintenance and replacement. If any required tree, shrub, or other landscaping element shall die or be removed after issuance of the certificate of occupancy, the developer, his or her successors or assigns, shall replace each by the end of the next planting season with trees or shrubs of the same or similar species, type, color, or character.
- (d) Landscaping shall not obstruct the view of motorists using any street, private driveway, parking isles, or the approach to any street intersection so as to constitute a traffic hazard or a condition dangerous to the public safety.
- (e) All required landscape materials shall conform to the following minimum size or height standards at the time of planting:
  - (1) Deciduous shade trees: 2-inch caliper
  - (2) Ornamental and understory trees: 4-foot height
  - (3) Coniferous trees: 6-foot height
  - (4) Shrubs: 12-inch spread or height

(Ord. No. 09-21R2, Att. A, 9-27-2021)

### **Sec. 86-294. Buffering.**

Landscape buffering is intended to provide a year-round visual screen between two or more properties in order to minimize visual and other adverse impacts. Buffering may consist of fencing, evergreens, boulders, mounds, or a combination of materials.

- (1) A landscape buffer area shall be required where a commercially or industrially zoned development abuts an agricultural or residential zoning district, or where multi-family residential development abuts any property zoned A-C or R-R. Landscape buffers shall be approved by the zoning administrator during the site plan process.
- (2) In the above conditions, a continuous six-foot high buffer with a minimum width of 25 feet shall be required. Buffers shall be comprised of:

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- a. A combination of solid masonry wall or opaque fence at least six feet in height and landscaping consisting of six deciduous trees per 100 linear feet of buffer; or,
  - b. Landscaping consisting of:
    - 1. One evergreen tree per seven linear feet of buffer, which shall be placed in two staggered rows six feet apart;
    - 2. One understory tree per 25 linear feet of buffer;
    - 3. One deciduous tree per 50 linear feet of buffer.
    - 4. One shrub per three linear feet of buffer; and,
  - (3) Plants should be sufficiently large and planted in such a fashion that a year-round screen at least six feet in height shall be produced within one growing season.
  - (4) No buildings, structures, storage of materials, or parking shall be permitted within a buffer area.
  - (5) Buffer plantings shall be maintained in perpetuity in such a way as to ensure that the buffering requirements of this chapter continue to be met. Any dead or dying plants shall be removed within 30 days of notification by the zoning administrator and shall be replaced by the property owner during the next viable planting season.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

### **Sec. 86-295. Screening.**

- (a) Screening shall be required to conceal specific areas from both on-site and off-site views. Such areas shall be screened at all times, regardless of adjacent uses, adjacent districts, or other proximate landscaping material. Specific areas to be screened include:
  - (1) Trash, recycling, and grease containers (including dumpsters and cardboard recycling containers).
  - (2) Loading and service areas.
  - (3) Outdoor storage areas (including storage tanks).
  - (4) Ground-based utility equipment with size in excess of 12 cubic feet.
  - (5) Ground level electrical and mechanical units, including heating, ventilation, and air conditioning units.
- (b) The above-mentioned areas shall be screened using an appropriate combination of landscape plants, fencing, or masonry walls to adequately screen them from views both on and off the subject property.
- (c) Access to all grease containers, recycling and trash containers, and other outside storage shall be through gates capable of closure when not in use. All gates shall be closed when not in use.
- (d) Screening plantings shall be maintained in perpetuity in such a way as to ensure that the buffering requirements of this chapter continue to be met. Any dead or dying plants shall be removed within 30 days of notification by the zoning administrator and shall be replaced by the property owner during the next viable planting season.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

### **Sec. 86-296. Parking lot landscaping.**

All vehicle parking areas shall include landscaping, both within the interior of the parking area and around its perimeter, to provide shade, screen views, mitigate runoff, and provide aesthetic appeal. However, the landscape

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provisions of this section shall not apply to off-street parking for individual single or two-family residential dwellings, or for parking structures or vehicle display areas.

- (1) *Parking lots adjacent to lot lines.* For parking lots immediately adjacent to lot lines, the following landscape regulations shall apply:
  - a. Where a parking lot (or a private driveway providing access to a parking lot or building entry) abuts a property line not common with the right-of-way of a street, a landscaping strip of two and one-half feet in width shall be located between the parking lot and the abutting property line.
  - b. A minimum of one tree for each 40 feet of contiguous property line shall be planted in the landscape strip.
- (2) *Parking lots adjacent to public streets.* For parking lots and private access adjacent to public streets which are subject to site plan approval, the following landscape regulations shall apply:
  - a. Where a parking lot (or a private driveway providing access to a parking lot or building entry) abuts a public right-of-way for a County street, a landscaping strip of five feet in width (not including the pedestrian path) shall be located between the parking lot or private driveway and the right-of-way line.
  - b. A minimum of one tree for each 40 feet of property line common with the public right-of-way shall be planted in the landscaping strip.
- (3) All parking lots of 30 or more spaces shall contain within the interior of the parking lot not less than one tree for every 12 continuous parking spaces or fraction thereof. Such trees shall be dispersed throughout the interior of the parking lot. In the case of redevelopment proposals, this parking lot tree requirement is only applicable to those proposals that necessitate additional parking spaces over those that are currently provided.
- (4) Landscaped planting islands (located such that parking spaces are on opposing sides of the planting island) shall be developed in parking lots meeting the following criteria:
  - a. The total size of the parking lot exceeds 150 total parking spaces.
  - b. Parking lot layout incorporates three or more double-loaded or single-loaded parking bays which are contiguous and parallel to each other.
  - c. Planting islands which are designed to be perpendicular to the parking bay shall be constructed for every other parking bay.
  - d. Planting islands shall have a minimum width of six feet to allow for bumper overhang and shall otherwise provide adequate width for the growth and maintenance of the intended landscape materials to be planted therein.
- (5) The primary landscaping materials used in parking lots shall be trees which provide shade or are capable of providing shade at maturity. Shrubs and other live planting material may be used to complement the primary, tree landscaping.
- (6) The landscaping shall be dispersed throughout the parking lot, with interior dimensions of any planting area (i.e. interior parking median) sufficient to protect and maintain all landscaping materials planted therein.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

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### **Sec. 86-297. Walls and fences.**

Fences and walls may be used within landscaped areas to provide buffering, privacy, separation, security, or for aesthetic reasons, but may not create an unsightly or unsafe condition on or off of the public or private property on which the fence or wall is proposed.

- (1) The provisions of this section shall apply to all construction, reconstruction, or replacement of fences or walls except:
  - a. Those required for support of a principal or accessory structure;
  - b. Engineered retaining walls necessary to the development of a site;
  - c. Temporary fences for construction activities, trees protection, and erosion and sediment control.
- (2) Fences or walls shall not be located within the public right-of-way.
- (3) Fences and walls may be located within any required yard or setback.
- (4) Fences located within an easement shall receive written authorization from the easement holder or the county (as appropriate). The county shall not be responsible for damage to, or the repair or replacement of, fences that must be removed to access such easements or facilities.
- (5) No fence or wall shall be installed in a manner or in a location so as to block or divert a natural drainage flow on to or off of any other land, unless the fence or wall has specifically been approved as part of an approved stormwater management plan.
- (6) A fence or wall in any residential zoning district shall not exceed seven feet in height above the existing grade without approval of a conditional use permit.
- (7) A fence or wall in any commercial zoning district shall not exceed eight feet in height above the existing grade without approval of a conditional use permit.
- (8) No fence or wall shall be constructed in a manner or in a location that impairs safety or sightlines for pedestrians and vehicles traveling on public rights-of-way.
- (9) All fences and walls and associated landscaping shall be maintained in good repair and in a safe and attractive condition. The owner of the property on which a fence or wall is located shall be responsible for maintenance, including but not limited to, the replacement of missing, decayed, or broken structural and decorative elements.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

### **Sec. 86-298. Recommended plants.**

Landscaping plans and plantings installed within the county should generally be sustainable and biologically diverse with emphasis on trees and plants native to Virginia and the King William region.

- (1) Landscape designers shall make every effort to use healthy and locally sourced, trees, shrubs, and other plants, and to create landscapes that minimize the need for maintenance and irrigation. Invasive species are not recommended.
- (2) Final plant selections should be made by property owners in consultation with qualified landscape professionals, and should consider specific site conditions, disease resistance, and other qualities to ensure healthy and beautiful landscapes.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

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**Sec. 86-299. Compliance.**

The landscaping standards shall be enforced by the King William County Zoning Administrator.

- (1) The zoning administrator may reduce full buffering and screening to partial buffering and screening as deemed appropriate when commercial uses are in-kind with adjacent uses.
- (2) An appeal to the board may be taken by any person aggrieved or by any officer, department, board or bureau of the county affected by any decision of the zoning administrator in enforcement of this section as outlined in article IV, division 7 of this chapter.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

**Secs. 86-300—86-309. Reserved.**

***ARTICLE XII. EXTERIOR LIGHTING STANDARDS***

**Sec. 86-310. Purpose and intent.**

The purpose of this section is to regulate exterior lighting to:

- (1) Permit the use of exterior lighting at the minimum level necessary for nighttime safety, utility, security, productivity, enjoyment, and commerce;
- (2) Ensure exterior lighting does not adversely impact land uses on adjacent land by minimizing light trespass, obtrusive light, and glare;
- (3) Curtail light pollution, reduce sky glow, and preserve the nighttime environment for astronomy, wildlife, and enjoyment of residents and visitors;
- (4) Conserve energy and resources to the greatest extent possible by encouraging the use of timers and motion sensors to switch the lights off when not needed, and;
- (5) Ensure security for persons and property.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

**Sec. 86-311. Applicability.**

- (a) *General.* The provisions of article XII shall apply to all business and industrial zoning districts (local business district, general business district and industrial district) and on any property located within any other zoning district that is used for business or commercial purposes through a permitted use, an administrative permit, or a conditional use permit.
- (b) *Time of review.* Review for compliance with the standards of this section shall occur as part of the review of an application for a site plan, planned development, certificate of approval, certificate of zoning use, conditional use or variance as appropriate by the zoning administrator.
- (c) *Existing development.* Compliance with these standards, to the maximum extent practicable, shall also apply to redevelopment of an existing structure, building, or use when the structure or use is expanded, enlarged, or otherwise increased in intensity equivalent to or beyond 50 percent.
- (d) *Signs.* Lighting for signage shall be governed by the standards set forth in the separate section of this zoning ordinance regulating signs.

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- (e) *Historic preservation overlay district lighting.* For all properties located within the historic preservation overlay district, used for business or commercial purposes and subject to the review of the architectural review board, lighting fixtures shall be reviewed as a component of any site plan or other alteration before a certificate of approval is issued. As applicable, the requirements of historic preservation overlay district shall be applied in addition to the requirements of this section in the consideration of new or replacement lighting fixtures.
- (f) *Exemptions.* The following are exempted from the exterior lighting standards of article XII:
- (1) Lighting within a public street right-of-way or easement that is used principally for illuminating a roadway;
  - (2) Lighting exempt under state or federal law;
  - (3) Lighting for public monuments and statuary;
  - (4) Lighting that is required under the Uniform Statewide Building Code;
  - (5) Construction, emergency, or holiday decorative or festive lighting, provided such lighting does not create unsafe glare on street rights-of-way and is temporary;
  - (6) Temporary lighting for circuses, fairs, carnivals, theatrical and other performance areas, provided such lighting is discontinued upon completion of the performance;
  - (7) Security lighting controlled and activated by motion sensor devices for a duration of 15 minutes or less;
  - (8) Lighting for flags of the United States of America or the Commonwealth of Virginia, or any department, division, agency or instrumentality thereof, and other noncommercial flags expressing constitutionally protected speech;
  - (9) Architectural lighting of 40 watts incandescent or less;
  - (10) Lighting for an outdoor athletic facility;
  - (11) The replacement of an inoperable lamp or component which is in a luminaire that was installed prior to the date of the adoption of this section;
  - (12) The replacement of a failed or damaged luminaire that is one of a matching group serving a common purpose installed prior to the adoption of this section.

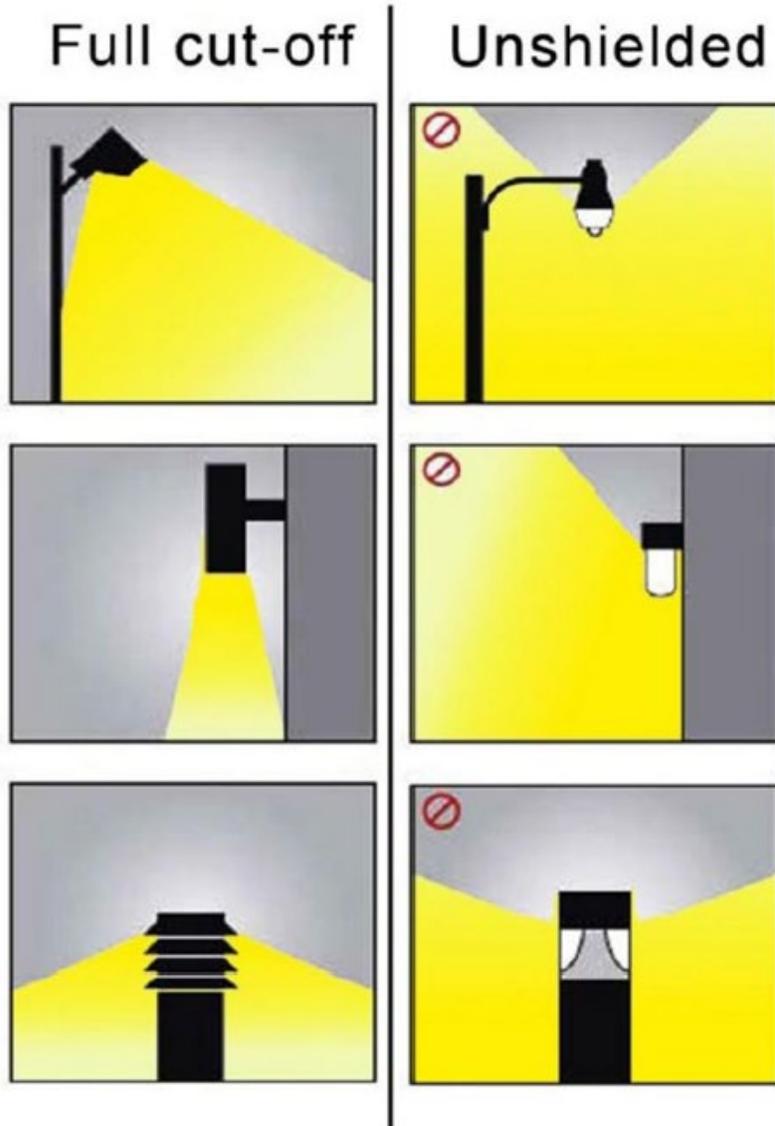
(Ord. No. 09-21R2, Att. A, 9-27-2021)

### **Sec. 86-312. Exterior lighting standards.**

- (a) *Prohibited lighting.* The following lighting is prohibited:
- (1) Those that imitate an official highway or traffic control light or sign;
  - (2) Those in the direct line of vision with any traffic control light or sign;
  - (3) Lighting that have a flashing or intermittent pattern of illumination, except for time and temperature displays;
  - (4) Privately owned lights located in the public right-of-way;
  - (5) Search lights, except when used by federal, state, or local authorities.
- (b) *Exterior lighting standards.*

- 
- (1) Parking lot light fixtures and light fixtures on buildings shall be full cut-off fixtures. The term full cut-off fixture means an outdoor light fixture shielded in such a manner that all light emitted by the fixture, either directly from the lamp or indirectly from the fixture, is projected down below the fixture.
  - (2) In addition to being full cut-off lighting, all lighting shall be aimed and controlled so directed light is directed inward to the property and confined to the object intended to be illuminated. Directional control shields shall be used when necessary to limit stray light and prevent glare to adjacent properties or vehicular public rights-of-way.
  - (3) Light fixtures in parking lots shall not be more than 20 feet in height in the general business district and no more than 30 feet in height in the light industrial district.
  - (4) Light fixtures under any canopy shall be recessed into the canopy ceiling with a flat lens to prevent glare.
  - (5) It is recommended that all exterior lights be 3,000 Kelvin light color temperature or less.

Example of Full Cutoff Light Shielding:



(Ord. No. 09-21R2, Att. A, 9-27-2021)

**Sec. 86-313. Compliance.**

The exterior lighting standards shall be enforced by the King William County Zoning Administrator. An appeal to the board may be taken by any person aggrieved or by any officer, department, board or bureau of the county affected by any decision of the zoning administrator in enforcement of this section as outlined in article IV, division 7 of this chapter.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

**Secs. 86-314—86-319. Reserved.**

### **ARTICLE XIII. OFF-STREET PARKING AND LOADING**

#### **Sec. 86-320. Intent.**

- (a) It is the intent of this article to have adequate parking designed and constructed during the erection of all new structures and certain modifications to existing structures.
- (b) These parking areas are to be designed for the convenience of all who use them and shall be located so as to improve traffic flow, promote traffic safety and add to the beautification of the county.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

#### **Sec. 86-321. Location in relation to use.**

- (a) The parking spaces required shall be located on the same lot as is the principal use; except, that:
  - (1) Upon the recommendation of the planning commission and made part of a conditional use permit by the board of supervisors, a portion of required off-street parking for uses in districts other than residential may be in a remote parking lot.
  - (2) Where an increase in the number of spaces required is required by a change or enlargement of use or where such spaces are provided collectively or used jointly by two or more buildings or establishments.
- (b) A remote parking lot to satisfy this requirement shall be 500 feet measured along lines of public access from the principal use and owned by the owner of the principal structure or, in the alternative, shall be restricted by a recorded agreement to off-street parking purposes during the lifetime of the principal structure or as long as off-street parking is required for such principal structure in accordance with the terms of this article.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

#### **Sec. 86-322. Joint use of spaces.**

- (a) Religious assembly parking spaces already provided to meet off-street parking requirements for theaters, stadiums, auditoriums and other places of public assembly, stores, office buildings and industrial establishments, lying within 500 feet of a religious assembly, as measured along lines of public access, that are not normally used between the hours of 6:00 a.m. and 6:00 p.m. on Sundays and that are made available for other parking may be used to meet not more than 75 percent of the off-street parking requirements of a religious assembly.
- (b) In the case of mixed or joint uses of a building or premises having different peak parking demands, the parking spaces required may be reduced if approved by the planning commission or zoning administrator in conjunction with site plan approval. In such instances, the applicants shall demonstrate that the periods of peak use are separated sufficiently and shared parking spaces are available to all uses sharing them, so as to not cause a parking demand problem.
- (c) In the case of mixed or joint uses of a building or premises having the same peak parking demands, the parking spaces required shall equal the sum of the requirements of the various uses computed separately.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

**Sec. 86-323. Off-street parking.**

- (a) *Specific parking requirements by use.* Except as otherwise provided in this chapter, when any building or structure is hereafter erected or structurally altered, or any building or structure hereafter erected is converted, accessory off-street parking spaces shall be provided according to the requirements for individual uses in the following table. Where fractional spaces result, the parking spaces required shall be construed to be the next highest whole number.

Table of Off-Street Parking Requirements for Individual Uses	
Use or Use Category	Spaces Required
Abattoir, commercial greenhouse, commercial stable, livestock market, and other agricultural uses	As approved by Zoning Administrator
Agritourism and event venue	1 per 3 guests
Amusement, dancehall, skating rink, swimming pool, or other indoor sports and recreation, without fixed seats	1 per 100 square feet of floor area; does not apply to accessory uses
Auditorium, theater, gymnasium, stadium, arena or convention hall or other commercial indoor entertainment	1 per 4 seats or seating spaces
Automobile repair services, car washes, and gasoline stations	3 for each service bay, stall, rack or pit, plus 1 for each gasoline pump; minimum 5 spaces
Automobile dealership and equipment sales, rental/leasing	1 customer vehicle space for each 500 square feet of building floor space
Boardinghouse (Rooming house), short term rental or bed and breakfast	1 per 2 sleeping rooms
Brewpub, Craft/brewery, Distillery, Winery	1 space per 100 square feet of total gross floor area used for a bar or tavern type use, including outdoor bar or tavern area, tasting room, retail: 1 per 100 square feet of dining area including outdoor dining. Brewery/kitchen: 1 space per two employees on maximum working shift plus space for storage of trucks or other vehicles used in connection with the business or industry
Business or Trade School	1 per employee on largest shift, plus 1 per 4 students
Convalescent home, Nursing home, halfway house or similar facility	1 per 3 patient beds
Commercial indoor amusement and Bowling alley	1 space for each 3 persons based on maximum occupancy, plus 1 space per employee on largest shift
College or high school	1 per 4 seats or bench seating spaces (seats in main auditorium or fieldhouse only, whichever is larger) or 1 per each 4 students whichever is greater
Country club or golf club or other private clubs without sleeping rooms	1 per 5 members or 1 for each 400 square feet of club without sleeping floor area, whichever is greater
Day care center	1 for each 250 square feet
Elementary, junior high or nursery school	1 per 10 seats in main assembly room or 2 per classroom (whichever is greater)

Family Day Home (5—12 individuals)	2 plus residential requirement
Funeral home	1 per 50 square feet of floor area excluding storage and work area, 30 spaces minimum
Auto and boat sales and service	1 per 300 square feet of floor area; 2 spaces minimum; automobile sales and sales and service; 10 minimum
General retail, personal service establishment, grocery store, financial institution, pawn shop, specialty shop, consumer repair service, neighborhood convenience, Farm Supply, and garden center	1 per 200 square feet of floor area; but for retail food stores over 4,000 square feet: 1 per 100 square feet of floor area for any area in excess of 4,000 square feet
General service or repair establishment, printing/publishing, plumbing, heating, broadcasting station	1 per 3 employees on maximum working shift plus space for storage of trucks or other vehicles used in connection with the business or industry
Home Occupation	2 plus residential requirement for Type I occupation; 4 plus residential requirement for Type II occupation
Hospital, or other medical facility which provides primary health services including surgery and overnight care.	2 per patient bed
Manufactured homes or recreational vehicle sales	1 per 200 square feet of sales office area, 10 spaces minimum
Manufacturing or industrial establishment, research or testing laboratory, creamery, bottling plant, wholesale, warehouse, or similar establishment	1 per employee on maximum working shift plus space for storage of trucks or other vehicles used in connection with the business or industry
Medical offices or clinic for examination and treatment of persons who are not lodged overnight	1 per 200 square feet of floor area; 10 spaces minimum for a clinic
Mini-warehouse	3 plus 1 per 100 units
Motel, motor lodge, or hotel	5 spaces plus 1 per sleeping room suite
Office general, post office or studio	1 per 400 square feet of floor area, 3 spaces minimum
Public library, museum, art gallery or community center	10 per use plus 1 additional space for each 300 square feet of floor area in excess of 1,000 sq. ft.
Religious assembly, temple, synagogue or similar place of assembly	1 per 5 seats or bench seating spaces (seats in main auditorium only)
Restaurant or other establishment for consumption of food or beverages inside a building on the premises	1 per 100 square feet of floor area, 3 spaces minimum
Restaurant, fast food with drive-in service lanes	1 per 100 square feet of floor area for seating within the building plus stacking area for at least 8 vehicles for the first drive-through window and 5 vehicles for each additional drive-through window

Shopping center	1 per 200 square feet of gross leasable area (GLA) or sum of requirements for individual uses, whichever is greater.
Veterinary hospital	1 per 400 square feet of floor area; 4 spaces minimum
Wholesale sales, warehouses	1 for each 1,250 square feet

(b) *Interpretation of specific requirements.*

- (1) The requirements of this section are in addition to space for storage of trucks, campers, recreational vehicles or other similar vehicles used in connection with any use.
- (2) The parking requirements in this article do not limit other parking requirements contained in the district regulations or the article on use and design standards.
- (3) The parking requirements in this article do not limit special requirements which may be imposed in connection with uses permitted by approval of a conditional use or special exception.
- (4) Except as otherwise provided, the number of employees shall be compiled on the basis of the maximum number of persons employed on the premises at one time on an average day or average night, whichever is greater. Seasonal variations in employment may be recognized in determining an average day.
- (5) The parking space requirements for a use not specifically listed in the chart shall be the same as for a listed use of similar characteristics of parking demand generation or as required within the design standards.
- (6) Whenever a building or use is changed or enlarged in floor area, number of employees, number of dwelling units, seating capacity or otherwise, to create a need under the requirements of this article for an increase in parking spaces of ten percent or more, such additional spaces shall be provided on the basis of the change or enlargement. No additional spaces shall be required for the first change or enlargement which would result in an increase of spaces of less than ten percent of those required before the change or enlargement, but this exception shall not apply to a series of changes or enlargements which together result in a need for an increase in parking space of ten percent or more.

(c) *Design standards.*

- (1) *Minimum space area.* For the purpose of the regulations of this article, an off-street parking space is an all-weather surfaced area not in a street or alley and having an area of not less than 162 square feet, exclusive of driveways, permanently reserved for the temporary storage of one vehicle and connected with a street or alley by a paved driveway which affords ingress and egress for an automobile without requiring another automobile to be moved.
- (2) *Entrances and exits.* Location and design of entrances and exits shall be in accord with the requirements of applicable regulations and standards. In general, there shall not be more than one entrance and one exit, or one combined entrance and exit, along any one street and exits and entrances shall meet regular traffic safety and design standards. Landscaping, curbing or approved barriers shall be provided along lot boundaries to control entrance and exit of vehicles or pedestrians.
- (3) *Drainage and maintenance.* Off-street parking facilities shall be drained to eliminate standing water and prevent damage to abutting property and/or public streets and alleys. Off-street parking areas shall be maintained in a clean, orderly and, to the extent possible, dust-free condition at the expense of the owner or lessee.
- (4) *Separation from walkways and streets.* Off-street parking spaces shall be separated from walkways, pedestrian paths, streets or alleys by a wall, fence or curbing or other approved protective device, or by distance, so that vehicles cannot protrude over publicly owned areas.

- (5) *Marking.* Parking spaces in lots of more than ten spaces shall be marked by painted lines or curbs or other means to indicate individual spaces. Signs or markers shall be used to ensure efficient traffic operation on the lot.
- (6) *Lighting.* Adequate lighting shall be provided if off-street parking spaces are to be used at night. The lighting shall be arranged, installed and the light source shielded to minimize glare on adjacent property or streets and no lighting fixture shall exceed a height of 15 feet in an R-1 suburban residential district, 20 feet in a B-1 local business district or 30 feet in the industrial district. All lighting shall comply with the standards in article XII.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

**Sec. 86-324. Off-street loading requirements.**

- (a) *Specific requirements by use.* Except as otherwise provided in this chapter, when any building or structure is hereafter erected, or structurally altered to the extent of increasing the floor area by 25 percent or more, or any building is hereafter converted, for the uses listed in this section, when such buildings contain the floor areas specified, accessory off-street loading spaces shall be provided as required in this section or as required in subsequent sections of this article.

- (1) For each retail store, department store, restaurant, wholesale house, warehouse, consumer repair service, manufacturing or industrial establishment or similar use which has an aggregate floor area of:

(1)	At least 2,000 but not more than 10,000 square feet	1 loading space
(2)	From 10,000 to 20,000 square feet	2 loading spaces
(3)	From 20,000 to 40,000 square feet	3 loading spaces
(4)	From 40,000 to 60,000 square feet	4 loading spaces
(5)	More than 60,000 square feet	1 space for each additional 50,000 square feet over 60,000

- (2) For each apartment building, motel, hotel, office or office building, hospital or similar institution or place of public assembly which has a gross floor area of:

(1)	At least 5,000 but not more than 10,000 square feet	1 loading space
(2)	From 10,000 to 100,000 square feet	2 loading spaces
(3)	From 100,000 to 200,000 square feet	3 loading spaces
(4)	More than 200,000 square feet	1 space for each additional 100,000 sq. ft. over 200,000

- (3) For each auditorium, museum, community center, sport arena, stadium, gymnasium, sanitarium, or similar use which has an aggregate gross floor area of:

(1)	At least 10,000 square feet but not more than 40,000 square feet	1 space
(2)	For each additional 60,000 square feet over 40,000 square feet	1 space

- (4) For each funeral home or mortuary which has aggregate gross floor area of:

(1)	At least 2,500 square feet but not more than 4,000 square feet	1 space
(2)	At least 4,000 square feet but not more than 6,000 square feet	2 spaces
(3)	For more than 6,000 square feet	1 additional space for each 10,000 square feet over 6,000

(Ord. No. 09-21R2, Att. A, 9-27-2021)

**Sec. 86-325. Interpretation of specific requirements.**

(a) *Loading requirements.*

- (1) The loading space requirements apply to all districts but do not limit the special requirements which may be imposed in the district regulations.
- (2) The loading space requirements in this article do not limit special requirements which may be imposed in connection with uses permitted by approval of a conditional use or special exception.

(b) *Joint use of space.* Where a building is used for more than one use or for different uses, and where the floor area used for each use for which loading space is required is below the minimum for required loading spaces but the aggregate floor area used is greater than such minimum, then off-street loading space shall be provided for which the most spaces are required. In such cases, the zoning administrator may make reasonable requirements for the location of required loading spaces. The planning commission or zoning administrator in conjunction with site plan approval may make reductions if loading requirements have different peak demand times. In such instances, the applicants shall demonstrate that the periods of peak use are separated sufficiently and shared loading spaces are available to all uses sharing them, so as to not cause a loading demand problem.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

**Sec. 86-326. Design standards.**

- (a) *Minimum size.* For the purpose of the regulations of this article a loading space is a space within the main building or on the same lot providing for the standing, loading, or unloading of trucks, and having a minimum area of 480 square feet, a minimum width of 12 feet, a minimum depth of 40 feet, and a vertical clearance of at least 15 feet.
- (b) *Loading space for funeral homes.* Loading spaces for a funeral home may be reduced in size to ten by 25 feet and vertical clearance reduced to eight feet.
- (c) *Entrances and exits.* Location and design of entrances and exits shall be in accord with applicable requirements of the district regulations and traffic regulations and standards. Where the entrance or exit of a building is designed for truck loading and unloading, such entrance or exit shall be designed to provide at least one off-street loading space. Where an off-street loading space is to be approached directly from a major thoroughfare, necessary maneuvering space shall be provided on the lot.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

**Secs. 86-327—86-339. Reserved.**

## **ARTICLE XIV. PLANNED UNIT DEVELOPMENT**

### **Sec. 86-340. Purpose.**

The purpose of this article is to enhance the quality of future development in the county by encouraging the integration of land planning, open space preservation, mixed-use, and cluster design. This purpose will be implemented through the establishment of:

- (1) A zoning district titled "planned unit development" ("PUD"). Within districts, PUD projects may be planned, approved, and developed under the guidance and control of a plan of development; and,
- (2) Administration guidelines and standards, to be applied on a case-by-case basis using the process required for a change of zoning, as set out in this chapter.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

### **Sec. 86-341. Intent.**

The intent of the PUD is enumerated in section 86-130.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

### **Sec. 86-342. Applicability of PUD district provisions.**

- (a) The PUD district is created as a separate district exclusive of other districts in these regulations. The use, height, and yard requirements shall be determined by the requirements and procedures set forth in this article and shall prevail over conflicting requirements of other zoning regulations.
- (b) Every PUD shall be served by a public water and sewer supply in accordance with the county's policies regarding public utility service.
- (c) The PUD may also involve subdivisions of land. Subdivisions of land are subject to the applicable requirements of the subdivision ordinance, and other development ordinances. Nothing in this article shall exempt an owner from meeting the requirements of such other ordinances; however, the master plan may also serve as the preliminary plat requirements for subdivisions. Accordingly, once a master plan has been approved under this article, such application may serve as an approved preliminary subdivision plat.
- (d) The PUD zoning district applies only to the special categories of projects described in this subsection, and then only to the specific land upon which such developments are planned and approved pursuant to procedures set forth in this chapter for planned unit developments. Regulations established through the approval of a planned unit development district by the board of supervisors shall function as follows:
  - (1) They shall be established to implement the goals and objectives in the county's comprehensive plan.
  - (2) Subsequently, should the project for which the PUD zoning district was established be terminated for any reason, such district may be terminated upon the initiative of the planning commission or board of supervisors and after proper rezoning notices and hearings.
  - (3) In cases where a special purpose zoning district's boundary are identified and adopted by reference to federal or state maps and associated regulations, such maps and/or regulations adopted by reference shall be considered to be part of the county zoning district map.

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(Ord. No. 09-21R2, Att. A, 9-27-2021, Ord. No. 12-24, 7-8-24)

**Sec. 86-343. General requirements.**

- (a) *Establishment of the district.* A PUD district is to be established and recorded once an applicant's submission of a master plan of development and other supporting documentation is approved through the conditional zoning process by the board of supervisors. Applicant must follow the procedures for conditional zoning set out in article V of this chapter and meet the requirements of this article.
- (b) *Annotation of zoning district map.* The zoning district map shall show, via use of an appropriate symbol, each PUD district established under this article. In addition, the zoning administrator shall keep an index of planned unit development districts, in the office where zoning records are maintained, and make such index available for public inspection. The index shall provide a direct reference to the ordinances that enabled the creation of the district. If a PUD district contains proffered conditions pursuant to article V of this chapter, the indexing of such conditions shall be governed by the requirements of that article, and also be cross-indexed with the PUD-M district index.
- (c) Amendments to a PUD may be made following the same requirements and procedures established for rezoning approval, except that the planning director, at his or her discretion, may approve minor revisions to the application that improve the design and intent of the PUD. Additional land area may be added to an existing PUD if it is adjacent and/or would form a logical addition to the existing PUD. The procedure for adding additional land shall be the same as filing an original application.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

**Sec. 86-344. Uses.**

Permitted uses and conditional uses are provided below:

Permitted and conditional uses shall be defined in the application and approved by the board of supervisors as a condition of rezoning.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

**Sec. 86-345. Application requirements.**

- (a) Any application for a PUD must be preceded by a concept plan and pre-application meeting prior to any formal submission or consideration by the planning commission. The concept plan shall be submitted to the zoning administrator for consultation and discussion and shall include the location and components identified in section 86-40. The zoning administrator may consult with the planning commission and area agencies, as appropriate. Although no formal action is required, an application will not be accepted until a concept plan has been submitted and reviewed.
- (b) After the concept plan and pre-application meeting, a formal application for a PUD district application shall be submitted. A complete application, eligible for public hearing, shall consist of a master plan, design manual, and community impact statement. The planning director, at his or her discretion, may establish additional application requirements for a PUD, and/or may modify requirements.
  - (1) *Master plan requirements:*
    - a. The proposed title of the project and the name of the engineer, architect, designer, and/or landscape architect, and the owner/developer.
    - b. Jurisdiction/supervisor district and state.

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- c. The northpoint, scale, and date. Plans shall be drawn at a scale of not less than one inch to 400 feet and depict the area within 2,000 feet of the property boundaries.
  - d. Zoning and zoning district boundaries, both existing and proposed.
  - e. The existing owners and source of ownership for all parcels included in the PUD.
  - f. The owner, tax map parcel, and source of ownership for adjoining parcels.
  - g. An accurate boundary survey of the development tract showing the location and type of boundary evidence and a data reference for elevations to be used on plans and profiles, said elevations to be correlated, where practical, to U.S.G.S. or global positioning system ("G.P.S.") horizontal and vertical data.
  - h. Vicinity sketch at a scale no greater than one inch to 2,000 feet. Sketch must be large enough to show the subject property and intersections (referenced to 0.01 mile to the nearest intersection) to two state roads with route numbers.
  - i. Location of existing environmental, topographical, and historic resources including:
    - 1. Topography, at an interval of five feet.
    - 2. Aquifer recharge areas, based on available published information (USGS maps or other sources approved by the county).
    - 3. The location of ponds, streams, natural drainage swales, 100-year flood plains, all resource protection areas as defined under the Chesapeake Bay Preservation requirements and slopes of 25 percent or greater.
    - 4. Location of all historic structures and resources, as identified by the King William Historic Site survey, the Virginia Department of Historic Resources, or the National Register of Historic Places, which may include abandoned roads, cemeteries, and military earthworks. All features to be preserved shall be clearly noted on the plan.
    - 5. Other existing natural features on the property, including tree masses, wood lines, and a depiction of any proposed modifications to the feature.
  - j. Proposed lot lines.
  - k. Proposed square footage of commercial buildings.
  - l. Designation of land uses with densities.
  - m. Locations of streets, parking, and pedestrian paths.
  - n. Designation of areas of common open space, with a description of proposed improvements and landscaping, where appropriate, and active and passive recreation areas.
  - o. Location of proposed structures (commercial and residential), with designation of the type(s) of housing proposed. If attached structures are to be used, the number of units in each structure within the district shall be shown.
  - p. General location of water, wastewater, stormwater and permanent erosion and sediment control structures.
  - q. A statement explaining how the PUD complies with the policies and objectives of the comprehensive plan.
- (2) Design manual requirements:

- 
- a. An overall project description establishing the intended community characteristics, design themes, and elements to be incorporated into the project, to include concepts related to bulk and scale, physical relationships, and material composition.
  - b. Descriptions, depictions, and typical drawings for the following:
    1. Proposed typical elevations for all structures, which shall include the following typical details:
      - i. Facade materials, including the use of color(s).
      - ii. Building height, length, and depth.
      - iii. Roof lines and materials.
      - iv. Screening for the heating, air conditioning, and electrical systems used commercial, industrial, or multiple use buildings.
      - v. Signage.
      - vi. Exterior lighting fixtures, both residential and nonresidential.
      - vii. Landscape details, including typical plant materials to be used throughout the project, including typical planting details and location(s) for the following areas:
        - (A) Frontage landscaping along major thoroughfares, and where proposed along common external boundaries.
        - (B) Internal buffers, where proposed.
        - (C) Internal roads.
        - (D) Common and public areas.
        - (E) Parking lots.
    2. Neighborhood design characteristics including:
      - i. Internal road functional classifications.
      - ii. Typical road section plans for each functional classification, to include both plan and cross section views.
      - iii. Proposed setback lines for each type of road as described in "section 86-345(b)(2)a.2." above (if applicable).
      - iv. Proposed build-to lines for each type of road as described in " section 86-345(b)(2)a." above (if applicable).
      - v. Typical streetscape design for each classification of road and/or impervious surface to be used.
    3. Pedestrian system, including type(s) of paving and/or impervious surface to be used.
    4. Lighting schematics including height and fixture type.
    5. A phasing schedule that sets forth the approximate number of residential units, by type or class, to be developed per year and an explicit link between the timing of the development of residential, nonresidential, and commercial components.
- (3) *Community impact statement to include:*
- a. Stormwater management plan;

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- b. Environmental impact analysis;
  - c. Traffic impact analysis;
  - d. Impact to schools;
  - e. Emergency services/fire protection/police protection;
  - f. Libraries/parks and recreation;
  - g. Publicly provided utility services, such as water, sewer, and refuse disposal; [and]
  - h. Archaeological and historic site survey is required if a designated historic resource, as identified by the King William Historic site survey, the Virginia Department of Historic Resources, or the National Register of Historic Places, if located on the subject property or on a property immediately adjacent.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

### **Sec. 86-346. Character of development.**

PUD districts should encourage development form and character that is aesthetically pleasing and is different from conventional suburban development by providing the following characteristics:

- (1) Pedestrian orientation;
- (2) Neighborhood friendly streets and paths;
- (3) Interconnected streets and transportation networks;
- (4) Parks and open space amenities;
- (5) Neighborhood centers;
- (6) Appropriately scaled buildings and spaces;
- (7) Relegated parking;
- (8) Mixture of uses and use types;
- (9) Mixture of housing types and affordability; and
- (10) Environmentally sensitive design.

An application is not required to include every characteristic of the PUD development district as delineated above in order to be approved. Factors such as the size of the proposed district and surrounding uses may prevent the application from possessing every characteristic.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

### **Sec. 86-347. General standards of development.**

- (a) *Standards applicable to entire district.*
  - (1) *Minimum district size.* The minimum district size shall be 15 acres.
  - (2) *Density.* Density shall be determined at time of rezoning with compliance with the comprehensive plan. For purposes of this district, net developable area shall be defined as the gross acreage of the district minus all Chesapeake Bay Resource Protection Areas and all slopes of 25 percent or greater. For the purposes of this district, the acreage values used in the determination of density shall be the net developable area. The gross density of the single family residential shall not exceed five dwelling units

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per acre. The gross density of the attached units shall not exceed eight units per acre. The gross density of the multi-family shall not exceed 24 units per acre.

- (3) *Streets.* All streets within the district shall be public, unless approved to be private streets by the board of supervisors. Private streets shall be built to Virginia Department of Transportation (VDOT) standards and would otherwise be acceptable for public maintenance. Where appropriate, streets shall be extended to the mixed-use development boundary to accommodate future, adjacent property development. Wherever practical, curb and gutter shall be used throughout the development. The board of supervisors reserves the right to permit other methods of stormwater removal.
- (4) *Height.* All dwelling units including but not limited to, single family dwelling units and multiple family structures and all other commercial and institutional uses, including combined use structures, may be constructed to a height of three stories or 45 feet.
- (5) *Gross floor area.* The total gross floor area of uses permitted in commercial areas shall be at least 200 square feet per dwelling unit approved on the master plan, but shall not exceed 1,000 square feet per dwelling unit approved on the master plan. Outdoor display service or sales areas shall be included in gross floor area calculations. The phasing plan shall fully describe the timing of installation of the commercial components to ensure they are commensurate with the residential portions of the project.

Single family detached structures shall not be erected having a floor area less than 1,400 square feet for a single-story and 1,800 square feet for a two-story dwelling. This minimum area is exclusive of attached garages, carports, porches, patios, or breezeways. Single family attached structures shall not be erected having a floor area less than 1,300 square feet. This minimum area is exclusive of attached garages, carports, porches, patios, or breezeways. Multi-family structures shall not be erected with units having a floor area less than 950 square feet of living area.

- a. *Open space.* No less than 25 percent of the net developable area of the overall district shall be set aside as open space. This may include common open areas, plazas, areas improved for recreation, historic sites, natural preservation areas and any streetscape landscaping provided between various uses within the district. It shall not include yards of dwelling units or outdoor areas used in connection with a commercial or industrial use. Active and passive recreation may be provided within the open space. All recreation areas shall be designated on the master plan. When improved with playground equipment, playing fields, tennis courts, swimming pools, or other recreational facilities, such improvements shall be detailed on the master plan. All improvements shall be constructed in accordance with the phasing schedule approved with the master plan. The recreational areas and facilities shall be owned and maintained by residents' association;
- b. The required open space shall not contain more than 25 percent steep slopes, wetlands, utility easements, or other limitations. At least 15 percent of the open space shall be improved. Such improvements may include, but shall not be limited to, pedestrian ways, bicycle paths, play lots and playgrounds, tennis courts, clubhouses, and swimming pools;
- c. Open space shall be reasonably dispersed with a logical relationship throughout the site;
- d. Open space areas shall be designed and located to maximize public accessibility, and where possible, shall be connected by a pedestrian circulation system, including sidewalks, pathways and trails;
- e. Open space shall emphasize inter-relationships between uses within the project and create visual connections between spaces;
- f. Improvements shall be configured to accommodate permitted, accessory, and conditional uses in an orderly relationship with one another, with the greatest amount of open area and with the least disturbance to natural features.

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- (6) *Minimum setback and lot size.* Within the PUD district, minimum lot size, minimum lot width and frontage and minimum setback ranges shall be specifically established during the review and approval of the concept plan. Specific setbacks may be approved administratively in the site plan process if they are in conformance with the established ranges. A modification to the concept plan will be required if the provided details are not within the established ranges. The following guidelines shall be used in establishing the building spacing and setbacks.
- a. Areas between buildings used as service yards, storage of trash, or other utility purposes should be designed to be compatible with adjoining buildings;
  - b. Building spacing and design shall incorporate privacy for outdoor activity areas (patios, decks, and the like.) associated with individual dwelling units, whenever feasible; and
  - c. Yards located at the perimeter of the mixed-use development district shall conform to the setback requirements of the adjoining district, or to the setback requirements of the PUD development district, whichever is greater.
  - d. In no case shall setbacks interfere with public safety issues such as intersection sight distance or utilities, including other public infrastructure such as pedestrian paths, open space, and the like. Building restriction lines shall be shown on the final site plan.
- (7) *Landscaping.*
- a. Preservation of existing trees and shrubs shall be maximized to provide for continuity and improved buffering ability. Special attention shall be given to preserve all existing trees within 20 feet of existing bodies of water, such as lakes, streams, and wetlands. Trees to be retained shall be noted on the master plan, and a method of protection identified.
  - b. Streetscape buffers.
    1. Streetscape buffers, the minimum width along the existing public road upon which the development fronts, shall be agreed upon by the applicant and board of supervisors during plan submittal.
    2. The buffer shall be placed within an easement and the property owners' association shall be charged with maintenance of the buffer. If any required tree, shrub, or other landscaping element shall die or be removed after issuance of the certificate of occupancy, the developer, his or her successors or assigns shall replace each by the end of the next planting season with trees or shrubs of the same or similar species, type, color, or character.
    3. The buffers shall contain a pedestrian path located along the frontage of the property and such pedestrian path shall be designed and constructed in accord with applicable VDOT standards and may contain utility easements and signs, but not water quality structures (i.e., BMPs).
    4. Streetscape buffers shall contain landscaping materials as outlined in article XI of this chapter.
    5. Landscaping shall not obstruct the view of motorists using any street, private driveway, parking aisles, or the approach to any street intersection so as to constitute a traffic hazard or a condition dangerous to the public safety. Streetscape buffers shall adhere to all sight distance requirements as determined by VDOT.
  - c. *Screening.* Screening shall be required to conceal specific areas from both on-site and off-site views. Such areas shall be screened using an appropriate combination of plants, fencing, and masonry walls to adequately screen them from view, regardless of adjacent uses, adjacent districts, or other proximate landscaping material. Screening plantings shall be maintained in

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perpetuity and any dead or dying plants shall be removed within 30 days of notification by the zoning administrator and shall be replaced by the property owner during the next viable planting season. Specific areas to be screened include:

1. Large waste receptacles (dumpsters) and refuse collection points (including cardboard recycling containers).
  2. Loading and service areas.
  3. Outdoor storage areas (including storage tanks).
  4. Ground-based utility equipment with size in excess of 12 cubic feet.
  5. Ground level mechanical units.
- d. All vehicle parking areas shall include landscaping, both within the interior of the parking area and around its perimeter, to provide shade, screen views, mitigate runoff, and provide aesthetic appeal.
- e. Perimeters of the district, not along a street, should consider the adjacent uses and buffer and/or screen for the best transition of uses.
- f. Any required landscaping shall be installed prior to the issuance of a certificate of occupancy.
- (8) *Management of open space, private roads and other areas of common ownership:*
- a. All common areas shall be deeded to a property owners association. The association and regulations shall be approved by the county attorney during final site plan approval and shall conform to the following requirements:
    1. The developer must establish the association concurrent with the recordation of the subdivision plat and prior to the sale of any lots.
    2. Membership in the property owner's association shall be mandatory for all property owners, present or future, within the PUD and said association shall not discriminate in its membership or shareholders.
    3. The association shall manage all open space, common areas and amenities; in addition, the association shall maintain all roads not maintained by VDOT.
    4. The association shall have the authority to assess fees and impose liens.
  - b. The board of supervisors may approve conveyance of the open space and any open space easement to a qualifying nonprofit or governmental entity other than the property owners' association or the county, upon a finding that such a conveyance will achieve purposes of open space consistent with the character of the PUD district, that the conveyance will be beneficial to the future owners within the district and to the public, and that the purposes and resources of the entity and the proposed conveyance are consistent with the preservation of the open space and significant features. For the purposes of this section a qualifying nonprofit shall be an organization classified as nonprofit under the Internal Revenue Service definition.
- (9) *Road access.* No residential use shall have direct access to any road outside of the district. Commercial use direct access may be approved by the board of supervisors on the master plan if the need for such is demonstrated by the applicant.
- (10) *Lighting.* Exterior lighting shall be provided throughout the development and typical fixtures will be provided as part of the design manual details. When selecting exterior lighting the following shall apply:

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- a. Cut off style lighting fixtures to conceal the lighting source and minimize spillover or glare on adjoining properties shall be used in all commercial areas.
  - b. Any lighting used under canopies shall be recessed to minimize glare.
  - c. Lighting intensity should be the minimum required to satisfy safety and security concerns.
  - d. Lighting shall be reduced to no more than a security level following close of daily operations in all commercial areas.
- (11) *Signage.* Signs for the community will be coordinated in color and design and shall be either ground mounted or building mounted. A sign package showing the plan for signage on the property shall be submitted with the design manual as part of the master plan.
- (12) *Utilities.* Mixed use developments shall be in accordance with the following requirements:
- a. All new utility lines including telephone, television cable, and electrical systems, and similar uses shall be installed underground.
  - b. Mixed use developments shall be served by public water and sewer utilities, whether public or privately operated, and shall be designed and constructed to public standards as approved by the King William Utility Department and Hampton Roads Sanitation District.
  - c. Private centralized utilities shall be maintained by a homeowner's association (unless otherwise operated by a public or private utility) which shall be established prior to final plat approval. Applicable homeowners' association documents shall be reviewed for consistency with the county's requirements by the county attorney prior to final plat approval.
- (b) *Standards applicable to the residential areas.* In addition to the standards referenced above, all development within the residential portions of the development shall conform to the following standards:
- (1) A pedestrian path system, providing access to open space, neighborhoods, and development areas, shall be shown on the master plan. The detail of construction of the path shall be shown on the master plan.
  - (2) Fire protection systems shall be placed throughout the residential areas to provide adequate access to hydrants.
- (c) *Standards applicable to the commercial development:*
- (1) *General design:*
    - a. All commercial areas within the PUD shall have safe and convenient access to a collector street or major thoroughfare.
    - b. *Parking.* The applicant shall establish parking regulations for consideration by the board of supervisors based upon a parking needs study or equivalent data. The parking regulations shall decrease impervious cover by reducing parking requirements and consider alternative transportation modes. The following additional requirements shall also apply within the mixed use development district:
      - 1. Parking shall be located predominantly to the side and/or rear of buildings;
      - 2. Parking areas shall include interior landscaped parking lot islands as well as landscaping along the perimeter;
      - 3. Parking areas are to be designed to facilitate pedestrian movement;
      - 4. Parking areas should encourage alternative forms of transportation by providing amenities such as bicycle parking and bicycle lanes; and

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5. Parking lots shall not create long expanses of empty street frontage.

(2) *Architectural standards—Commercial structures.*

- a. Façade design within the PUD shall be developed with a unified architectural theme. The standard of compatibility may be met through scale, materials, forms, and/or colors which may be embodied in architecture that is contemporary as well as traditional.
- b. Primary entrances to buildings shall be clearly identified and oriented towards the primary pedestrian paths. Façades shall be balanced and symmetrical without being overly complicated and monotonous.
- c. Building materials utilized for the front and side façades of the buildings shall be limited to brick, split-faced block, fluted block, tile, concrete tile, dryvit, or other simulated stucco (EIFS), real or simulated wood and/or glass. Standard concrete masonry block shall not be used for the front and side façades of any building.
- d. Roof design. Pitched roofs shall be provided wherever practicable. Rooflines shall be varied in order to add architectural interest and avoid the appearance of long, monotonous roofline expanses.
- e. Roof material. Roofs, including mansard and other decorative roofs, shall not be interpreted to be a part of any building façade. Roofing materials shall consist of wood, tin, copper, slate, terra cotta, standing seam metal or dimensional fiberglass shingles.
- f. Adjacent façades will be compatible with each other and architectural features such as setbacks, changes in building materials, canopies or differences in roof height will be used to add visual interest. Exterior walls fronting a promenade will not exceed 100 feet in length without altering the appearance of the building(s) by using a mixture of compatible building materials or, alternatively, by providing a variance in setback of at least two feet.
- g. Any mechanical units placed on the rooftops of buildings shall be screened by architectural features which are compatible with building façade architecture.
- h. Service and delivery loading docks will be located at the rear of structures, or wholly screened from view from any right-of-way.

(Ord. No. 09-21R2, Att. A, 9-27-2021, Ord. No. 12-24, 7-8-24)

### **Sec. 86-348. Exceptions.**

The board of supervisors may approve development plans that deviate from the standards of development if the site's topography, configuration, or other unique circumstance that prevents full compliance with the requirements. Any exception or deviation from standards specified in this article shall be granted only when such exception or deviation will not impair the health, safety, comfort and welfare of the inhabitants of the county. In any such case, the board of supervisors may impose conditions that will accomplish the purposes of the requirements to the maximum extent practicable.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

### **Sec. 86-349. Number of Permits**

No more than 50% of the residential units shall be issued building permits until at least 25% of the commercial property has been developed.

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**Sec. 86-350. Guarantee of completion.**

Prior to the approval of any final site plan, for the overall project or any part thereof, the board of supervisors shall require a contract with safeguards approved by the county attorney securing construction of public improvements.

The owner or developer shall furnish to the county a certified check or cash escrow in the amount of the estimated costs of construction of the public improvements, or post a personal, corporate or property bond, with surety satisfactory to the county attorney in the amount of the estimated cost of construction, or furnish to the board of supervisors a bank letter of credit on certain designated funds in the amount of the estimated cost of construction, said letter of credit to be approved by the county attorney.

Upon completion and approval of the required private street improvements, the developer shall post a defect bond in the amount of ten percent of the cost of the improvements, said bond to guarantee the correction by the developer of any defects in material or of workmanship in the installation of the required improvements for one year subsequent to the approval of the installation.

**Sec. 86-351. Discontinuation of a project.**

If the development project for which a planned unit development district has been established should be terminated or discontinued for any reason prior to the commencement of substantial construction pursuant to such plan, it is the intent of this article that the PUD zoning district established for the project shall also be terminated. In the event that a development plan, or section thereof, is given final approval and thereafter the applicant or his successors shall abandon said plan or section thereof, and shall so notify the commission in writing; or in the event that applicant or his successor fails to commence the planned unit development within two years after final approval has been granted, then and in that event such final approval shall terminate and be deemed null and void unless such time period is extended by the board of supervisors upon the recommendation by the planning commission upon written application by the applicant or his successors. Upon termination of an approval, the planning commission shall review any changes in the zoning district map brought about by the proposed development and if it deems said changes to be inappropriate unless a part of planned development, shall recommend to the board of supervisors that the map be revised in accordance with the procedures for changes and amendments.

(Ord. No. 12-24, 7-8-24)

**Secs. 86-352—86-359. Reserved.**

***ARTICLE XV. TELECOMMUNICATION TOWERS***

**Sec. 86-360. Purpose.**

- (a) The purpose of this article is to establish general guidelines and standards for the siting of telecommunication towers and to involve members of the public earlier in the process, in a more meaningful manner. Wireless infrastructure and technology provide substantial public safety, economic development, educational, and quality-of-life benefits to the county's residents and businesses and the county seeks to promote the expansion of those technologies in a manner which has a minimal impact on the general public.
- (b) The goals of this article are to:

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- (1) Minimize the number of towers which need to be constructed;
  - (2) Encourage the joint use of towers;
  - (3) Encourage the location and design of towers and antennas in ways that minimize impacts on the county's scenic and other resources;
  - (4) Maximize the public's ability to contact public safety responders; and
  - (5) Meet the growing public demand for reliable, high-quality wireless communications services.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

### **Sec. 86-361. Establishment.**

For the purposes enumerated in section 86-360, article XV: telecommunication towers, is hereby established pursuant to the authority granted by Code of Virginia, §§ 15.2-2280, 15.2-2286, 15.2-2316.3, 15.2-2316.4 and 47 USC 332.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

### **Sec. 86-362. Applicability.**

The supplementary regulation in this article shall govern the location of towers that exceed 50 feet in height and antennas that are installed at greater than 50 feet in height. These regulations are in addition to the general requirements of the district and conditional uses. The supplementary regulations in this article shall not govern:

- (1) A temporary, commercial wireless communications facility, upon the declaration of a state of emergency by federal, state, or local government, or determination of public necessity by the county board of supervisors or designee and approved by the county board of supervisors or designee; except that such facility must comply with all federal and state requirements. The wireless communications facility may be exempt from the provisions of this article up to three months after the duration of the state of emergency.
- (2) A temporary, commercial wireless communications facility, for the purposes of providing coverage of a special event such as news coverage or sporting event, subject to approval by the county board of supervisors or designee, except that such facility must comply with all federal and state requirements. Said wireless communications facility may be exempt from the provisions of this article for up to one week after the duration of the special event.
- (3) Any antenna that is operated by a federally licensed amateur radio station operator or is used exclusively for receive-only antennas for amateur radio station operation.
- (4) Installation, placement, maintenance, or replacement of micro-wireless facilities that are suspended on cables or lines that are strung between existing utility poles in compliance with national safety codes.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

### **Sec. 86-363. Small cell facilities.**

In accordance with Code of Virginia, § 15.2-2316.4, small cell facilities shall be permitted by right in all zoning districts subject to the following general performance standards.

- (1) The small cell facility shall be installed by a wireless services provider or wireless infrastructure provider on an existing structure.

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- (2) The wireless services provider or wireless infrastructure provider has obtained permission from the owner of the existing structure to collocate the small cell facility on the existing structure and to collocate the associated transmission equipment on or proximate to the existing structure.
  - (3) Wireless facilities which do not meet the criteria to be deemed a small cell facility shall be deemed mobile and land-based telecommunications facilities. Such facilities may be permitted pursuant to the applicable criteria and procedures of this article.
  - (4) A wireless services provider or wireless infrastructure provider may submit up to 35 permit requests for small cell facilities on a single application. Permit application fees shall be in accordance with Code of Virginia, § 15.2-2316.4, paragraph B(2).
  - (5) Permit applications for small cell facilities shall be reviewed and approved as follows:
    - a. Permit applications for the installation of small cell facilities shall be approved or disapproved within 60 days of receipt of the complete application. The 60-day period may be extended by staff upon written notification to the applicant, for a period not to exceed an additional 30 days.
    - b. Within ten days of receipt of an application submission and a valid electronic mail address for the applicant, the applicant shall receive an electronic mail notification if the application is incomplete. If the application is determined to be incomplete, the notification shall specify the missing information which needs to be included in a resubmission in order to be determined complete.
    - c. Any disapproval of the application shall be in writing and accompanied by an explanation for the disapproval. The disapproval may be based only on any of the following reasons:
      1. Material potential interference with other pre-existing communications facilities or with future communications facilities that have already been designed and planned for a specific location or that have been reserved for future public safety communications facilities.
      2. Public safety or other critical public service needs.
      3. In instances where the installation is to be located on or in publicly owned or publicly controlled property (excluding privately owned structures where the applicant has an agreement for attachment to the structure), aesthetic impact or the absence of all required approvals from all departments, authorities, and agencies with jurisdiction over such property.
      4. Conflict with an applicable historic overlay district unless approved by the historic preservation architectural review board.
  - (6) A permit application approval shall not be unreasonably conditioned, withheld, or delayed.
  - (7) An applicant may voluntarily submit, and staff may accept, any conditions that address potential visual or aesthetic effects resulting from the placement of small cell facilities.
  - (8) The submission of a permit application shall represent a wireless services provider's or wireless infrastructure provider's notification of the county as required by Code of Virginia, § 15.2-2316.4(A).

(Ord. No. 09-21R2, Att. A, 9-27-2021)

### **Sec. 86-364. Development standards.**

- (a) Towers shall either maintain a galvanized steel finish or, subject to any applicable standards of the Federal Aviation Administration ("FAA"), be painted a neutral color scheme, so as to reduce visual obtrusiveness. Dish antennas will be of a neutral, non-reflective color with no logos. If painting is required by the FAA, documentary evidence from the FAA requiring such painting must be provided to the county by the

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applicant. Should the applicant request to construct the tower from materials other than galvanized steel, the applicant shall state the reasons for the request in the application, and the applicant shall also furnish the county with photographs or other visual sample of the proposed finish.

- (b) The design of the support buildings and related structures shall, to the extent possible, use materials, colors, textures, screening and landscaping that will blend the tower facilities to the natural setting and surrounding structures.
- (c) Towers shall not be artificially lighted unless required by the FAA or other applicable authority. If lighting is required, the county may review the available lighting alternatives and approve the design that would cause the least disturbance to the surrounding views.
- (d) No signage of any type may be placed on the tower or accompanying facility other than notices, warnings, and identification information required by law.
- (e) Maximum tower height (including appurtenances) shall generally be 199 feet; however, the board of supervisors may approve a greater height based upon a demonstration of a significant gap in coverage, including a gap affecting wireless users in buildings and cars.
- (f) Towers shall be designed to collapse fully within the lot lines of the subject property in case of structural failure.
- (g) All towers and antennas must meet or exceed the standards and regulations of the FAA, FCC, and any other agency of the federal government with the authority to regulate towers and antennas that are in force at the time of the application or which a federal agency applies retroactively.
- (h) To ensure the structural integrity of towers, the owner of a tower shall ensure that it is designed and maintained in compliance with standards contained in applicable federal, state and local building codes and regulations that were in force at the time of the permit approval.
- (i) Towers shall be enclosed by security fencing not less than six feet in height and the tower shall also be equipped with an appropriate anticlimbing device.
- (j) All newly installed utilities including but not limited to, electric, fiber, CATV and telephone leading to the site shall be placed underground unless prohibited by the state or federal agency regulating such utilities. Existing overhead utility lines may be extended to a terminal pole at the property line, as needed, and thence placed underground.
- (k) All wireless E-911 calls received by a tower shall be routed to public safety answering points in accordance with federal and state law.
- (l) The security fencing surrounding tower facilities shall be significantly screened from the view of adjacent properties and public rights-of-way by a buffer zone at least four feet wide that shall be landscaped with plant materials, except to the extent that existing vegetation or natural land forms on the site provide such screening. In the event existing vegetation or land forms providing the screening are disturbed, new plantings shall be provided which accomplish the same.
- (m) Any other condition added by the board of supervisors as part of a conditional use permit approval.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

### **Sec. 86-365. Setbacks.**

- (a) The minimum setback to the property lines of properties zoned industrial, commercial or to any property owned by the same owner as the subject property is 110 percent of the tower's designed break point (fall zone) measured from the center of the base of the tower.

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- (b) The minimum setback to property lines of properties zoned residential, agricultural, or PUD planned unit development shall generally be 110 percent of total tower height or 500 feet to off-site dwellings not owned by the owner of the subject property, measured from the center of the base of the tower, whichever is greater.
- (1) A tower may be located closer to those property lines based on mitigating its impacts by a reduced height, alternative designs such as monopole, camouflaging the tower or other methods;
  - (2) A tower may not be located closer than 110 percent of the tower's designed break point (fall zone) to property lines or 500 feet to dwellings not owned by the owner of the subject property, measured from the center of the base of the tower, whichever is greater.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

### **Sec. 86-366. Coordination of local emergency services communications.**

Applicants for new telecommunication facilities shall coordinate with the county's emergency services staff to consider the emergency services communication needs within the coverage area and possibilities for the sharing or utilization of new infrastructure.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

### **Sec. 86-367. Removal.**

Any tower that is not in active use for a continuous period of 24 months shall be considered abandoned, and the owner of any such tower, the land owner of the property on which a tower is located upon or their successors or assigns shall remove the tower within 90 days of receipt of notice from the county. Removal includes the removal of the tower, all tower and fence footers, underground cables and support buildings. The zoning administrator may permit the fence footers, underground cables and support buildings to remain with the property owner's approval so long as they continue to be screened as required. When a tower is deemed to be abandoned, an owner wishing to extend the time for removal shall submit an application stating the reason for such extension. The zoning administrator may extend the time for removal or reactivation up to 60 additional days upon a showing of good cause. If the antenna support structure or antenna is not removed within the specified time, the county may contract for removal. Thereafter, the county may cause removal of the antenna support structure. All costs there of shall be charged to the landowner and become a lien on the property on which the tower is located.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

### **Sec. 86-368. Interference.**

The facility shall comply with the FCC's rules governing interference with communications reception. Owner shall resolve any inference issues in accordance with industry standards and FCC's rules.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

### **Sec. 86-369. Co-locations.**

- (a) Whenever a proposed placement of an antenna on or in an existing structure such as a building, sign, light pole, utility pole, including placement on or within an existing transmission/utility tower, or tower, water tank, or other freestanding structure or existing tower or pole shall fall within the scope of Code of Virginia, § 15.2-2316.4:1 and Section 6409 of the federal Middle Class Tax Relief and Job Creation Act of 2012, Pub. L.

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No. 112-96, as from time to time amended, ("Section 6409") such placement shall be permitted without the need for a conditional use permit so long as the proposed placement complies with Section 6409 and the FCC rules and policies for implementing Section 6409.

- (b) Each telecommunications service provider that locates or otherwise places wireless communications equipment on the facility, auxiliary structures, or the host structure, or on the property shall obtain building and zoning permits from the county prior to attaching the equipment to the structure or erecting any accessory structures within or adjacent to the existing structure. Pursuant to Code of Virginia § 15.2-2316.4:1, the fees for the permits shall not exceed \$500.00 for administrative review eligible-projects and shall not exceed actual direct costs to process the application, including permits and inspection, for all standard process projects.
- (c) If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is closely compatible with the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

### **Sec. 86-370. Replacement of existing towers.**

- (a) A pre-existing nonconforming tower may be replaced without the need for a conditional use permit, subject only to administrative site plan, zoning permit, building permit and other applicable approvals if all of the following are met:
  - (1) The replacement tower shall meet the requirements of section 86-364, "development standards," with the exception that replacement towers shall not be subject to the height requirement except that no replacement tower may exceed the height of the existing tower except as permitted by section 6409.
  - (2) A replacement tower shall not be required to meet current setback standards so long as the replacement tower and its equipment compound do not encroach further than the existing tower and its equipment into any yard setback.
  - (3) The existing tower being replaced, including tower base and foundation must be removed within six months of the initial operation of the new tower.
  - (4) If any tower is replaced an additional time after the first replacement, all subsequent replacement towers shall meet or exceed the requirements stated above as compared to the most recent tower, not the original existing tower.
- (b) Replacement towers that do not meet all of the above requirements shall require a conditional use permit approved by the board of supervisors.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

### **Sec. 86-371. Application requirements.**

Each applicant requesting a conditional use permit under this supplementary regulation shall submit the following:

- (1) A complete conditional use permit application form.
- (2) Twelve sets (11 inches by 17 inches) and one reduced copy (8½ inches by 11 inches) of signed and sealed site plans by a surveyor or engineer licensed in the State of Virginia, including tower elevations and landscape plans if required. Site plans shall meet the requirements listed in article XVII of this chapter.

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- (3) An identification card for the subject property from the office of the commissioner of the revenue for the county or a tax bill showing the ownership of the subject parcel.
  - (4) Proof that the applicant has authorization to act upon the owner's behalf.
  - (5) A map showing the designated search ring.
  - (6) Identification of the intended service providers of the tower.
  - (7) Title report or American Land Title Association (A.L.T.A.) survey showing all easements on the tower area, lease area and access to the tower.
  - (8) Verifiable evidence of the lack of feasible antenna space on existing towers, buildings, or other structures suitable for antenna location within the coverage area. Such evidence may also include any of the following items:
    - a. No existing towers or structures are located within the geographic area required to meet applicant's engineering requirements.
    - b. Existing towers or structures are not of sufficient height to meet applicant's engineering requirements.
    - c. Existing towers or structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment.
    - d. The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna. The applicant shall provide an affidavit executed by a radio frequency engineer in support of its claim that another structure is unsuitable for the applicant's needs due to technical reasons related to radio frequency.
    - e. The fees, costs, or contractual provisions demanded by the owner of an existing tower or structure to share the required amount space on such tower or structure or to adapt it for sharing cannot be reasonably obtained or are commercially infeasible.
    - f. The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable or commercially infeasible.
  - (9) An engineering report stating the number of co-location spaces on the proposed tower. The county shall generally require a minimum of four co-location spaces on a new tower; however, may approve fewer in instances where fewer spaces result in a lower height, less visibility or the tower is designed to permit feasible expansion for additional future height and additional co-location spaces. The applicant shall permit co-location by additional users without requiring any form of reciprocal location agreement from subsequent users.
  - (10) A proposed construction schedule.
  - (11) The applicant shall certify through a written statement that the facility meets or exceeds the standards for electromagnetic radiation as set by the federal communications commission ("FCC") at the time of the application.
  - (12) A radio frequency propagation plot indicating the coverage of the applicant's existing wireless communications sites within the area and coverage prediction of the proposed facility.
  - (13) The applicant shall provide at least two actual photographs of the site that include simulated photographic images of the proposed tower. The photographs with the simulated image shall illustrate how the facility will look from adjacent roadways, nearby residential areas, or public building such as a school, religious assembly, and the like. The county staff reserves the right to select the locations for the photographic images and require additional images. As photo simulations may be dependent upon

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a balloon test first being conducted, the applicant is not required to submit photo simulations with their initial application, but must provide them prior to the public hearing with the planning commission.

- (14) List of all adjacent property owners, their tax map numbers and addresses.
- (15) Aerial imagery which shows the proposed location of the tower, fenced area and driveways with the closest distance to all adjacent property lines and dwellings.
- (16) The county may require other information deemed necessary to assess compliance with this article.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

### **Sec. 86-372. Public notice.**

Required notices for balloon tests and community meetings may be combined if they comply with the timing requirements set forth in this section.

- (1) *Balloon test.* A balloon test shall be required for new towers prior to the public hearing with the planning commission.
  - a. The applicant shall arrange to raise a colored balloon (no less than three feet in diameter) at the maximum height of the proposed tower and within 50 horizontal feet of the center of the proposed tower.
  - b. The applicant shall inform the community development department and adjacent property owners in writing of the date and times of the test at least seven but no more than 14 days in advance. The notice will direct readers to a new date if the test is postponed due to inclement weather. The applicant shall request in writing permission from the adjacent property owners to access their property during the balloon test to take pictures of the balloon and to evaluate the visual impact of the proposed tower on their property.
  - c. The date, time and location of the balloon test shall be advertised in the county's newspaper of record by the applicant at least seven but no more than 14 days in advance of the test date. The advertisement will direct readers to a new date if the test is postponed due to inclement weather.
  - d. The balloon shall be flown for at least four consecutive hours during daylight hours on the date chosen.
  - e. Signage similar to rezoning signage shall be posted on the property to identify the property where the balloon is to be launched. The signage will direct readers to a new date if the test is postponed due to inclement weather. This signage shall be posted a minimum of 72 hours prior to the balloon test. If inclement weather postpones the test, then cancellation of the test for that day shall be clearly noted on the signage.
  - f. If the wind during the balloon test does not allow the balloon to sustain its maximum height or there is significant fog or precipitation which obscures the balloon's visibility then the test shall be postponed and moved to the alternate inclement weather date provided in the advertisement. County staff reserves the right to declare weather inclement for purposes of the balloon test.
- (2) *Community meeting.* A community meeting shall be held by the applicant prior to the public hearing with the planning commission.

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- a. The applicant shall inform the community development department and adjacent property owners in writing of the date, time and location of the meeting at least seven but no more than 14 days in advance.
  - b. The date, time and location of the meeting shall be advertised in the county's newspaper of record by the applicant at least seven but no more than 14 days in advance of the meeting date.
  - c. The meeting shall be held within the county, at a location open to the general public with adequate parking and seating facilities which may accommodate persons with disabilities.
  - d. The meeting shall give members of the public the opportunity to review application materials, ask questions of the applicant and provide feedback.
  - e. The applicant shall provide to the community development department a summary of any input received from members of the public at the meeting.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

### **Sec. 86-373. Approval process for tower and co-location applications.**

- (a) The approving body, in exercise of the county's zoning regulatory authority, may consider an application for approval and determine: whether a tower is in harmony with the area; the effects and general compatibility of a tower with adjacent properties; or the aesthetic effects of the tower as well as mitigating factors concerning aesthetics.
- (b) The approving bodies, in exercise of the county's zoning regulatory authority, may disapprove an application on the grounds that the tower's aesthetic effects are unacceptable, or may condition approval on changes in tower height, design, style, buffers, or other features of the tower or its surrounding area. Such changes need not result in performance identical to that of the original application.
- (c) Factors relevant to aesthetic effects are: the protection of the view in sensitive or particularly scenic areas, and areas containing unique natural features, scenic roadways or historic areas; the concentration of towers in the proposed area; and, whether the height, design, placement or other characteristics of the proposed tower could be modified to have a less intrusive visual impact.
- (d) The approving bodies, in accord with Code of Virginia, § 15.2-2316.4:2, may disapprove an application based on the availability of existing wireless support structures within a reasonable distance that could be used for co-location at reasonable terms and conditions without imposing technical limitations on the applicant.
- (e) Unless some other timeframe is mutually agreed upon, an application for a tower shall be reviewed by the county and a written decision shall be issued within 150 days of a completed submission.
- (f) Unless some other timeframe is mutually agreed upon, an application for co-location shall be reviewed by the county and a written decision shall be issued within 90 days of a completed submission.
- (g) A complete application for a project shall be deemed approved if the locality fails to approve or disapprove the application within the applicable period specified or mutually agreed upon.
- (h) If the county disapproves an application it must provide the applicant with a written statement of the reasons for disapproval. If the locality is aware of any modifications to the project as described in the application that if made would permit the locality to approve the proposed project, the locality shall identify them in the written statement provided. The written statement must contain substantial record evidence and be publicly released within 30 days of the decision.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

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**Sec. 86-374. Appeal.**

An applicant adversely affected by the disapproval of an application for a standard process project may file an appeal pursuant to Code of Virginia, § 15.2-2285(F), within 30 days following delivery to the applicant or notice to the applicant of the disapproval.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

**Secs. 86-375—86-379. Reserved.**

***ARTICLE XVI. SOLAR FACILITIES***

**Sec. 86-380. Statement of intent.**

The purpose of this section is to establish requirements for construction and operation of solar facilities and to provide standards for the placement, design, construction, monitoring, modification, and removal of solar facilities; address public safety, preserve and protect areas of scenic, natural, cultural, historic, agricultural and forestry resources; and provide adequate financial assurance for decommissioning.

(Ord. 16-24, 9-23-24)

**Sec. 86-381. Applicability.**

This article shall apply to all solar facilities constructed after the effective date of this article, including any physical modifications to any existing solar facilities that materially alter the type, configuration, or size of such facilities or other equipment.

(Ord. 16-24, 9-23-24)

**Sec. 86-382. Zoning districts.**

- (a) Accessory solar facilities generating less than 25 kilowatts may be installed by-right in all zoning districts to provide electricity to individual structures; provided a site plan (as applicable) has been submitted to the zoning administrator for review and approval; all federal, state and local regulations have been followed; and the system is located upon the property or structure being served.
- (b) Supplementary solar facilities generating less than 2 megawatts may be installed in the industrial districts to provide electricity for use on-site for commercial and industrial applications; provided a site plan has been submitted to the zoning administrator for review and approval; all federal, state and local regulations have been followed; and the system is located on the property or structure to be served. Accessory solar facilities generating less than 2 megawatts may be installed in the neighborhood business, general business and agricultural conservation districts with a conditional use permit. Any commercial or industrial solar facility installed upon a roof top shall submit a site plan to the zoning administrator and an engineering study to the building official's office for review.
- (c) Utility-scale solar facilities generating greater than or equal to 5 megawatts may be installed with a conditional use permit in the agricultural conservation district to provide electricity for use off-site; provided all federal, state and local regulations have been followed.
- (e) Solar facilities should locate on brownfields, county-owned capped landfills, near existing industrial uses, or on lands that are not identified as prime farmland by the U.S. Department of Agriculture where feasible (but not within identified future land use planning area boundaries).

**Section 86-383. Solar energy facility, principal.**

Principal solar energy facilities must conform to the following standards:

1. *Buffers:* For photovoltaic panels, substations, and other equipment associated with the production and distribution of electricity (other than poles and wires) the following minimum buffers are required:
  - a. One hundred fifty (150) feet from any property line or road. No panels, cabinets, or other associated equipment, exclusive of utility poles, wires, cables, access roads, *fencing, and stormwater outfalls*, shall be located closer than twenty-five (25) feet from the buffer. *Fencing is to placed on the outside perimeter of the panel.*
  - b. One hundred (100) feet from RPA wetlands, rivers, streams or other environmentally sensitive features and fifty (50) feet from any wetland not associated with an RPA. No panels, cabinets, or other associated equipment; exclusive of utility poles, wires, cables, and access roads, shall be located closer than ten (10) feet from the buffer. *Fencing is placed on the outside perimeter of the panel array and may conflict with the additional 10' buffer setback.*
2. *Stormwater management:* Stormwater management facilities, *exclusive of stormwater outfalls*, shall not be located within the required buffer.
3. *Tree protection plan:* A tree protection plan certified by a Landscape Architect, Certified Horticulturist, or ISA Certified Arborist must be provided with the site plan. Prior to land disturbance, all tree protection measures shall be installed by the property owner and inspected by a representative of the Planning Department.
4. *Landscaping:* Buffers shall be landscaped in accordance with the standards set forth in this subsection, depending upon the type and density of existing trees and shrubs. Existing healthy vegetation may be used to meet these requirements. The preservation of existing trees and shrubs within required buffers shall be maximized to the extent practicable. Improvements within the buffer shall be limited to those required to provide access, utilities, and drainage, and shall be installed generally perpendicular to the buffer to reduce impacts to the buffer. Unless otherwise specified, references to the size of required trees and the characteristics of required trees and shrubs are in accordance with section \_\_\_\_\_. Shrub sizes are as follows: small shrubs are those that do not exceed four (4) feet at maturity without pruning, medium shrubs are those that reach four (4) to eight (8) feet at maturity without pruning, and large shrubs are those that reach greater than eight (8) feet at maturity. Maturity for shrubs is seven (7) years of age.
  - a. Forested buffer planting standards: Forested buffers may be used to satisfy the buffer landscaping standards, provided the following conditions are met:
    - (1) The buffer area is covered with at least seventy-five (75) percent of naturally-established vegetation;
    - (2) The existing plant material is mature and in healthy condition;
    - (3) The existing plant material consists of a mix of evergreen and deciduous trees which satisfy the following:
      - (a) Existing deciduous trees having a minimum four (4) inch caliper measured two (2) feet from the ground;
      - (b) Evergreen trees that are a minimum of ten (10) feet in height; and

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- (c) Hardy shrubs that are a minimum of two (2) feet in height and width with a full growth habit;
    - (4) Any existing trees which are used to satisfy this requirement must have the entirety of their canopies located within the buffer area; and
    - (5) There is an established understory of small trees and shrubs, both evergreen and deciduous, to provide significant buffering at the lower forested area.
  - b. Supplemental planting standards: Buffers which do not meet the requirements of subsection 4.a. of this section must conform to the following standards:
    - (1) Forested buffers with no understory as required in subsection 4.a.(5) of this section must be improved as follows:
      - (a) Three (3) small deciduous understory trees per one hundred (100) feet of buffer length;
      - (b) Three (3) small evergreen trees per one hundred (100) feet of buffer length;
      - (c) Five (5) large shrubs per one hundred (100) feet of buffer length; and
      - (d) Ten (10) small to medium shrubs per one hundred (100) feet of buffer length.
    - (2) Forested buffers with no evergreen tree component as required in subsection 4.a.(3) of this section must be improved to have the following, located along the inside or outside buffer line in a staggered pattern:
      - (a) Four (4) large evergreen trees per one hundred (100) feet of buffer length; and
      - (b) Six (6) small evergreen trees per one hundred (100) feet of buffer length.
    - (3) Forested buffers with no deciduous tree component as required in subsection 4.a.(3) of this section do not represent an established mature buffer. Forested areas with only evergreen trees are considered pioneer growth and will need to meet the full buffer supplementation requirements outlined in this section. Existing evergreen trees can be used to meet the requirements related to evergreen trees.
    - (4) Where existing buffers do not comply with subsection 4.a.(3) of this section due to immature, inadequate or unhealthy existing vegetation, the property owner shall plant a staggered pattern and placement in accordance with the following standards:
      - (a) Plantings may be clustered within the buffer as long as there are no vegetative gaps of ten (10) or more linear feet or the existing stand of trees have no branches or understory growth lower than six (6) feet from the ground.
      - (b) Clusters to be of no more than fifty (50) feet in width consisting of
        - 1. Two (2) large deciduous trees;
        - 2. Four (4) small deciduous trees;
        - 3. Six (6) large evergreen trees;
        - 4. Eight (8) small evergreen trees;
        - 5. Seven (7) large shrubs; and

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6. Fifteen (15) small to medium shrubs.
- c. *Surety for landscaping*: Prior to the approval of a plan of development, surety shall be provided for any landscaping plantings or improvements proposed for buffers or screening. Such surety must be sufficient to replace all landscaping plantings that must be replaced. Planning Department staff will inspect the property one (1) year after installation to determine if the landscaping plantings are healthy or need to be replaced.
  - d. *Landscape maintenance*: The landscape plan submitted by the property owner must include a landscape maintenance schedule; this plan shall provide information as to how the property owner will ensure planted materials remain viable. The landscape maintenance plan shall include a schedule and the measures to be taken for the regular trimming and mowing of the site.
  - e. *Site stabilization*: Pollinator and other ecologically friendly and beneficial ground covers that promote wildlife habitats and forage are required to be planted and maintained within the facility including, but not limited to, the ground below and surrounding the solar arrays.
5. *Height limitations*: No building, structures, solar panel arrays or other equipment utilized on site may exceed twenty (20) feet in height above finished grade. This restriction shall not apply to electric utility poles. Security fencing shall be limited to eight (8) feet in height.
6. *Access*: Access to the property shall meet the requirements established by the Virginia Department of Transportation for entrance location and design, and those identified by King William County Fire - EMS as needed to ensure adequate emergency response. In no case shall aisle widths be less than twenty (20) feet.
7. *Underground utilities*: All new transmission and distribution lines shall be placed underground except:
- a. Those lines which are solely the subject of the State Corporation Commission jurisdiction or otherwise required by the Commission.
  - b. Where necessary to connect to the existing utility lines.
  - c. When an exception is granted by the Director of Planning during the site plan review process. In order for an exception under this subsection to be granted, the applicant must demonstrate that placing the lines underground will create environmental harm, such as the disturbance of Chesapeake Bay Resource Protection Areas, or the placement of underground lines is not feasible due to topographical or other site conditions. Financial considerations do not constitute sufficient grounds for the Director to grant an exception.
8. *Security fencing*: Security fencing and gates shall be provided and shall be designed and located in accordance with the following:
- a. All security fencing shall be located on the inner edge of the buffer (the edge furthest from the property line) when possible.
  - b. Maximum height for fencing shall be eight (8) feet.
  - c. Fencing shall include wildlife friendly design features, where the Director of Planning deems them appropriate.
9. *Lighting*: Where required, site lighting shall meet the requirements of Article 5, Division 6, Lighting Requirements of the King William County Zoning Ordinance with regard to off-site light
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trespass. All fixtures shall utilize full cut off shielding. Lighting shall be reduced during nighttime hours to the minimum level necessary to maintain safety.

10. *Land disturbance and inspection:* Land disturbance activity shall be limited to no more than one hundred (100) acres at a time, unless a greater amount is permitted at the time of site plan review by the Director of Planning.
11. *Phasing:* Solar facility applications shall include a phasing plan if the project is to be phased.
12. *Decommissioning:* All applications for Solar facilities shall be accompanied by a comprehensive decommissioning plan, as required by the King William County Solar and Energy Storage Policy. The decommission plan must include provisions addressing the following:
  - a. The removal of all materials and equipment including, but not limited to, cabling and wiring, both above and below ground.
  - b. The restoration of the property to its predevelopment condition including, but not limited to:
    - (1) Soil remediation, including de-compaction, to ensure agricultural soils are able to support crops or pastureland.
    - (2) Reforestation of areas where tree clearing has occurred.
  - c. An estimate of the gross cost for the complete removal of the solar facility and all associated infrastructure, the cost of soil remediation, and the cost of reforestation.
    - (1) The cost estimate shall not include anticipated or contracted for credits for the resale or salvage of the equipment and materials.
    - (2) Cost estimates shall be itemized by decommissioning task.
  - d. The means by which the solar provider shall reimburse the County for an independent review and analysis of the cost estimate by a professional engineer.
  - e. Financial surety to King William County in an amount sufficient to undertake decommissioning activities should the owner default in its decommissioning responsibilities. The surety shall continue in effect during the operation of the solar facility and until the time when the county certifies that decommissioning activities have been satisfactorily completed.
  - f. The decommissioning cost estimate shall be updated every five (5) years and adjusted for inflation. The value of the surety shall be increased to an amount equal to the inflation-adjusted cost estimate.
  - g. Decommissioning shall commence within six (6) months after the facility ceases to produce any electricity for the distribution system to which it was connected. The site shall be maintained in accordance with the required landscaping maintenance plan as long as the facility is producing any electricity.
13. *Size:*
  - a. Utility scale facilities may be no greater than one thousand (1,000) acres.
14. Project area limit. No more than three percent of the County's land mass shall be approved for large scale solar energy facilities. This project area limit shall not apply to local industries producing electricity for their own consumption. The PC (solar) panels must be on-site, adjacent to, or adjoining the user's property.

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15. Applicants for new solar facilities shall coordinate with the County’s Fire and Emergency Services staff to provide materials, education and training to the departments serving the property with fire and emergency services on how to safely respond to on-site emergencies.

(Ord. 16-24, 9-23-24)

### **Section 86-384. Solar energy facility, accessory.**

The following shall apply to all accessory solar energy facilities:

1. For roof-mounted facilities: The facility shall not extend more than twelve (12) inches above the roof surface at maximum tilt and shall not extend further than twelve (12) inches from the outside wall of the building. Solar shingles are considered to be the roof and are not subject to this requirement. A conditional use permit is required for the height of the solar panels to exceed twelve (12) inches above the roof surface or twelve (12) inches from the outside wall. In no case shall the height of the solar panels exceed the maximum building height permitted in the applicable zoning district.
2. For ground-mounted facilities:
  - a. Height limits. No equipment, including panels, may extend more than twelve (12) feet in height above finished grade of the ground.
  - b. Setbacks. Panels and other equipment must meet building setbacks of the district regulations for the property.
  - c. Screening. Screening, consisting of a staggered double row of evergreen trees planted eight (8) feet on center, is required. The screening shall be installed in such a way as to block the view of the panels and other equipment from public and private roadways and adjoining properties.

(Ord. 16-24, 9-23-24)

### **Section 86-385. Solar energy facility, supplementary.**

The following standards shall apply to supplementary solar energy facilities:

1. Maximum wattage: Two (2) megawatts.
2. Size.
  - a. The aggregate area used for the installation and operation of a supplementary solar energy facility shall not exceed ten (10) percent of the property on which the facility is located; provided, where rooftops of buildings containing a permitted use are used to house components of the facility, the aggregate area may be increased by the square footage of those buildings.
  - b. Where multiple supplemental solar energy facilities are on adjoining properties, or are interconnected in any way, and the total area of combined facilities exceeds ten (10) acres, they will be considered a single principal solar energy facility and must comply with all standards and regulations applicable to principal solar energy facilities.

(Ord. 16-24, 9-23-24)

**Secs. 86-386—86-389. Reserved.**

(Ord. 16-24, 9-23-24)

**Section 86-390. Battery energy storage systems; definitions.**

As used in this article, the following terms shall have the meanings indicated:

*Battery(ies):* A single cell or a group of cells connected together electrically in series, in parallel, or a combination of both, which can charge, discharge, and store energy electrochemically. For the purposes of this article, batteries utilized in consumer products are excluded from these requirements.

*Battery energy storage system:* One (1) or more devices, assembled together, capable of storing energy in order to supply electrical energy at a future time, not to include a stand-alone 12-volt car battery or an electric motor vehicle. A battery energy storage system is classified as a Tier 1 or Tier 2 battery energy storage system as follows:

- a. Tier 1 battery energy storage systems have an aggregate energy capacity less than or equal to six hundred (600) kWh for onsite use only and, if in a room or enclosed area, consist of only a single energy storage system technology.
- b. Tier 2 battery energy storage systems have an aggregate energy capacity greater than six hundred (600) kWh or are comprised of more than one (1) storage battery technology in a room or enclosed area.

*Cell:* The basic electrochemical unit, characterized by an anode and cathode, used to receive, store, and deliver electrical energy.

*Dedicated-use building:* A building that is built for the primary intention of housing battery energy storage system equipment, as defined in the latest adopted editions of the Virginia Uniform Statewide Building Code ("Uniform Code") and the International Building Code, and complies with the following:

- 1) The building's only use is battery energy storage, energy generation, and other electrical grid-related operations.
- 2) No other occupancy types are permitted in the building.
- 3) Occupants in the rooms and areas containing battery energy storage systems are limited to personnel that operate, maintain, service, test, and repair the battery energy storage system and other energy systems.
- 4) Administrative and support personnel are permitted in areas within the buildings that do not contain battery energy storage system, provided the following:
  - a) The areas do not occupy more than ten (10) percent of the building area of the story in which they are located.
  - b) A means of egress is provided from the administrative and support use areas to the public way that does not require occupants to traverse through areas containing battery energy storage systems or other energy system equipment.

*Energy Code:* The Virginia Energy Conservation Code, as amended.

*Uniform Code:* The Virginia Uniform Statewide Building Code adopted pursuant to § 36-98 of the Code of Virginia, as amended.

(Ord. 16-24, 9-23-24)

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### **Section 86-390. Battery energy storage systems; general requirements.**

- A. All Tier 2 battery energy storage system installations shall comply with site plan requirements in accordance with Article XVII.
- B. All battery energy storage systems, all dedicated-use buildings, and all other buildings or structures that (1) contain or are otherwise associated with a battery energy storage system and (2) are subject to the Uniform Code and/or the Energy Code shall be designed, erected, and installed in accordance with all applicable provisions of the Uniform Code, all applicable provisions of the Energy Code, and all applicable provisions of the codes, regulations, and industry standards as referenced in the Uniform Code, the Energy Code, and the Code of King William County.

(Ord. 16-24, 9-23-24)

### **Section 86-391. Battery energy storage systems; permitting requirements.**

- (a) *Tier 1 battery energy storage systems.* Tier 1 battery energy storage systems shall be permitted in all zoning districts, as accessory to a permitted use. Setbacks shall be determined by Division 2, Section 86-110 of the Zoning Ordinance.
- (b) *Tier 2 battery energy storage systems.* Tier 2 battery energy storage systems are permitted through the issuance of a Conditional Use Permit by the Board of Supervisors within the A-C, and I zoning districts. All applications for Conditional Use Permits shall address at a minimum the following items:
  - 1. *Utility lines and electrical circuitry.* All on-site utility lines shall be placed underground to the extent feasible and as permitted by the serving utility, with the exception of the main service connection at the utility company right-of-way and any new interconnection equipment, including without limitation any poles, with new easements and right-of-way.
  - 2. *Signage.* No advertising of any type may be placed on a battery energy storage system or related facility, except that a sign shall be required displaying the name, registration number, and emergency contact number of the facility owner. The sign shall not exceed four (4) square feet in size and shall be located on the security fence or other approved location.
  - 3. *Lighting.* Lighting of the battery energy storage systems shall be limited to that minimally required for safety and operational purposes. Any exterior lighting shall comply with Article XII, of the Zoning Ordinance.
  - 4. *Noise.* Noise shall be regulated by Article II of the King William County Code.
  - 5. *Decommissioning.*
    - i. *Decommissioning plan.* The applicant shall submit a decommissioning plan prior to site plan approval to be implemented upon abandonment and/or in conjunction with removal from the facility. The decommissioning plan shall include:
      - 1. A narrative description of the activities to be accomplished, including who will perform that activity and at what point in time, for complete physical removal of all battery energy storage system components, structures, equipment, security barriers, and transmission lines from the site;
      - 2. Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations;
      - 3. The anticipated life of the battery energy storage system;

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4. The estimated decommissioning costs and how said estimate was determined;
  5. The method of ensuring that funds will be available for decommissioning and restoration;
  6. The method by which the decommissioning cost will be kept current;
  7. The manner in which the site will be restored, including a description of how any changes to the surrounding areas and other systems adjacent to the battery energy storage system, such as, but not limited to, structural elements, building penetrations, means of egress, and required fire detection suppression systems, will be protected during decommissioning and confirmed as being acceptable after the system is removed; and
  8. A listing of any contingencies for removing an intact operational energy storage system from service, and for removing an energy storage system from service that has been damaged by a fire or other event.
- ii. *Decommissioning fund.* The owner and/or operator of the energy storage system shall provide surety in the form of a letter of credit, cash bond, or corporate surety for the removal of the battery energy storage system, in an amount to be determined by King William County, for the period of the life of the facility. All costs of the financial security shall be borne by the owner and/or operator.

**Section 86-392. Battery energy storage systems; Conditional Use Permit standards.**

- (a) *Setbacks.* Tier 2 battery energy storage systems shall comply with the setback requirements of the underlying zoning district for principal structures.
- (b) *Height.* Tier 2 battery energy storage systems shall comply with the building height limitations for principal structures of the underlying zoning district.

(Ord. 16-24, 9-23-24)

**Secs. 86-393—86-395. Reserved.**

(Ord. 16-24, 9-23-24)

*DIVISION 4. EXEMPTION FOR SOLAR ENERGY EQUIPMENT*

**Sec. 86-396. Exemption for solar energy equipment.**

- (a) Certified solar energy equipment shall be partially exempt from taxation as real or personal property.
- (b) "Certified solar energy equipment, facilities or devices" means any property, including real or personal property, equipment, facilities, or devices, excluding any such property that is exempt under Virginia Code § 58.1-3660, certified by the building inspector to be designed and used primarily for the purpose of collecting, generating, transferring, or storing thermal or electric energy.
- (c) Local tax rate means the real estate property tax rate.

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**Sec. 86-397. Certified solar energy equipment to be a separate class of property.**

Certified solar energy equipment, facilities and devices are hereby declared to be a separate class of property and shall constitute a classification for local taxation separate from other classifications of real or personal property.

**Sec. 86-398. Administration of exemption.**

The exemption shall be administered by the building inspector and the commissioner of revenue according to the general provisions of this division and applicable state law.

**Sec. 86-399. Requirements for exemption.**

- (a) Any person may proceed to have solar energy equipment, facilities or devices certified as exempt from taxation by applying to the building inspector. If, after examination of such equipment, facility or device, the building inspector determines that the unit primarily performs any of the functions set forth above and conforms to the requirements set by regulations of the board of housing and community development, the inspector shall approve and certify such application. The building inspector shall forthwith transmit to the commissioner of revenue those applications properly approved and certified by the building inspector as meeting all requirements qualifying such equipment, facility or device for exemption from taxation. Any person aggrieved by a decision of the building inspector may appeal such decision to the local board of building code appeals, which may affirm or reverse such decision.
- (b) Upon receipt of the certificate from the building inspector the commissioner of revenue shall proceed to determine the value of such qualifying solar energy equipment, facilities or devices. The exemption provided by this section shall be determined by applying the local tax rate to the value of such equipment, facilities or devices and subtracting one-half of such amount either:
  - (1) From the total real property tax due on the real property to which such equipment, facilities, or devices are attached, or
  - (2) If such equipment, facilities, or devices are taxable as machinery and tools under § 58.1-3507, from the total machinery and tools tax due on such equipment, facilities, or devices, at the election of the taxpayer. This exemption shall be effective beginning in the next succeeding tax year, and shall be permitted for a term of five (5) years. In the event the real estate is assessed pursuant to § 58.1-3292, the exemption shall be first effective when such real estate is first assessed, but not prior to the date of such application for exemption.
- (c) It shall be presumed for purposes of the administration of ordinances pursuant to this section, and for no other purposes, that the value of such qualifying solar energy equipment, facilities and devices is not less than the normal cost of purchasing and installing such equipment, facilities and devices.

State law reference(s)—Certified solar energy equipment, facilities or devices and certified recycling equipment, facilities or devices, Va. Code § 58.1-3661.

(Ord. 16-24, 9-23-24)

## **ARTICLE XVII. SITE PLAN REQUIREMENTS**

### **Sec. 86-400. Purpose of article.**

The purpose of this article is to promote the orderly development of land within the county by ensuring that:

- (1) Land development activities are planned in a manner consistent with the comprehensive plan and development policies of the county;
- (2) Specific development projects are planned to achieve harmony with the immediately surrounding environment;
- (3) Each project contains proper internal and external traffic circulation and other infrastructure consistent with the objectives of the county for the area in which a proposed use is located; and
- (4) The use of land occurs in such a manner as to preserve the community's valuable natural resources.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

### **Sec. 86-401. Applicability.**

- (a) Pursuant to Code of Virginia, § 15.2-2286.A.8, no building permit or zoning permit shall be issued involving construction or exterior modifications to a structure until a site plan has been issued in accordance with the procedures established herein. Site plans are required and shall be submitted for all new structures, all renovated structures, and all additions to existing structures, with the following exceptions:
  - (1) Individual single-family dwellings.
  - (2) Individual two-family dwellings.
  - (3) Accessory uses where the area of land disturbance is less than 2,500 square feet.
  - (4) Bona fide agricultural operations and the customary accessory uses and structures associated with bona fide agricultural operations.
  - (5) Filling and grading operations where the area of land disturbance is less than 2,500 square feet where no impervious structures, surfaces or improvements will be installed and no clearing undertaken.
- (b) Where a change of use of an existing structure requires additional parking or other requirements applicable to a new use, a site plan shall be submitted for review to ensure that the change of use can be accomplished within the purpose and intent of this chapter.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

### **Sec. 86-402. Reviews.**

- (a) Site plan submission. Unless otherwise provided in another article of this chapter, every site plan required by this article shall be submitted to the zoning administrator who shall take the following actions:
  - (1) Review the plans for conformity with the comprehensive plan and applicable development regulations.
  - (2) Determine whether the site plan requires review by the planning commission and board of supervisors, as outlined below.

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- (3) If a review is required by the planning commission and board of supervisors then place the plan on the agenda of the planning commission and the board of supervisors and arrange for public notices as required by law.
  - (b) Plans requiring actions of the planning commission and board of supervisors are as follows:
    - (1) Applications for conditional use permits.
  - (c) For projects which are required to be referred to the planning commission and the board of supervisors, the zoning administrator shall prepare an analysis of the plan and a brief report stating whether the site plan is in conformity with applicable plans, regulations and policies of the county. This report shall be submitted to the planning commission, through the director of planning who may make additional analysis and recommendations concerning whether the proposed site plan is consistent with the county's comprehensive plan and general development policies. Either the zoning administrator's or the director of planning's report may recommend actions that would enable the plan to meet county requirements, should it not meet such requirements as submitted.
- (Ord. No. 09-21R2, Att. A, 9-27-2021)

### **Sec. 86-403. Requirements; content and form.**

- (a) *Preliminary site plans.* Applications for approval of any use requiring a site plan shall be accompanied by preliminary site plans. The preliminary site plans shall be clearly drawn to scale as specified in this subsection and shall show the following:
  - (1) The proposed title of the project, owner or owners of the land, and name of the engineer, architect, designer or landscape architect and the developer;
  - (2) The northpoint, scale and date;
  - (3) Location of the project by an insert map at a scale of not less than one inch equals 2,000 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;
  - (4) Existing zoning and zoning district boundaries and proposed changes in zoning, if any;
  - (5) The boundaries of the property involved, county or municipal boundaries, the general location of all existing property lines, existing streets, buildings or waterways, major tree masses and other existing physical features in or adjoining the project;
  - (6) Identification of the property including name of the subdivision, tax map parcel number, and name or route number where property is located;
  - (7) Location of all building restriction lines, setbacks, easements, covenant restrictions and rights-of-way;
  - (8) Uses of adjoining properties and names of owners; 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;
  - (9) 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;
  - (10) The location of all existing and proposed structures, including marine and temporary structures. In the case of temporary structures, the date when the structure will be removed must be indicated;
  - (11) The location and extent of all wooded areas before development; the proposed area of clearing, with indication of post-development cover;

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- (12) 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;
  - (13) The general location of proposed lots, setback lines, and easements and proposed reservations for parks, parkways, playgrounds, school sites and open spaces;
  - (14) Proposed changes in zoning classifications, including proposed revisions to district boundaries;
  - (15) Location with respect to each other and to lot lines, number of floors, number of dwelling units and approximate height and location of all proposed buildings and structures with respect to each other and to lot lines, accessory and main, or major excavations;
  - (16) Preliminary plans and elevations of the several dwelling types and other buildings, as may be necessary;
  - (17) General location, height and material of all fences, walls, screen planting and landscaping;
  - (18) General location, character, size, height and orientation of proposed signs;
  - (19) 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. Computations shall include the total site area in acres, the approximate amount and percentage of the site to be covered by open space and the amount and percentage to be covered by impervious surface after development;
  - (20) The locations of all existing and proposed septic tanks and drainfield sites including reserve sites; the location of all existing and proposed wells;
  - (21) The location of all proposed easements for roads, overhead and underground utilities, drainage, or other easements which may exist or are proposed on the property;
  - (22) The location of all curb cuts as approved by the state department of transportation;
  - (23) The location and layout of any driveways or parking areas, or any other paved or graveled areas;
  - (24) The shortest distances from all property lines to all proposed structures;
  - (25) The approximate limit of all resource protection area features and any additional required buffer areas if an environmental assessment is not submitted;
  - (26) The approximate limit of the 100-year floodplain, any drainage district, mapped dam break inundation zone;
  - (27) The location of any grave, object or structure marking a place of burial; and
  - (28) Included with the preliminary site plan shall be documentation of all existing permits and applications relevant to the parcel including, but not limited to: health department permits for all wells and septic drainfields; all existing zoning permits and zoning applications; applications for rezoning, special use and/or conditional use permits and zoning variances.
- (b) *Additional requirements or adjustments by zoning administrator.* The zoning administrator may establish additional requirements for preliminary site plans and, in special cases, may waive a particular requirement if, in the zoning administrator's opinion, the inclusion of that requirement is not essential to a proper decision on the project.
- (c) *Format of preliminary site plan.* Preliminary site plans may be prepared on one or more sheets to show clearly the information required by this article and to facilitate the review and approval of the plan. If prepared in more than one sheet, match lines shall indicate where the several sheets join. Each plan sheet shall reserve a blank space three inches wide, and five inches high for the use of the approving authority. Site

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plans shall be prepared to a scale of one inch equals 50 feet, or such other scale as may be approved by the zoning administrator as appropriate to a particular case.

- (d) *Final site plans.* The final site plan, or final plat where a subdivision is involved, shall comply with all laws, regulations and ordinances governing the approval of subdivisions and in addition shall show the following:
- (1) All of the features required on the preliminary site plan with sufficiently accurate locations, dimensions, materials, construction specifications and computations to support the issuance of construction permits.
  - (2) All existing and proposed water and sanitary sewer facilities indicating all pipe sizes, types and grades and where connection is to be made to the county or other utility system.
  - (3) Provisions for the adequate disposition of natural and stormwater in accordance with the duly adopted design criteria and standards of the county indicating the location sizes, types and grades of ditches, catchbasins and pipes and connections to existing drainage system; and provision for the adequate control of erosion and sedimentation, indicating the proposed temporary and permanent control practices and measure which will be implemented during all phases of clearing, grading and construction.
  - (4) Existing topography with two-foot contour intervals or such intervals as approved by the 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 50 feet apart in both directions;
  - (5) Proposed finished grading by contours supplemented where necessary by spot elevations; and
  - (6) Proposed phasing and sequence of development.
  - (7) All horizontal dimensions shown on the site plan shall be in feet and decimals of a foot to the nearest 1/100 of a foot; and all bearings in degrees, minutes and seconds to the nearest ten seconds.
- (e) *Status of an approved final site plan.* In cases where the final site plan is for a planned unit development, cluster development or other development which includes the subdivision of land, then such final site plan, when approved under this article, shall have the same status as an approved preliminary subdivision plat under article XVIII, subdivisions.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

### **Sec. 86-404. Procedure for approval.**

- (a) *Preliminary site plan submission.* Five copies of a preliminary site plan shall be filed with the board of supervisors through the zoning administrator. The preliminary site plan shall comply with the requirements for preliminary site plans set in this article and be accompanied by such other written or graphic material as may be necessary or desirable in aiding the decisions of the board and the planning commission. The zoning administrator shall forthwith forward the plans and a copy of the application to the planning commission.
- (b) *Review of preliminary site plan by planning commission.* The planning commission shall review the preliminary site plan for compliance with the requirements of this article. Before recommending approval of a preliminary site plan, the planning commission may make reasonable additional requirements especially requirements as to utilities, drainage, landscaping and maintenance thereof, lighting, signs and advertising devices, screening, accessways, curb cuts, traffic control, height of buildings and setback of buildings, to protect adjoining residentially zoned lots or residential uses. The site plan shall be amended in accord with the requirements of the planning commission before being submitted to the board of supervisors with a recommendation for approval. The planning commission shall review the plans and prepare its report within a reasonable time, but in no case longer than 60 days after the first public hearing and 45 days after the applicant resubmits. The board of supervisors shall not advertise its public hearings until the reports and

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plans shall have been received from the planning commission. Once received, the board shall hold the public hearing and provide notice pursuant to the Code of Virginia, § 15.2-2204.

- (c) *Approval by board of supervisors.* Approval by the board of supervisors of a preliminary site plan for a conditional use shall be valid for a period of one year.
- (d) *Approval by zoning administrator.* Following preliminary approval by the board, a final site plan may be approved by the zoning administrator which shall comply with the specifications of the board and the requirements of this article and applicable laws, regulations and ordinances governing the subdivision of land. Permits shall be issued in accord with the approved and filed site plan or plat.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

### **Sec. 86-405. Amendments, additions and vacation to plans approved by the Board of Supervisors.**

- (a) The procedure for amendment of the boundaries of or the nature or extent of land use for an approved conditional use or proffered condition shall be the same as for a new application, except that minor amendments of an approved site plan and conditions attached to an approved conditional use, or other site plan approved by the board of supervisors, may be approved by the planning commission at a regular meeting after written reports by the zoning administrator and without a public hearing, provided that such change or amendment does not:
  - (1) Alter a recorded plat;
  - (2) Conflict with the specific requirements of this chapter;
  - (3) Change the general character or content of an approved development plan or use;
  - (4) Have an appreciable effect on adjoining or surrounding property;
  - (5) Result in any substantial change of major external access points;
  - (6) Increase the minimum specified yards and open spaces or minimum or maximum specified parking and loading spaces; and
  - (7) Decrease the minimum specified yards and open spaces or minimum or maximum specified parking and loading spaces.
- (b) Any interest in streets, alleys, easements for public rites of passage, easements for drainage, and easements for a public utility granted to a locality as a condition of the approval of a site plan may be vacated according to either of two methods described in Code of Virginia, § 15.2-2270.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

### **Sec. 86-406. Revocation of permits.**

No permit shall be issued for any structure in any area covered by a site plan that is required under the provision of this article except in conformity to such plan which has been duly approved. Permits issued under an approved site plan may be revoked by the zoning administrator for failure to comply with the approved plan, the conditions attached thereto, or other applicable regulations.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

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**Sec. 86-407. Agreement and fees.**

Prior to approval of a building permit there shall be executed by the owner or developer an agreement to construct such required physical improvements as are located within public rights-of-way or easements, or as are connected to any public facility in form and substance as approved by the county. The planning commission may require a bond with surety or conditions acceptable to the county attorney in the amount of the estimated cost of the required physical improvements as determined by the departments, divisions or agencies responsible for such improvements. Such agreement, bond or conditions shall be provided for completion of all work covered thereby or for subsequent defects therein, within the time to be determined by the planning commission, which time may be extended by the planning commission upon written application by the owner or developer, signed by all parties (including sureties) to the original agreement. The adequacy, conditions and acceptability of any bond under this article shall be determined by the county attorney.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

**Sec. 86-408. Expiration and extension.**

- (a) Pursuant to Code of Virginia, § 15.2-2261, final approval of a site plan submitted under the provisions of this article shall expire five years after the date of such approval or, if the building permits, or renewals thereof, have been issued for a valid and unexpired site plan, then upon the expiration of those permits. The issuance, and diligent pursuit of work thereunder, of permits authorizing construction of stormwater facilities, site grading or other infrastructure shall also be sufficient to extend the term of validity of a site plan approval for a period concurrent with the completion date for such improvements as specified by such permits. The application for and approval of minor modifications to an approved site plan shall not extend the period of validity of such plan and the original approval date shall remain the controlling date for purposes of determining validity. Notwithstanding the five-year term of validity, nothing shall preclude the application, to the greatest extent possible of the terms of any local ordinance adopted pursuant to the Chesapeake Bay Preservation Act, or the application of the provisions of any local ordinance adopted to comply with the requirements of the federal Clean Water Act, Section 402(p) of the stormwater program and regulations promulgated thereunder by the Environmental Protection Agency.
- (b) Upon application filed prior to expiration of a final site plan, the zoning administrator may grant one or more extensions of such approval for such additional periods as the zoning administrator may, at the time the extension is granted, determine to be reasonable, taking into consideration the size and phasing of the proposed development and the laws, ordinances and regulations in effect at the time of the request for an extension.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

**Sec. 86-409. Right of developer to continue project.**

Subject to the time limits and conditions specified in this article, the rights of an owner or developer to continue a project for which a site plan has been approved shall not be abridged, as stated in Code of Virginia, § 15.2-2261.1, so long as the developer proceeds toward completion with reasonable care and diligence in accordance with the terms of the approval.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

**Secs. 86-410—86-419. Reserved.**

## ***ARTICLE XVIII. SUBDIVISIONS***

### ***DIVISION 1. GENERAL REGULATIONS***

#### **Sec. 86-420. Title.**

This article shall be known and may be cited as the "King William County Subdivision Ordinance" or "Subdivision Ordinance."

(Ord. No. 09-21R2, Att. A, 9-27-2021)

#### **Sec. 86-421. Purpose.**

The general purpose of this article is to ensure the orderly subdivision and development of land in the county in furtherance of the goals and objectives of the comprehensive plan of the county, as provided in Code of Virginia, § 15.2-2240. More specifically, it is intended to:

- (1) Protect public interests in subdivisions by ensuring permanence of development; making possible the safe, adequate and efficient provision of services to subdivision residents; preventing blight; protecting the tax base; and providing the county with clear and accurate descriptions and records of subdivided land for assessment purposes;
- (2) Guide and protect the investments of lot purchasers, home buyers and their mortgage lenders by providing standards for development, a graphic picture of the ultimate character of a subdivision, and accurate boundary lines; and
- (3) Protect the interest of subdividers by prohibiting improperly located subdivisions and discouraging competition from poorly designed or developed subdivisions.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

State law reference(s)—Declaration of legislative intent as to subdivision ordinances. Code of Virginia, § 15.2-2200.

#### **Sec. 86-422. Recording of ordinance.**

In accord with the Code of Virginia, § 15.2-2252, a certified copy of the adopted subdivision ordinance and any and all amendments thereto shall be filed in the office of the zoning administrator and in the clerk's office of the circuit court.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

#### **Sec. 86-423. Severability.**

Should a court rule any article, section, or portion thereof of this article to be invalid or unconstitutional, such a ruling shall not be construed to invalidate the subdivision ordinance as a whole, nor shall such a ruling render inoperative any other portion than that specifically ruled invalid or unconstitutional.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

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**Sec. 86-424. Conflicting ordinances or conditions.**

- (a) Should any commonwealth or federal ordinance, provision, or regulation conflict with this article or portion thereof, the language of whichever is more restrictive shall be controlling to the extent necessary to resolve the conflict.
- (b) Should any provision of this article conflict with another provision therein, the language contained in the more restrictive provision shall be controlling.
- (c) As stated in the Code of Virginia, § 15.2-2261.1, if the provisions of a recorded plat or final site plan, which was specifically determined by the board of supervisors, to be in accordance with the zoning conditions previously approved conflict with underlying zoning conditions of the previous rezoning then the provisions of the recorded plat or final site plan shall control and the zoning amendment shall be deemed satisfied.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

**Sec. 86-425. Application and interpretation.**

This article shall apply to the unincorporated area of the county in the manner prescribed by law. In interpreting and applying the provisions of this article, they shall be held to be the minimum requirements for the promotion of the public safety, health, convenience, comfort, prosperity or general welfare.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

**Sec. 86-426. Administration.**

As provided in Code of Virginia, § 15.2-2255, the agent, to whom responsibility for administration and enforcement of this article is delegated, shall be designated by resolution of the board of supervisors.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

**Sec. 86-427. Powers and duties.**

- (a) The agent shall have the following duties:
  - (1) To review and approve or disapprove plats and plans for family land divisions, single-lot subdivisions, farmstead subdivisions, minor subdivisions and cluster subdivisions per Code of Virginia, § 15.2-2286.1.c;
  - (2) To conduct informal conferences with subdividers as provided in this article;
  - (3) To assist the planning commission with evaluation of preliminary plats and plans for major subdivisions;
  - (4) To review and approve or disapprove final plats and plans for major subdivisions after consideration of recommendations made by the commission during review of preliminary plats and plans;
  - (5) To have all final plats required pursuant to this chapter, recorded in the clerk of court's office at the subdivider's cost within ten days of the agent's signature of the final plat;
  - (6) To inspect the installation of facilities and improvements in subdivisions;
  - (7) To take such actions as are necessary, proper and legally permissible to prevent, terminate, remove or correct violations of this article;

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- (8) To recommend to the planning commission and the board of supervisors, as needed, amendments to this article.
- (b) The commission shall have the following duties:
- (1) To review and approve or disapprove preliminary plats and plans for major subdivisions and to recommend changes to be incorporated in the final plats and plans thereof in order to ensure compliance with the standards and requirements of this article;
  - (2) To prepare and recommend amendments to the subdivision ordinance.
- (c) The board of zoning appeals shall consider applications for variations in or exceptions to the requirements of this article as hereinafter provided. Approval of a variation or exception by the board of zoning appeals shall be limited to cases of unusual situations or when strict adherence to the general regulations would result in substantial injustice or hardship.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

State law reference(s)—Variations, exceptions, Code of Virginia, § 15.2-2242(1); delegation of duties to planning commission, Code of Virginia, § 15.2-2255.

### **Sec. 86-428. Amendments.**

In accordance with Code of Virginia, §§ 15.2-2251 and 15.2-2253, the planning commission shall prepare and recommend, on its own initiative or by request, the subdivision ordinance and its amendments to the governing body of the locality. The notice, publication and public hearing shall all be conducted in accord with Code of Virginia, § 15.2-2204. In no instance shall an amendment be adopted by the governing body of the locality without first seeking the recommendation of the commission. If no recommendation is made by the commission the governing body may take action 60 days from their inquiry.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

### **Sec. 86-429. Consultations.**

In the performance of their duties, the agent and the planning commission may call for advice, opinions or decisions from highway engineers, health department officials and other county officials when evaluating subdivision plats and plans.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

State law reference(s)—State transportation engineers, Code of Virginia, § 33.1-8.

### **Sec. 86-430. Development and inspections.**

- (a) Subdivision of land and installation or construction of required improvements shall be accomplished only in strict accordance with plats and plans approved by the agent. Any deviation from approved plats and plans shall be approved in writing in advance by the agent.
- (b) The agent shall periodically inspect every subdivision during development and may employ any legally permissible means to ensure that the subdivision is developed in accordance with the approved plat and the provisions of this article.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

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**Sec. 86-431. Violation, enforcement, and penalties.**

As provided in the Code of Virginia, § 15.2-2254, the following applies:

- (1) No person shall subdivide land without making and recording a plat of the subdivision and without fully complying with the provisions state code and this chapter.
- (2) No plat of any subdivision shall be recorded unless and until it has been submitted to and approved by the local planning commission or by the governing body or its duly authorized agent, of the locality wherein the land to be subdivided is located; or by the commissions, governing bodies or agents, as the case may be, of each locality having a subdivision ordinance, in which any part of the land lies.
- (3) No person shall sell or transfer any land of a subdivision, before a plat has been duly approved and recorded as provided herein, unless the subdivision was lawfully created prior to the adoption of a subdivision ordinance applicable thereto. However, nothing herein contained shall be construed as preventing the recordation of the instrument by which such land is transferred or the passage of title as between the parties to the instrument.
- (4) The violation of any provision of this article shall be punished by a fine of not more than \$500.00 for each lot or parcel of land subdivided or transferred or sold in violation thereof; and the description of such lot or parcel by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring shall not exempt the transaction from such penalties or from the remedies herein provided. The county may, notwithstanding the imposition of any fine in accordance with this section, seek equitable relief to enjoin any violation of this article, in any court of competent jurisdiction.
- (5) No clerk of any court shall file or record a plat of a subdivision required by this article to be recorded until the plat has been approved as required herein. The penalties provided by Code of Virginia, § 17.1-223 shall apply to any failure to comply with the provisions of this subsection.
- (6) No building permit shall be issued nor shall construction be authorized by the county on lands where a subdivision plat is required to be approved and recorded as provided in this article and no certificate of occupancy shall be issued until the compliance with this article and other applicable provisions regarding the use of any structure or land where a subdivision plat is required to be approved and recorded as provided in this article has been approved by the agent.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

State law reference(s)—Enforcement of subdivision ordinance, Code of Virginia, § 15.2-2241(9); persons subdividing land to comply with subdivision ordinance, Code of Virginia, § 15.2-2254.

**Sec. 86-432. Mutual responsibility.**

The county and the subdivider share a mutual responsibility to divide land to improve the general use pattern of the land being subdivided.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

**Sec. 86-433. Land suitability.**

- (a) No subdivision shall be approved if adequate investigations by trained personnel determine that, due to soil, water table, topographic, light, air or other natural conditions, the site of the proposed subdivision is unsuitable for platting and development in the manner proposed.

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- (b) Wetlands, as defined in the state wetlands zoning act, or any land subject to periodic flooding or dam break inundation zones shall not be subdivided in such a way as to provide sites for residential occupancy nor for any other use which might involve danger to health, life or property, or aggravate the flood hazard. Any such land within the proposed subdivision, whether it be within a lot or reserved for common use of subdivision occupants, shall be restricted against buildings or otherwise reserved for uses which will not be endangered by periodic or occasional inundation. To ensure sufficient buildable land which is flood-free, the agent may require the subdivider to provide elevation and flood profiles sufficient to demonstrate the land to be completely free of the danger of floodwaters.
- (c) A plat for the subdivision of land with poor drainage, excessive slope or other adverse physical or soil conditions will be considered for approval only if the subdivider shall agree in writing to make whatever improvements are necessary, in the judgment of the agent, to render the land safe and otherwise acceptable for development.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

State law reference(s)—Wetlands zoning ordinance authorized, Code of Virginia, § 28.2-1302.

### **Sec. 86-434. Responsibility for improvements.**

All improvements and facilities required by this article shall be installed by the subdivider at his cost and is not the responsibility of the locality, as outlined in the Code of Virginia, § 15.2-2268. No bond or other performance guarantee posted by the subdivider shall be released until construction has been completed, inspected and approved.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

### **Sec. 86-435. Fees.**

As authorized by the Code of Virginia, § 15.2-2241(9), there shall be a charge for examination and processing of plats and inspection of subdivision improvements. The fees for which are listed in the King William County Fee Schedule and maintained in the office of the zoning administrator. No plat or application shall be deemed complete, reviewed or processed until the applicable fee established by the board has been paid by the subdivider.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

### **Sec. 86-436. Irregularities.**

In case of uncertainties or irregularities with reference to property lines, street or road right-of-way boundaries, easements or other features which may affect the preparation of a plat, the agent and subdivider shall apply the provisions of this article to the extent practicable, utilizing the best information available.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

### **Sec. 86-437. Existing subdivisions.**

Any subdivision, as defined herein, which was lawfully recorded in the office of the clerk of the circuit court of the county in the form of a plat of subdivision and/or deed prior to the effective date of this article shall be deemed to meet the requirements of this article. Any further division or resubdivision in any such subdivision after the effective date of this article shall, however, comply with all applicable provisions of this article.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

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**Sec. 86-438. Exempt subdivisions.**

- (a) Any subdivision, as defined herein, shall be exempt from the requirements of this article if all the following are met:
  - (1) Every lot of the subdivision is 25 acres or greater in area,
  - (2) The subdivision is in an area zoned agricultural/conservation,
  - (3) Every lot abuts an existing primary or secondary highway,
  - (4) The subdivision complies with the general platting requirements of King William County,
  - (5) The subdivision shall meet any Virginia Department of Transportation (VDOT) safety and/or design requirements.
- (b) Any further subdivision of a previously exempted lot pursuant to this exemption shall constitute a major subdivision except for family divisions and on parcels of 50 acres or more and shall be subject to all applicable governing ordinances and requirements.
- (c) All prospective subdivisions for this classification shall be reviewed by the agent, who shall determine if the above criteria have been met. Such subdivisions shall have language to be placed on the plat to indicate that it is an exempt subdivision and accordingly any further subdivision of the parcels shall constitute a major subdivision and must comply with all appropriate county regulations.

(Ord. No. 09-21R2, Att. A, 9-27-2021; Ord. No. 08-22, 8-22-2022)

**Sec. 86-439. Classification of certain subdivisions.**

In making a determination as to whether a subdivision is major, farmstead, minor or cluster, as defined herein, the agent shall consider the definitions and requested lot sizes but shall not consider any lots in such subdivision which were lawfully recorded by plat of subdivision and/or deed in the office of the clerk of the circuit court prior to the adoption of this chapter.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

**Sec. 86-440. Division of sale or gift to immediate family members.**

- (a) In accordance with Code of Virginia, § 15.2-2244, a single division of a lot or parcel for the purpose of sale or gift to a member of the immediate family of the property owner shall be permitted, subject only to any express requirement contained in the Code of Virginia and to any requirement imposed by the board of supervisors that all lots of less than five acres have reasonable right-of-way of 20 feet providing ingress and egress to a dedicated recorded public street or thoroughfare. Only one such division shall be allowed per family member and shall not be for the purpose of circumventing this section. For the purpose of this section, a member of the immediate family is defined as any person who is a natural or legally defined offspring, spouse, grandchild, grandparent, sibling, parent, niece, or nephew of the owner.
- (b) As allowed by Code of Virginia, § 15.2-2244.1, the parcel from which a family division is proposed shall be held by the subdivider for a minimum of five consecutive years prior to the date of subdivision and subdivided parcels or lots from such family divisions shall be held by the immediate family member for a minimum of three years from the date of subdivision to prevent the use of this section to circumvent the subdivision ordinance. A variance request may go to the board of zoning appeals when a changed circumstance would require the transfer of the property to a nonmember of the immediate family.

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- (c) All prospective subdivisions for this classification shall be reviewed by the agent, who shall determine if the above criteria have been met. Such subdivisions shall have language to be placed on the plat to indicate that it is a family transaction, who is involved and what is their family relationship.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

**Sec. 86-441. Responsibility for costs of sewerage and drainage facilities.**

A pro rata share of the cost of facilities as outlined in the State Code of Virginia, § 15.2-2243 are as follows:

- (1) A subdivider or developer of land shall pay his pro rata share of the cost of providing reasonable and necessary sewerage, water and drainage facilities, located outside the property limits of the land owned or controlled by him but necessitated or required, at least in part, by the construction or improvement of his subdivision or development as per county water and sewer regulations.
- (2) Payments received for such improvements shall be expended only for the engineering and related studies and construction of those facilities for which the payment was required, however, in lieu of such payment the board of supervisors may provide for the posting of a personal, corporate or property bond, cash escrow or other method of performance guarantee satisfactory to it conditioned on payment at commencement of such construction.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

**Secs. 86-442—86-449. Reserved.**

*DIVISION 2. SUBDIVISION METHODS*

**Sec. 86-450. Relationship to comprehensive plan and zoning ordinance.**

The subdivision layout shall conform in all essential respects with the adopted thoroughfares plan and other elements of the adopted comprehensive plan for the county. As allowed by Code of Virginia, § 15.2-2246, the subdivision layout shall also comply fully with the provisions of the zoning district in which the subdivision is located, as well as other applicable provisions of the zoning ordinance, including any limitations on area, dimensions and number or location of lots.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

**Sec. 86-451. Design principles.**

The subdivision layout shall be designed in accordance with the principles and standards contained in this article with the objective of achieving the most advantageous development of the subdivision and adjoining areas. Experimentation with new layout and design techniques is encouraged and such designs as are approved under the zoning ordinance are permitted under these regulations controlling the subdivision of land. Clustering of single-family dwellings and the preservation of open space will also be considered as outlined in Code of Virginia, § 15.2-2286.1, and as allowed in this chapter.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

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### **Sec. 86-452. Sketch plan.**

It is recommended, but not required, that the subdivider submit to the agent a preliminary sketch plan of the proposed minor or major subdivision prior to preparation of engineered preliminary and final plats. The purpose of such preliminary sketch plan is to permit the agent to advise the subdivider whether his plans are in general accord with the requirements of this article. The agent, upon submission of any preliminary sketch, shall study same and advise the subdivider wherein it appears that changes would be necessary. The agent may mark the preliminary sketch plan indicating necessary changes and any such marked sketch shall accompany the preliminary plat.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

### **Sec. 86-453. Single-lot subdivisions.**

- (a) *Intent.* The provisions of this division shall apply to any subdivision consisting of only one lot, except those exempted by section 86-403. It is intended that platting and approval requirements for such subdivisions be restricted to the minimum necessary to ensure compliance with minimum lot size requirements of the zoning ordinance.
- (b) *Access.* A single-lot subdivision shall either abut a public road or have access to a public road via a deeded right-of-way not less than 25 feet in width.
- (c) *Multiple single-lot subdivisions.* Development of two or more single-lot subdivisions, for the purpose of circumventing the requirements pertaining to minor or farmstead subdivisions shall not be permitted.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

### **Sec. 86-454. Minor residential subdivisions.**

- (a) *Intent.* The requirements of this division are intended to be commensurate with the impact of small subdivisions, creating two to four lots, on the areas in which they are located. Thus, the regulations focus on access, lot sizes, and suitability of the land, abbreviated platting requirements and accelerated administrative processing.
- (b) *Multiple minor subdivisions.* Development of two or more adjoining minor subdivisions, for the purpose of circumventing the requirements of this division pertaining to major subdivisions shall not be permitted. Refer to the definition of "major subdivision".
- (c) *Improvements.* Improvements in minor subdivisions shall be installed in accordance with provisions (e) through (g) below.
- (d) *Streets.* As allowed by the State Code of Virginia, § 15.2-2241.
  - (1) *Generally.* There shall be only one access to an adjacent primary highway. There shall be a maximum of two access points to a secondary highway, only one access to a secondary highway or a shared deeded driveway for every two lots that front a secondary highway. A shared access shall be provided on a 50-foot wide easement extending from the existing public road to cover all lots within the subdivision. There shall be a road maintenance agreement for each lot in the subdivision.
  - (2) *New streets.* All streets in a proposed subdivision shall be designed and constructed in accordance with subdivision street standards of VDOT. Streets so designed and constructed shall be recommended by the county for inclusion in the state highway system. For streets that remain private, there shall be road maintenance agreements for each lot in the subdivision as provided for in subsection (d)(2).
  - (3) *Alignment and layout.* Street arrangement shall be such as to cause no unnecessary hardship to owners of adjoining property should they decide to plat their own land and seek to provide convenient access

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- to it. Where in the opinion of the agent it is necessary to provide for street access to adjoining property, right-of-way for proposed streets shall be extended to the property line. Half streets along the boundary of land proposed for subdivision shall not be permitted. The street layout shall be designed to create desirable building sites while respecting existing topography, minimizing street grades, avoiding excessive cuts and fills, and preserving trees to the maximum extent feasible for a reasonable economic use of the land.
- (4) *Spacing.* Streets shall be spaced to allow for blocks meeting the dimensional requirements contained herein and to minimize the number of intersections with existing or proposed arterial thoroughfares.
  - (5) *Minor residential streets.* Minor residential streets, intended primarily for access to individual properties, shall be arranged to discourage their use by through traffic.
  - (6) *Reduction of traffic impacts.* No residential lot shall be platted in a minor subdivision, which has its primary frontage on U.S. Highway 360 or State Highway 30. Reverse frontage lots having access only from a parallel secondary highway or from new public streets are required.
  - (7) *Right of access.* Anyone who subdivides land shall provide right of access to public streets to meet the minimum requirements of VDOT. No land shall be reserved, held or controlled for the purpose of prohibiting access to streets and roads unless owned, held or controlled exclusively by the county or an agency of the state or federal government.
  - (8) *Scenic roads.* Where an existing or proposed street or roadway is designated as a scenic road or byway on the comprehensive plan, of which the major thoroughfare plan is a part, the purpose and standards established for such roads to maintain their scenic and historic qualities shall be observed in the design and development of an adjacent subdivision, including but not limited to such factors as maintenance of existing alignments and natural vegetation, appropriate pavement design, and due care with respect to location and design of access points.
  - (9) *Maintenance of private streets.* Private streets must be maintained at a level that keeps the private street in compliance with the subdivision street standards of VDOT. Any private street must be owned and maintained by the developer, until such time as it is turned over to the ownership and maintenance of an approved homeowners' association.
  - (10) *Maintenance of public streets.* The subdivider shall provide for maintenance of all new or improved public streets until such time as the streets are accepted into the secondary highway system of VDOT. The subdivider or developer shall furnish to the county a maintenance and indemnifying bond with surety satisfactory to the board of supervisors, in an amount sufficient for and conditioned upon the maintenance of public streets until such time as they shall be reviewed at the end of each 12-month period and at such times the agent may require that the amount of the bond be increased to cover inflated maintenance costs.
  - (11) *Street names.* Proposed streets which are obviously in alignment with existing named streets shall bear the names of such existing streets. Names of proposed streets shall not duplicate existing street names, irrespective of the use of the suffix street, avenue, boulevard, drive, way, place, lane or court. Street names shall be indicated on all plats and shall be approved by the agent. Names of existing streets shall not be changed except by approval of the board of supervisors.
  - (12) *Street signs.* Street identification signs of a design approved by the agent shall be installed at all intersections either by the subdivider or at their cost.
  - (13) *Construction of utilities.* All utilities constructed in or on public streets rights-of-way shall comply with the current land use permit manual of VDOT.
- (e) *Lots.*
- (1) *Generally.* Lots in minor subdivisions shall comply with the requirements of this section.

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- (2) *Lot arrangement.* The lot arrangement, design and orientation, shall be such that all lots will provide satisfactory building sites, properly related to topography and the character of surrounding development.
- (3) *Remnants.* Remnants or parcels of land below minimum area, including parcels which fail percolation tests, which may be left over after subdivision of a tract, shall be incorporated to adjacent lots or otherwise disposed of rather than allowed to remain as unusable parcels.
- (4) *Suitability for sewage disposal.* If on-site disposal systems are to be utilized in a minor subdivision, the plat shall not be approved until the health official affixes his signature to a statement on the plat certifying that the lots are generally suitable for the installation of such on-site systems.
- (f) *Easements.*
- (1) *Generally.* Easements in minor subdivisions shall be reserved as indicated in this section.
- (2) *Required.* Where alleys are not provided in appropriate locations, easements of not less than 15 feet in width shall be provided where necessary to meet public utility requirements. Easements of greater width may be required along lot line or across lots where necessary for the extension of trunk sewers or other primary utility lines.
- Drainage easements.* Where a proposed subdivision is traversed by any stream, watercourse or drainageway, the subdivider shall make adequate provision for the proper drainage of surface water, including the provision of easements along such streams, watercourses and drainageways, in accordance with standards established by the county.
- (3) *Utilities.* All utilities, poles or underground conduits for electric power lines or communication lines shall be placed in alleys if such are provided or in easements appropriately located, generally along the rear or side lot lines whenever this is possible.
- (g) *Monuments.* All lot corners shall be marked with iron pipe not less than three-fourths inch in diameter or iron rod not less than one-half inch in diameter, and not less than 24 inches long and driven so as to be flush with the finished grade.
- (h) *Performance guarantee.* The Code of Virginia, § 15.2-2241(11)(B) provides that, prior to approval of the final plat, the subdivider shall file with the agent a performance guarantee to ensure that improvements required by this chapter or proposed by the subdivider are installed in accordance with approved plats and plans.
- (1) Such guarantee shall either be:
- a. A certified check or a personal, corporate or property bond with cash escrow or other method of performance guarantee approved by the agent and sufficient to cover the cost of all improvements as estimated by the agent, furnished by the subdivider; or
- b. Evidence of the existence of agreements between the subdivider and a qualified contractor for the installation and completion of the improvements and the contractor's performance bond with surety for the benefit of the county and the subdivider, and satisfactory to the agent, in an amount to cover the cost of all improvements as estimated by the agent.
- (2) Within 30 days after receipt of written notice by the subdivider of completion of part or all of any facilities or improvements required to be constructed by this article, the agent shall either grant a periodic partial or final complete release of any bond, escrow, letter of credit or other performance guarantee required by this section, or notify the subdivider or developer in writing of non-receipt of approval by applicable state agency or of any specified defects or deficiencies in construction and suggested corrective measures. If no such action is taken by the agent within the 30-day period, the request shall be deemed approved and a partial release granted to the subdivider. No final release shall be granted until after expiration of such 30-day period and there is an additional request in writing sent by certified mail, return receipt, to the county administrator. The agent shall act within ten

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working days of receipt of the request; then if no action is taken, the request shall be deemed approved and final release granted to the subdivider. The agent shall not refuse to make a periodic partial or final complete release of a bond, escrow, letter of credit or other performance guarantee for any reason not directly related to specified defects in construction of the facilities covered by such bond, escrow, letter of credit or other performance guarantee.

- (3) Upon written request by the subdivider, the agent shall be required to make periodic partial releases of such bond, escrow, letter of credit or other performance guarantee in a cumulative amount equal to 80 percent of the original amount for which the bond, escrow, letter of credit or other performance guarantee was taken, based upon the percentage of facilities completed and approved by the agent or state agency having jurisdiction. Periodic partial releases may not occur before the completion of at least 30 percent of the facilities covered by any bond, escrow, letter of credit or other performance guarantee to the subdivider. For the purpose of final release, the term "acceptance" is deemed to mean when such public facility is accepted by and taken over for operation and maintenance by the state agency, local government department or agency, or other public authority which is responsible for maintaining and for operating such facility upon acceptance.
- (4) For the purposes of this section a certificate of partial or final completion of such facilities from either a duly licensed professional engineer or land surveyor, as defined in and limited to the Code of Virginia, § 54.1-408 or from a department or agency designated by the agent may be accepted without requiring further inspection of such facilities.

(Ord. No. 09-21R2, Att. A, 9-27-2021, Ord. No. 2-24, 2-26-24)

State law reference(s)—Coordination of streets with other streets, Code of Virginia, § 15.2-2241(2); acceptance of dedication of right-of-way, Code of Virginia, § 15.2-2241(5); drainage, Code of Virginia, § 15.2-2241(3); monuments, Code of Virginia, § 15.2-2241(7).

### **Sec. 86-455. Farmstead subdivisions.**

- (a) *Intent.* The intent of this division shall be to preserve the rural heritage of our farms, forests and historic resources by minimizing the impact of small residential subdivisions in the agricultural/forestal (A-C) district of the county, by creating two to seven lots with a minimum lot size of 15 acres. Thus, the regulations focus on access, lot sizes, visual impacts, suitability of the land, abbreviated platting requirements and accelerated administrative processing.
- (b) *Streets.* As allowed by the State Code of Virginia, § 15.2-2241.
  - (1) *Generally.* For two-lot subdivisions, a shared access shall be provided on a 50-foot-wide easement extending from the existing public road to cover the entrance of both lots. Access for farmstead subdivisions with three to seven lots shall be to a new public street. There shall be only one access to an adjacent primary or secondary highway by a new street and no lot shall have direct access to an existing primary or secondary highway.
  - (2) *New streets.* Public streets in a proposed subdivision shall be designed and constructed in accordance with subdivision street standards of VDOT. Streets so designed and constructed shall be recommended by the county for inclusion in the state highway system. For streets that remain private, there shall be road maintenance agreements for each lot in the subdivision as provided for in item (b)(6) of this section. The following shall be minimum specifications for any private street in a farmstead subdivision:
    - a. *Right-of-way.*
      1. Minimum 50 feet of right-of-way.
      2. Minimum 20 feet travel surface width.

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3. Minimum two feet shoulder on each side.
- b. *Road surface.*
    1. Minimum six-inch compacted travel surface depth.
    2. Subgrade shall be prepared by excavation and removal of all vegetative cover, root mat, and topsoil. Drainage systems must provide relief for surface runoff and groundwater conditions away from finished subgrade elevation.
    3. Final compacted road surface shall be compacted in a manner such that a uniform texture is produced and the aggregates are firmly keyed. Irregularities in the surface shall be corrected by scarifying, remixing, reshaping, and recompacting until a smooth surface is secured.
  - c. Prior to approval, a licensed professional engineer or land surveyor must certify that the requirements above are met. The certification must include the seal of the engineer or surveyor, signature of the engineer or surveyor, date of the inspection, and findings. If construction of roads is not completed prior to final approval of the plat, sufficient engineering design information must be submitted to the zoning administrator prior to final approval.
  - d. The following statement shall be included in each deed and on the final plat stating: "The streets in this subdivision do not meet the standards necessary for inclusion in the system of state highways and will not be maintained by the Department of Transportation or the County."
- (3) *Alignment and layout.* Street arrangement shall be such as to cause no unnecessary hardship to owners of adjoining property should they decide to plat their own land and seek to provide convenient access to it. Where in the opinion of the agent it is necessary to provide for street access to adjoining property, right-of-way for proposed streets shall be extended to the property line. Half streets along the boundary of land proposed for subdivision shall not be permitted. The street layout shall be designed to create desirable building sites while respecting existing topography, minimizing street grades, avoiding excessive cuts and fills, and preserving trees to the maximum extent feasible for a reasonable economic use of the land.
  - (4) *Right of access.* Anyone who subdivides land shall provide right of access to public streets to meet the minimum requirements of VDOT. No land shall be reserved, held or controlled for the purpose of prohibiting access to streets and roads unless owned, held or controlled exclusively by the county or an agency of the state or federal government.
  - (5) *Scenic roads.* Where an existing or proposed street or roadway is designated as a scenic road or byway on the comprehensive plan, of which the major thoroughfare plan is a part, the purpose and standards established for such roads to maintain their scenic and historic qualities shall be observed in the design and development of an adjacent subdivision, including but not limited to such factors as maintenance of existing alignments and natural vegetation, appropriate pavement design, and due care with respect to location and design of access points.
  - (6) *Maintenance of private streets.* Private streets must be maintained at a level that keeps the private street in compliance with the standards in item b above. Any private street must be owned and maintained by the developer, until such time as it is turned over to the ownership and maintenance of an approved homeowners' association.
  - (7) *Maintenance of public streets.* The subdivider shall provide for maintenance of all new or improved public streets until such time as the streets are accepted into the secondary highway system of VDOT. The subdivider or developer shall furnish to the county a maintenance and indemnifying bond with surety satisfactory to the board of supervisors, in an amount sufficient for and conditioned upon the maintenance of public streets until such time as they shall be reviewed at the end of each 12-month

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period and at such times the agent may require that the amount of the bond be increased to cover inflated maintenance costs.

- (8) *Street names.* Proposed streets which are obviously in alignment with existing named streets shall bear the names of such existing streets. Names of proposed streets shall not duplicate existing street names, irrespective of the use of the suffix street, avenue, boulevard, drive, way, place, lane or court. Street names shall be indicated on all plats and shall be approved by the agent. Names of existing streets shall not be changed except by approval of the board.
- (9) *Street signs.* Street identification signs of a design approved by the agent shall be installed at all intersections either by the subdivider or at their cost.
- (10) *Construction of utilities.* All utilities constructed in or on public streets rights-of-way shall comply with the current land use permit manual of VDOT.

(c) *Lots.*

- (1) *Generally.* Lots in farmstead subdivisions shall comply with the requirements of this section.
- (2) *Lot arrangement.* The lot arrangement, design and orientation, shall be such that all lots will provide satisfactory building sites, properly related to topography and the character of surrounding development.
- (3) The minimum lot size for farmstead subdivisions shall be 15 acres and shall allow three to seven lots.
- (4) *Remnants.* Remnants or parcels of land below minimum area, including parcels which fail percolation tests, which may be left over after subdivision of a tract, shall be incorporated to adjacent lots or otherwise disposed of rather than allowed to remain as unusable parcels.
- (5) *Suitability for sewage disposal.* If on-site disposal systems are to be utilized in a farmstead subdivision, the plat shall not be approved until the health official affixes his signature to a statement on the plat certifying that the lots are generally suitable for the installation of such on-site systems.

(d) *Easements.*

*Drainage easements.* Where a proposed subdivision is traversed by any stream, watercourse or drainageway, the subdivider shall make adequate provision for the proper drainage of surface water, including the provision of easements along such streams, watercourses and drainageways, in accordance with standards established by the county.

- (e) *Monuments.* All lot corners shall be marked with iron pipe not less than three-fourths inch in diameter or iron rod not less than one-half inch in diameter, and not less than 24 inches long and driven so as to be flush with the finished grade.
- (f) *Performance guarantee.* The Code of Virginia, § 15.2-2241(11)(B) provides that, prior to approval of the final plat, the subdivider shall file with the agent a performance guarantee to ensure that improvements required by this chapter or proposed by the subdivider are installed in accordance with approved plats and plans.
  - (1) Such guarantee shall either be:
    - a. A certified check or a personal, corporate or property bond with cash escrow or other method of performance guarantee approved by the agent and sufficient to cover the cost of all improvements as estimated by the agent, furnished by the subdivider; or
    - b. Evidence of the existence of agreements between the subdivider and a qualified contractor for the installation and completion of the improvements and the contractor's performance bond with surety for the benefit of the county and the subdivider, and satisfactory to the agent, in an amount to cover the cost of all improvements as estimated by the agent.

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- (2) Within 30 days after receipt of written notice by the subdivider of completion of part or all of any facilities or improvements required to be constructed by this article, the agent shall either grant a periodic partial or final complete release of any bond, escrow, letter of credit or other performance guarantee required by this section, or notify the subdivider or developer in writing of non-receipt of approval by applicable state agency or of any specified defects or deficiencies in construction and suggested corrective measures. If no such action is taken by the agent within the 30-day period, the request shall be deemed approved and a partial release granted to the subdivider. No final release shall be granted until after expiration of such 30-day period and there is an additional request in writing sent by certified mail, return receipt, to the county administrator. The agent shall act within ten working days of receipt of the request; then if no action is taken, the request shall be deemed approved and final release granted to the subdivider. The agent shall not refuse to make a periodic partial or final complete release of a bond, escrow, letter of credit or other performance guarantee for any reason not directly related to specified defects in construction of the facilities covered by such bond, escrow, letter of credit or other performance guarantee.
  - (3) Upon written request by the subdivider, the agent shall be required to make periodic partial releases of such bond, escrow, letter of credit or other performance guarantee in a cumulative amount equal to 80 percent of the original amount for which the bond, escrow, letter of credit or other performance guarantee was taken, based upon the percentage of facilities completed and approved by the agent or state agency having jurisdiction. Periodic partial releases may not occur before the completion of at least 30 percent of the facilities covered by any bond, escrow, letter of credit or other performance guarantee to the subdivider. For the purpose of final release, the term "acceptance" is deemed to mean when such public facility is accepted by and taken over for operation and maintenance by the state agency, local government department or agency, or other public authority which is responsible for maintaining and for operating such facility upon acceptance.
  - (4) For the purposes of this section a certificate of partial or final completion of such facilities from either a duly licensed professional engineer or land surveyor, as defined in and limited to Code of Virginia, § 54.1-408 or from a department or agency designated by the agent may be accepted without requiring further inspection of such facilities.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

State law reference(s)—Coordination of streets with other streets, Code of Virginia, § 15.2-2241(2); acceptance of dedication of right-of-way, Code of Virginia, § 15.2-2241(5); drainage, Code of Virginia, § 15.2-2241(3); monuments, Code of Virginia, § 15.2-2241(7).

### **Sec. 86-456. Special Provisions for Open Space or Cluster subdivisions.**

- (a) The intent of the residential open space or cluster development technique is to provide design flexibility to make efficient use of topography and develop residential communities with significant permanent reservations of open space that preserve the look and feel of a rural area while exploiting economics of scale and compact design forms. This technique is only allowed in areas designated as rural lands by the comprehensive plan and is not allowed in the R-1 zoning district regardless.
- (b) Minimum area for application; density. The minimum parcel size for consideration of an open space or cluster subdivision shall be 50 acres. Permissible density shall be one lot per five acres.
- (c) 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 contemporaneously with the record plat of the subdivision.

- (d) If the proposed subdivision is in a water or sewer service district as outlined by the department of utilities, public water and/or sewer must be utilized in the subdivision. The installation of all necessary facilities to connect to public water and/or sewer is the responsibility of the developer/builder/owner.
- (e) In the event of a subdivision proposal with eight or more lots, the installation of a community water system shall be required. Any proposed community water system(s) shall adhere with the requirements of Chapter 78 of the King William County Code and shall have approval from the director of public utilities or his/her designee.
- (f) Yard, size and dimension requirements.
  - (1) Residential lots.

Criteria	Minimum Lot Size (square feet)
Served by Public Water AND Sewer	15,000
Served by Public Water <i>only</i> OR Public Sewer <i>only</i>	20,000
Served by Private Utilities (Well & Septic)	40,000

- (2) Lot Depth, frontage, setback, yard and height requirements for cluster lots shall follow the R-1 standards in Sec. 86-110.
  - (3) The minimum setback from external public streets shall be twice that which is prescribed in the underlying zoning district.
  - (4) There are no minimum house sizes or house footprint requirements.
  - (5) Where flag lots are utilized, the "staff" portion shall be 20 feet or greater in width. A single shared access for two abutting flag lots is required; the width of the "staff" portion shall be 30 feet or greater in width.
  - (6) In the case of shared access arrangements, an easement establishing the right-of-way and maintenance responsibilities shall be recorded at such time as the lots are created and the existence of such easement shall be noted on the face of the plat creating the lots.
- (g) Open space requirements.
  - (1) No less than 80 percent of the gross area of an open space development shall be preserved as open space assuring its availability for agricultural, forestall, recreational, or open-space uses by establishment of a permanent open space conservation easement or deed restriction.
  - (2) All areas not included in lots or public street rights-of-way shall be incorporated into open space.
  - (3) The open space shall be arranged and designed so as to facilitate its use, ensure, continuity of design, and preserve all of the sensitive environmental features within the development. Failure to achieve these goals shall be sufficient reason for the agent to deny applications for open space development plan approval or to require modifications that may include loss of lots.
  - (4) With the approval of the board of supervisors, open space other than the required recreational space within an open space or cluster subdivision may be held by an owner when the open space is used for agriculture, forestry, historical preservation, or other similar uses. The board of supervisors may not approve any use of the open space not allowed under the terms of the conservation easement.
  - (5) Conservation easement and deed restriction requirements:
    - a. Designated open space in cluster subdivisions shall be protected from any future subdivision or development by the establishment of a permanent conservation easement or deed restriction that must be recorded at the time of final plat subdivision approval.

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- b. The easement shall comply with the requirements of the Virginia Conservation Easement Act, Code of Virginia Title 10, Ch. 10.1 or contain similar provisions.
  - c. The conservation easement or deed restriction shall be in a form approved by the county attorney and shall provide that the eased portion of an open space subdivision shall be maintained by the owner of the property and that the county shall bear no responsibility or liability for such maintenance.
  - d. The Board of Supervisors, in its sole discretion, may approve a suitable alternative plan for maintaining the open space.
- (h) Recreational space requirements.
- (1) Recreational space equivalent to at least five percent of the gross land area, but no less than one acre, shall be provided and shall be suitable, as determined by the agent, for recreation purposes and the development of recreational facilities that are appropriate to the size, scale, and market orientation of the development.
  - (2) Recreational areas shall not abut the exterior boundary of the open space development unless entirely adjacent to a publicly-owned facility or community recreation facility of an adjoining residential development.
  - (3) The agent may modify the requirement for recreational space in any manner deemed appropriate or necessary, other than reducing the area required to be set aside, for the purpose of ensuring that adequate recreation facilities are available to serve the development given its size, scale, and market orientation.
  - (4) Adequate pedestrian and bicycle facilities shall be provided which fully interconnect the development and its recreation areas both internally and with existing, planned or desirable external pedestrian and bicycle facilities.
- (i) Applications for open space developments shall be made in the same manner as prescribed for conventional subdivisions. In determining whether or not to grant approval, the applicant shall be required to show how the proposed open space cluster development provides superior protection of rural views from existing public roadways to that which would be effected by conventional subdivision of the subject property.
- (j) Final plats recorded for an open space development utilizing the cluster technique and all deeds for lots within such development shall bear a statement indicating that the land is within an approved residential open space (cluster) subdivision and shall also bear a statement indicating the ownership status of the development's open space system and shall reference the covenants creating a property owners association which shall also be recorded at the time final plats were put to record.
- (k) Additional requirements for subdivision. The following additional development standards shall be required for open space or cluster subdivisions:
- (1) All floodplains, wetlands, and steep slopes shall be protected from clearing, grading, filling, or construction (except as may be approved by the County 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, especially those containing a significant wildlife habitat.
  - (3) Lots shall be designed to minimize development on open fields and pastures, and should locate building sites on the least prime agricultural lands.
  - (4) Existing views from public thoroughfares shall be preserved to the maximum extent practicable.
  - (5) Lots shall be designed to minimize necessary grading or filling, and to take advantage of the existing topography and landforms to the extent practicable.

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(6) Lots shall be designed to avoid important historic, archaeological, or cultural sites.

(j) Road construction standards.

- (1) Unless otherwise specifically provided in this chapter, construction of all subdivision streets shall be in conformance with department of transportation requirements and requirements found in the Virginia Statewide Fire Prevention Code.
- (2) Subdivision street cross-sections shall be based on the load bearing capacities of soils located within proposed street rights-of-way as detailed in a subsurface soils report, certified by a geotechnical engineer. The agent may, however, upon the recommendation of the department of transportation, waive or modify this requirement when there is sufficient cause to believe that such a report is unnecessary.
- (3) Street construction plans shall be submitted to and approved by both the department of transportation and the county as a part of the review process required by this chapter.
- (4) Street construction surety shall not be fully released until said street(s) have been accepted into the state secondary system.
- (5) The subdivider shall guarantee, in accordance with the provisions of article V of this chapter, the maintenance of any streets, sidewalks, utilities, street lights, public easements and rights-of-way shown on the development plan and final plat until such time as such facilities have been approved and accepted by the county, department of transportation, and/or any applicable agency, authority, or district to which ultimate dedication is intended. Maintenance shall be deemed to include maintenance of the streets, curb, gutter, sidewalks, drainage facilities, utilities, street lighting, landscaping, easements, rights-of-way, or other improvements, including the correction of defects and damages and the removal of snow, ice, water, debris or obstruction, so as to keep such facilities open and in good repair such that the full function of their intended public purpose is preserved.
- (7) Cul-de-sac streets shall generally not exceed 1,000 feet in length. The length shall be measured from the end of the cul-de-sac to the closest intersection which provides a means of egress from the subdivision, either directly or indirectly.
  - a. Where the agent determines that the topography, property configuration or other physical constraints are such that a cul-de-sac of greater length is required or desirable for the effective and efficient development of the property, the agent may authorize culs-de-sac which exceed 1,000 feet in length.
  - b. In such cases, the cul-de-sac street shall generally be designed with a landscaped median which divides the cul-de-sac street into two distinct and separate lanes. Such street may, however, be continuously undivided for the final 1,000 feet measured from the end of the turnaround. Median breaks shall be provided at street intersections and at other appropriate locations along the street to ensure good traffic circulation and the safe, efficient delivery of emergency services. In general, this means that median breaks should occur approximately at 300- to 500-foot intervals.
  - c. In consultation with the fire chief, the agent may waive or modify the median requirement in planned developments and cluster subdivisions. For all other situations, the planning commission may authorize modifications to cul-de-sac requirements upon finding that the modifications are necessitated solely by severe topographical and environmental constraints and that public safety will be equally protected as it would be with the strict application of the requirements of this section.
  - d. Regardless of length, a cul-de-sac shall serve no more than 20 lots.
  - e. Cul-de-sac streets shall be terminated by a turnaround having a minimum pavement radius of 48 feet, however 50 feet may be required in certain situations.

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- (8) In certain situations, the use of alleys may be a desirable alternative to the more traditional type of residential development. Alleys may be permitted in cluster development, however, the following conditions shall apply:
- a. Frontage on an alley shall not be construed to satisfy any lot frontage requirements.
  - b. Alleys shall be maintained and perpetuated by a duly constituted property owners' association and notations to this effect shall be clearly indicated on the face of the record plat.
  - c. Alleys shall have a minimum right-of-way width of 16 feet, a minimum pavement width of 12 feet and a maximum length of 500 feet.
  - d. Alleys shall be designed to minimize or eliminate the potential for through traffic.
  - e. Alleys shall intersect only access or subcollector streets.
  - f. If curb and gutter is used, it shall be of a roll-top type design.
  - g. All structures, including garages and fences shall be set back a minimum of ten feet from the edge of the alley right-of-way. Alleys shall not be considered streets or roads for the purpose of front yard setback requirements.
  - h. Where alleys are proposed to terminate in a cul-de-sac, either a circular or a "T" turnaround shall be provided with a minimum outside turning radius of 30 feet.
- (9) Private streets may be authorized by the agent in accordance with the applicable provisions of the zoning ordinance as it applies to cluster subdivisions. Where authorized, private streets shall conform to the following requirements:
- a. The geometric standards contained in Sec. 86-454 (j)(10) shall be met or exceeded, provided however that the agent may approve minor deviations where the resulting design is clearly equal to or superior to that which would otherwise result. Geometric requirements for private streets shall extend to the nearest public street to which it connects directly or indirectly.
  - b. The construction standards contained in section Sec. 86-454 (j) shall be met or exceeded. Construction standards for private streets shall extend to the nearest public street to which it connects directly or indirectly.
  - c. A duly constituted property owners' association shall be vested with ownership of and maintenance responsibility for private streets at the time of recordation. The subdivider shall provide initial funding to the property owners' association for the maintenance of private streets in the amount of 15 percent of the actual construction cost of such private streets.
  - d. As provided by Section 15.2-2242.3, Code of Virginia, each plat on which such a private street is shown shall contain, in addition to all other required notations and certifications, the following notation prominently displayed in, at minimum, 12-point lettering:  

THE STREET(S) SHOWN HEREON IS/ARE PRIVATE, MAY NOT MEET STATE STANDARDS, AND WILL NOT BE MAINTAINED BY EITHER THE COMMONWEALTH OF VIRGINIA OR NEW KENT COUNTY. MAINTENANCE OF THE ROAD(S) AND RIGHT(S)-OF-WAY SHOWN HEREON IS/ARE THE RESPONSIBILITY OF THE PROPERTY OWNERS ASSOCIATION FOR THE LOTS CREATED BY THIS PLAT.

Grantors of any subdivision lot to which the above statement applies must include the statement on each subsequent deed of conveyance thereof.
  - e. The subdivider shall be required to guarantee and post surety for the construction of any private streets authorized herein.
  - f. Private streets shall be inspected at the expense of the subdivider both during and after construction by an independent testing and engineering firm to ensure that the road design and

construction meets or exceeds the standards of the department of transportation for public roads of the same class and volume. Certification to this effect by an engineer licensed in Virginia shall be submitted to the agent together with relevant logs and reports prior to the issuance of a certificate of occupancy for any structure having its sole access from a private street.

- g. Existing non-standard private streets and driveways may not be extended to provide access to additional lots except and unless brought to the geometric and construction standards contained herein.

(10) Geometric standards.

- a. It is the intent of the county that the least pavement width necessary to provide safe use be utilized in residential subdivisions, while also meeting the requirements in the Virginia Statewide Fire Prevention Code.

- b. Geometric standards for private streets without curb and gutter are as follows:

Classification	Minimum Design Speed	Minimum R-O-W Width	Residential Pavement Width	Residential Lot Access Permitted
Access	20	50'	20'	YES
Subcollector	20	50'	20'	YES
Minor Collector	25	50'	22'	YES

- c. The minimum design standards set forth above apply in areas with terrain classified as "level" (zero percent to eight percent slope) or "rolling" (8.1 percent to 15 percent slope). In areas with terrain classified as "mountainous" (greater than 15 percent slope), different standards may apply.
- d. All streets shall have a continuity of design throughout their entire length. Multiple or step-down designs shall not be permitted except that a transition may be permitted at a four-way intersection or other major traffic generator which would constitute a clear demarcation of such change.
- e. On all residential streets and along all streets and roadways having, or designated to have in the comprehensive plan or other county plans, pedestrian facilities, intersections shall have the shortest intersection or curb radii permissible under department of transportation standards while still accommodating the turning requirements of the appropriate design vehicle.
- f. All street geometric design features shall conform to the standards established by the department of transportation.

- (k) Submittal requirements. The subdivider shall submit to the agent ten copies of the development plan on 24-inch by 36-inch blue-line or black-line prints at a horizontal scale no smaller than five feet to the inch and a vertical scale of five feet to the inch except in cases where the agent has approved an alternate scale. Where more than one sheet is used, an index sheet shall be provided and sheets shall be numbered in sequence and match-lines shall be provided and labeled. A tabular sheet index shall appear on the first page. The following information for the subdivision or part thereof shall be shown on the development plan or within the attachments to the development plan:

- (1) The name of the subdivision, owner, subdivider, surveyor and engineer, and the date of drawing, number of sheets, graphic (bar) scale and phase designation. Unless otherwise accepted by the agent, the side line of each sheet shall be a north-pointing (from bottom to top) grid line and labeled as such. If true north is used, the method of determination shall be shown.

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- (2) The location of the proposed subdivision, or part thereof, on an inset map at a scale of not less than 2,000 feet to the inch showing adjoining roads, their names and numbers, towns, subdivisions, watercourses, and other landmarks. Said inset map shall be oriented north.
  - (3) A boundary survey providing a closure within an accuracy of not less than one in 10,000.
  - (4) Land use data, including:
    - a. The total acreage of the property or properties to the nearest one-tenth-acre;
    - b. The acreage of the area to be subdivided to the nearest one-tenth-acre;
    - c. The acreage and percentage of the total area of undevelopable areas as defined by the zoning ordinance;
    - d. The zoning district classification;
    - e. A summary of zoning district requirements including minimum lot size, yard and setback provisions, and any other pertinent regulations such as the cluster requirements, if that technique is being utilized;
    - f. The acreage and percentage of the total area included within common areas;
    - g. The acreage and percentage of the total area within landscaped open space areas;
    - h. The acreage and percentage of the total area within road rights-of-way;
    - i. The acreage and percentage of the total area of impervious surface area;
    - j. The acreage and percentage of the total area within resource protection areas and resource management areas respectively;
    - k. The number of lots or units;
    - l. The density, both net and gross;
    - m. The maximum, minimum, and average lot sizes.
  - (5) The names of owners, location of existing property lines, parcel identification numbers, and zoning classification within the boundaries of the tract and for all properties adjacent thereto.
  - (6) All existing, platted and proposed streets and public rights-of-way and their names, numbers and widths (both pavement and right-of-way). The data of all curves along street frontages shall be shown at the curve or in a curve data table and shall contain the following:
    - a. Delta
    - b. Radius
    - c. Arc
    - d. Tangent
    - e. Chord
    - f. Chord bearings
  - (7) Plan, profile, and cross-section views of all proposed street rights-of-way shall be shown including street line, centerlines, type and depth of base and pavement, compaction, drainage facilities, shoulders, sidewalks, monuments, utility placements, and other features of the proposed streets.
  - (8) All existing and proposed utility and other easements, including landscape, preservation or conservation easements, public areas, and parking spaces.

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- (9) All utility placements shall be shown with plan and profile views and shall include:
- a. Size, location, and method of proposed connections to existing utilities.
  - b. Size and location of proposed facilities showing proposed water meters, gate valves, fire hydrants, fittings, manholes, sewer laterals and clean-outs, grinder pumps, and manhole rim and invert elevations and percent of slope.
  - c. Location, design, and details of sewage pump stations.
  - d. Location, design, and details of water well facilities which are to be part of a central water system with health department and state department of environmental quality (if applicable) approvals attached.
  - e. Location of water wells on individual lots which are not to be a part of a central water system for either potable or non-potable purposes with health department and state department of environmental quality (if applicable) approvals attached.
  - f. Location and design of septic systems, both primary and reserve, including soils information, horizontal and vertical separations between drain lines, average water table, and finished ground surface. Health department approvals shall be attached.
- (10) All proposed lots, lot areas, building setback, and yard lines. All lots shall be located and dimensioned by bearings and distances or X-Y coordinate values in U.S. survey feet or meters.
- (11) Existing and proposed site topography at a contour interval of no more than two feet based on mean sea level with spot elevations provided at and along all proposed grade changes.
- (12) A drainage plan showing the proposed drainage system including all existing and proposed culverts, drains, open ditches, closed storm drain pipes, watercourses, lakes and other stormwater management facilities proposed to convey the subdivision drainage to an adequate natural channel. The development plan shall include detailed information about the sizing of all pipes and ditches, types of pipes and ditch linings, location and extent of drainage easements, and the location and extent of all existing or proposed stormwater management facilities, their depths, lining, and other pertinent data. Quantitative and qualitative drainage calculations shall be submitted with a drainage area map to verify the design of the drainage system including the downstream adequacy of the natural channel receiving run-off from the subdivision.
- (13) An erosion control plan showing the location, type, and details of proposed erosion and sediment control devices to be used during and after construction. The erosion control plan shall meet or exceed all requirements of chapter 82, article II of this Code (erosion and sediment control ordinance) and shall be provided as a separate plan sheet at a scale of 100 feet to the inch except where the agent approves an alternate scale for this part of the development plan.
- (14) The location of any floodplain area as depicted on the flood insurance rate map (FIRM) for the county as published by the Federal Emergency Management Agency including the flood hazard zone designation(s) and elevation(s) and any other information required by the floodplain management area provisions of the zoning ordinance for floodplain areas. Where none of the area contained in the subdivision lies within a floodplain area, a note to this effect shall be shown on the face of the development plan.
- (15) The location of all proposed secondary ground control network monuments.
- (16) The location and identification by size and common name of all single heritage, memorial or specimen trees and/or groups thereof.
- (17) The location and design, including renderings, of any proposed signage or entrance monuments or structures including walls, fences, or similar features.
- (18) The location, size, design and type of all streetlights proposed to be installed.

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- (19) A landscape plan prepared for all common areas, entrance ways, and other areas where replacement or additional landscaping is required or proposed.
  - (20) Identification of any portion or portions of the subdivision or phase thereof which is or may be located in any watershed protection area, environmental management area or Chesapeake Bay Preservation Area. Such identification shall be accompanied by a description of such area, what environmentally sensitive lands exist therein, and the actions proposed by the subdivider with respect to such area or areas.
  - (21) The location and extent of any known or suspected archaeological sites, historic sites, cemeteries, individual grave sites, and other similar cultural resources and including, as an attachment, a narrative description of the resource and its potential significance.
  - (22) All parcels of land to be dedicated for public use or for the common use of the property owners and the conditions, if any, of such dedication.

(Ord. No. 01-25, 1-14-25, Ord. No. 01-25 Amended, 2-9-26)

### **Secs. 86-457—86-459. Reserved.**

### **Sec. 86-460. Major subdivisions.**

- (a) *Intent.* Major subdivisions have five or more lots and therefore will have greater impact on the environment, highways and surrounding communities than will smaller subdivisions. Therefore, more stringent design standards and approval procedures are required for major subdivisions. It is the intent of this division to ensure that major subdivisions become assets rather than burdens to the county.
- (b) *Improvements.*
  - (1) *Fire protection.* The installation of adequate fire hydrants for fire protection in a subdivision at locations approved by the agent shall be required when a central water system is installed in the subdivision of more than 25 lots. Fire protection system shall be designed, installed and provide pressure and fire flows in accordance with King William County Water and Sewer Standards.
  - (2) *Underground utilities.* All utility lines, except those in the I industrial district, including, but not limited to, electric, CATV, telephone, or other lines shall be placed underground. This requirement shall apply to lines serving individual sites within the development and to utility lines providing service to the development. Where aerial utility service is extended from lines, located across U.S. Highway 360, such lines may be carried overhead to a terminal pole located along the thoroughfare right-of-way but not within the subdivision, where the lines shall be placed underground. This shall not apply to electric transmission lines, the placement of which is regulated by the state corporation commission. Where aerial utility lines, excluding service lines traverse the property proposed for subdivision, such lines may remain overhead unless the lines are subsequently moved, in which case, they shall be placed underground. Relocation of existing poles placed within an easement contiguous to the highway right-of-way which adjoins the property being subdivided, when done as part of construction of an entrance to the subdivision shown on an approved subdivision plat, shall be exempt from these requirements.
  - (3) All driveways must have a concrete apron that meets VDOT standards. The remainder of the driveway must consist of concrete with a minimum thickness of four inches or asphalt with a minimum thickness of two inches and a granular base aggregate of six inches to eight inches in thickness. The driveway must be sloped towards the street to eliminate standing water. This requirement shall not apply to major subdivision lots that are three (3) acres or more in size.
- (c) *Landscaping.* For all subdivisions in which landscaping is voluntarily proffered, proposed or required, plans showing the general location(s) and type of materials to be used shall be provided with the preliminary plat. After approval of the preliminary plat by the agent, a landscape plan shall be prepared by a certified

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landscape architect and included in the construction plans and specifications for all required physical improvements to be installed in the subdivision, with detailed and specific lists of all materials to be used, the location(s) of the materials, and the proposed location(s) of each tree and shrub to be planted. Where existing plantings are to be retained, specifics as to materials and location(s), as well as proposed methods for protection during construction, shall be included in the plans. Landscaping shall be secured pursuant to this article with suitable maintenance and performance guaranties given at the time of final platting.

- (1) *Landscaped buffers along existing and planned public roads:* For all subdivisions developed in R-R and R-1 residential districts, a buffer shall be located along all public roads (not within subdivisions) existing on the date of final subdivision approval and all roads designated on the major thoroughfare plan on which the subdivision fronts, to a minimum depth of 50 feet. Existing deciduous trees with a caliper of two inches or greater, and coniferous trees four feet or greater in height, shall be retained within the buffer. If the buffer has no trees, the frontage shall either be landscaped in accordance with King William County Screening Requirements, or improved with a landscaped, sculpted, non-linear undulating landform with an average height of three feet. The landform shall be landscaped with low-maintenance vegetation.
- (2) *Landscaped buffers between developments and adjoining property owners:* For all subdivisions developed in R-R and R-1 residential districts, a buffer shall be located between the proposed development and adjoining property owners (not within subdivisions) existing on the date of final subdivision approval, to a minimum depth of 50 feet. Existing deciduous trees with a caliper of two inches or greater, and coniferous trees four feet or greater in height, shall be retained within the buffer. If the buffer has no trees, the frontage shall either be landscaped in accordance with the screening requirements of King William County, or improved with a landscaped, sculpted, non-linear undulating landform with an average height of three feet. The landform shall be landscaped with low-maintenance vegetation. For all subdivisions developed in the R-R residential district, a buffer shall be located between the proposed development and adjoining property owners (not within subdivisions) existing on the date of final subdivision approval, to a minimum depth of 25 feet. Existing deciduous trees with a caliper of two inches or greater, and coniferous trees four feet or greater in height, shall be retained within the buffer. If the buffer has no trees, the frontage shall either be landscaped in accordance with the screening requirements of King William County, or improved with a landscaped, sculpted, non-linear undulating landform with an average height of three feet. The landform shall be landscaped with low-maintenance vegetation.
- (3) *Landscaped medians:* For all subdivisions developed in R-R and R-1 residential districts, landscaped medians shall be located within all entrances to the proposed development. Medians shall have minimum depths of 150 feet. All medians shall have a minimum width of 15 feet. All medians shall be planned, designed, and constructed in such a manner as meet all current VDOT regulations.
- (d) *Pedestrian paths.* For all subdivisions developed in the R-R and R-1 residential districts, pedestrian paths shall be provided within the required buffer along the public road and within the development along both sides of any proposed public road, including the circumference of cul-de-sacs. The paths shall be constructed of permanent materials such as concrete, asphalt, brick, pavers, or materials which are substantially similar, and shall be no less than four feet wide. The paths shall be constructed from property line to property line and shall be designed to permit extension onto adjoining properties where future roads are planned or are likely. Where paths intersect with roads, the path shall be designed to comply with VDOT standards regarding handicapped access. Paths constructed within highway rights-of-way may be used to satisfy this requirement so long as the paths are constructed to VDOT standards and can be accepted by the department for maintenance. If curb and gutter are used along a state primary or secondary road, the path located within the right-of-way shall be separated from the curb and gutter by a distance of no less than four feet.
- (e) *Streets.* As allowed by the State Code of Virginia, § 15.2-2241.

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- (1) *Generally.* Every lot in a major subdivision shall abut a new or existing public street which meets the standards set forth in this section. Ingress/egress for major subdivisions shall be directly to/from a public street. Major subdivisions with 12 or more lots fronting on a new street require a traffic impact analysis, design and controls will be installed as directed by VDOT, to aid in the reduction of traffic impacts and for safety measures.
  - (2) *New streets.* All streets in a proposed subdivision shall be designed and constructed in accordance with subdivision street standards published by VDOT. Streets so designed and constructed shall be recommended by the county for inclusion in the state highway system.
  - (3) *Alignment and layout.* The arrangement of streets in new subdivisions shall make provision for continuation of existing streets in adjoining areas. Street arrangement shall be such as to cause no unnecessary hardship to owners of adjoining property should they decide to plat their own land and seek to provide convenient access to it. Where in the opinion of the agent it is necessary to provide for street access to adjoining property, proposed streets shall be extended to the boundary of the property. Half streets along the boundary of land proposed for subdivision shall not be permitted. The street layout shall be designed to create desirable building sites while respecting existing topography, to minimize street grades, avoid excessive cuts and fills, and preserve trees to the maximum extent feasible for a reasonable economic use of the land.
  - (4) *Spacing.* Streets shall be spaced to allow for blocks meeting the dimensional requirements contained herein and to minimize the number of intersections with existing or proposed arterial thoroughfares.
  - (5) *Minor residential streets.* Minor residential streets, intended primarily for access to individual properties, shall be so arranged as to discourage their use by through traffic.
  - (6) *Curb and gutter.* For all subdivisions developed in the R-1 residential district, curb and gutter shall be provided to VDOT standard CG-6 and/or other applicable VDOT standards.
  - (7) *Reduction of traffic impacts.* Where the subdivision adjoins or contains a U.S. Highway 360 and State Highway 30 as designated on the major thoroughfare plan, the agent will require that measures be taken to reduce the impact of traffic on the residential lots abutting or fronting upon such thoroughfare and to afford separation of through and local traffic. The choice of the most appropriate method of accomplishing the desired purpose in a specific instance shall be made by the agent, giving consideration to topography and other physical conditions, the character of existing and contemplated development in the subdivision and its surroundings, and other pertinent factors and may be solved through one of the following means:
    - a. By providing vehicular access to such lots by means of a new subdivision road separated from the highway by a planting strip at least 30 feet in width;
    - b. By designing reverse frontage lots having access only from a parallel minor street or from a cul-de-sac or loop street, and with vehicular access to such lots from the major thoroughfare prohibited by deed restrictions or other means.
  - (8) *Alleys.* Alleys shall be provided in business, commercial and industrial areas, unless adequate access to parking and loading area is provided by other means. Alleys shall not be permitted in residential areas except to provide access to attached dwellings or multiple dwellings or where required by topographic or other unusual conditions. In the absence of alleys, easements shall be provided for utility lines or drainage facilities.
  - (9) *Right of access.* Anyone who subdivides land shall provide right of access to public streets of sufficient width to meet the minimum requirements of VDOT. No land shall be reserved, held or controlled for the purpose of prohibiting access to streets and roads unless owned, held or controlled exclusively by the county or an agency of the state or federal government.

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- (10) *Scenic roads.* Where an existing or proposed street or roadway is designated as a scenic road or byway on the comprehensive plan, of which the major thoroughfare plan is a part, the purpose and standards established for such roads to maintain their scenic and historic qualities shall be observed in the design and development of an adjacent subdivision, including but not limited to such factors as maintenance of existing alignments and natural vegetation, appropriate pavement design, and due care with respect to location and design of access points.
  - (11) *Maintenance of public streets.* The subdivider shall provide for maintenance of all new or improved public streets until such time as the streets are accepted into the secondary highway system of VDOT. The subdivider shall furnish to the county a maintenance and indemnifying bond with surety satisfactory to the board of supervisors, in an amount sufficient for and conditioned upon the maintenance of public streets until such time as they shall be reviewed at the end of each 12-month period and at such times the agent may require that the amount of the bond be increased to cover inflated maintenance costs.
  - (12) *Street names.* Proposed streets which are obviously in alignment with existing named streets shall bear the names of such existing streets. Names of proposed streets shall not duplicate existing street names, irrespective of the use of the suffix street, avenue, boulevard, drive, way, place, lane or court. Street names shall be indicated on all plats and shall be approved by the agent. Names of existing streets shall not be changed except by approval of the board.
  - (13) *Street signs.* Street identification signs of a design approved by the agent shall be installed at all intersections.
  - (14) *Construction of utilities.* All utilities constructed in or on the right-of-way of public streets shall comply with the current land use permit manual of the state department of transportation.
  - (15) *Pedestrian paths.* The subdivider shall provide ADA compliant pedestrian paths when the development generates a need and the need is in accordance with the county comprehensive plan. The pedestrian paths shall be designed and constructed in accord with applicable VDOT standards. Nothing herein shall alter the authority of VDOT to require pedestrian paths on any newly constructed street or highway.
- (f) *Lots.*
- (1) *Generally.* Lots in major subdivisions shall comply with the requirements of this section.
  - (2) *Lot arrangement.* The lot arrangement, design and orientation shall be such that all lots will provide satisfactory building sites, properly related to topography and the character of surrounding development.
  - (3) *Minimum lot size.* The dimensions and areas of all lots shall comply with the requirements of the zoning district in which they are located. In any case where public water supply and/or public sewerage are not available or are not to be provided, all residential lots shall comply with the minimum lot dimensions and areas established by the health officer after appropriate water percolation tests have been performed, which dimensions may be greater than required under the zoning regulations. Where any doubt exists regarding suitability of a lot for septic systems, a field replacement area shall be designated for use in case of disposal field failure.
  - (4) *Remnants.* Remnants or parcels of land below minimum area, including parcels which fail percolation tests, which may be left over after subdivision of a tract, shall be incorporated to adjacent lots or otherwise disposed of rather than allowed to remain as unusable parcels.
  - (5) *Ratio of width to depth.* Excessive lot depths in relation to lot width shall be avoided. Except for unusual topographic conditions, a ratio of depth to width of two to one shall be considered a desirable maximum.

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- (6) *Double frontage and reverse frontage lots.* Double frontage and reverse frontage lots shall be avoided, except where their use is essential to overcoming special topographic circumstances or to separating residential development from highway traffic.
  - (7) *Increased lot depth and building setback.* Residential lots abutting primary or secondary highways or arterial thoroughfares shall have extra lot depths and deeper building setbacks as required by the zoning chapter and buffering requirements.
  - (8) *Intersection of lot lines.* Generally, side lot lines shall be approximately at right angles or radial to the street line, except where a variation to this requirement will provide an improved street and lot layout.
  - (9) *Separate ownership.* Where the land covered by a subdivision includes two or more parcels in separate ownership, and where the lot arrangement is such that a property ownership line divides one or more lots, the land in each lot so divided shall be transferred by deed to single ownership simultaneously with the recording of the final plat. The deed shall be deposited with the clerk of the court and held with the final plat until the subdivider is ready to record same, and both shall then be recorded together.
  - (10) *Corner lots.* Corner lots shall have extra width sufficient for maintenance of required setback lines on both streets.
  - (11) *Shape.* Lot arrangement, design and shape shall be reasonably related to topography, and shall not contain normally unusable elongations for the sole purpose of providing required minimum lot size, or to provide road frontage.
  - (12) *Lot suitability.* The agent shall require that data from soil evaluations performed by professional soil scientists on each lot in accordance with requirements of the State Board of Health sewage handling and disposal regulations be submitted for subdivisions dependent upon septic systems as a means of sewage disposal, in order to ensure that the lots are generally suitable for septic systems.
  - (13) *Lot frontage restriction.* No residential lot shall be platted in a major subdivision which has its primary frontage on U.S. Highway 360 or on State Highway 30.
  - (14) *Ingress and egress onto existing public primary and secondary roadways.* The ingress or egress into major subdivision lots from existing public primary and secondary roadways shall be prohibited.
  - (15) *Wetlands.* Any and all wetlands must be identified and delineated.
- (g) *Blocks.*
- (1) *Generally.* Design and layout of blocks shall be governed by this section.
  - (2) *Length.* Residential blocks shall normally not exceed 1,200 feet in length, or be less than 400 feet in length, between street lines. In any residential block more than 800 feet in length, a crosswalk of not less than ten feet in width may be required where necessary to provide convenient access to schools, recreation areas and other community facilities.
  - (3) *Width.* Blocks shall be wide enough to accommodate two tiers, unless prevented by topographical conditions or size of the property, in which case the agent may approve a single tier of lots of minimum depth.
  - (4) *Commercial and industrial blocks.* Blocks intended for business or industrial use shall be designed specifically for such purposes with adequate space set aside for off-street parking and delivery facilities. Individual lots within blocks of subdivisions which have been zoned to a business or industrial classification may be omitted from the final plat allowing the property to be divided in block form only. The subsequent transfer of parcels within the previously recorded business or industrial subdivision shall not be construed as a resubdivision of the property; however, prior to the issuance of any zoning or building permit, the subdivider shall have plats for the division of the property approved by the King

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William County Planning Office to ensure that all requirements of the King William County Subdivision and Zoning Chapter have been met.

- (5) *Irregular blocks.* Irregular shaped blocks indented by cul-de-sacs or looped streets, and containing interior parks or playgrounds, will be acceptable when properly designed and where provision is made for adequate parking and for the maintenance of the public or common-use recreation area.

(h) *Easements.*

- (1) *Generally.* The provisions of this section shall govern the platting and use of easements.
- (2) *Easements required.* Where alleys are not provided in appropriate locations, easements of not less than 15 feet in width shall be provided where necessary to meet public utility requirements. Easements of greater width may be required along lots or access lots where necessary for the extension of trunk sewers or other primary utility lines.
- (3) *Drainage easements.* Where a proposed subdivision is traversed by any stream, watercourse or drainageway, the subdivider shall make adequate provision for the proper drainage of surface water, including the provision of easements along such streams, watercourses and drainageways, in accordance with the standards established by the county.
- (4) *Utility easements.* Utility easements in private rights-of-way or in common use recreation areas may be permitted by the agent provided design considerations of the proposed subdivision warrant such easements. Necessary franchise and utility construction permits shall be obtained from VDOT for utilities with public right-of-way.
- (5) *Buildings in easements prohibited.* No building or structure shall be constructed on any easement without the authorization of the board of supervisors or other appropriate agencies.
- (6) *Utilities.* All utilities, shall be placed in alleys if such are provided, or in easements appropriately located, generally along the rear or side lot lines whenever this is possible.

(i) *Monuments.*

- (1) Permanent reference monuments, of stone or reinforced concrete and at least 36 inches in length and four inches square with suitable center point, shall be set flush with the finished grade at such locations as may be required by the agent. Generally such monuments shall be more or less evenly spaced around the perimeter and shall be located in each corner and at all street corners, at all points where street lines intersect exterior boundaries and at angle points and points of curvature and tangency in each street.
- (2) Monuments of metal pipe, three-fourths of an inch in diameter or solid metal rod one-half inch or more in diameter and at least 24 inches in length, shall be set in place flush with the finished grade at all intersections of streets and alleys, at all points on streets, alleys and boundary lines where there is a change in direction or curvature, and at all lot corners.
- (3) Upon completion of subdivision streets, sewers and other improvements, the subdivider shall make certain that all monuments required by the agent are clearly visible for inspection and use. Such monuments shall be inspected and approved by the agent before any improvements are accepted by the county.
- (4) Any person, developer, builder, firm or corporation shall take the necessary precautions to protect all monuments and metal markers during construction. Any monument which is moved or destroyed shall be immediately reported to the agent and shall be replaced as directed.

- (j) *Drainage facilities.* The subdivision shall be provided with such storm drains, culverts, drainways or other works as are necessary to collect and dispose of surface water and stormwater originating on or flowing

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across the subdivision, in order to prevent inundation and damage to streets, lots and buildings as per existing state regulations.

(k) *Community water supply and wastewater treatment.*

- (1) In any major subdivision with 25 or more lots, or a major subdivision with 15 or more lots in which a majority of lots are equal to or less than five acres in area, the subdivider shall install a properly designed water supply system, provided that any such system shall meet the requirements of the Virginia Department of Environmental Quality state department of health, and any other state federal or local agencies having authority over such systems.
- (2) In a major subdivision with 50 or more lots, or a major subdivision with 30 or more lots in which a majority of lots are equal to or less than five acres in area, the subdivider shall install a properly designed wastewater treatment system, provided that any such system shall meet the requirements of the Virginia Department of Environmental Quality, state department of health, and any other state federal or local agencies having authority over such systems.

(l) *On-site water supply and sewage disposal.*

- (1) The agent shall not approve any major subdivision in which a community sewage collection and treatment system is not provided unless a written statement is received from the health official, after review of the professional soil scientist's report required by the subsection 86-460(f)(12) on lot suitability, to the effect that the area contained in the subdivision is generally satisfactory for the installation of septic tanks or other approved method of on-site sewage disposal.
- (2) Approval of any proposed subdivision in which sewage disposal will be on-site may be granted only with the understanding that on-site sewage disposal systems must be approved on an individual lot basis by the health official.

(m) *Construction plans.* Following conditional approval of the preliminary plat by the agent, the subdivider shall as stated in Code of Virginia, § 15.2-2269, if the subdivider has not previously done so, submit two blue or black line prints or copies of construction plans for improvements to be installed in accordance with the provisions of this article and prepared by a registered professional engineer authorized to do business in the state, as follows:

- (1) Profiles along the center and both sides of each street, with tentative construction grades indicated, shall be shown on a standard profile sheet at a vertical scale of one inch equals ten feet and a horizontal scale of one inch equals 100 feet unless otherwise permitted by the agent, and all elevations shall be at mean sea level;
- (2) The proposed water supply, if any, and plan of water distribution system showing existing water mains, pipe sizes, location of valves and fire hydrants, or other system of water supply;
- (3) The proposed method of sewage disposal and plans and profiles of proposed sanitary sewers, if any, including existing sewers within the proposed subdivision and immediately adjacent thereto on a standard profile sheet and plan sheet at a vertical scale of one inch equals ten feet and a horizontal scale of one inch equals 100 feet unless otherwise permitted by the agent, with grades and sizes indicated, or method of sanitary sewage disposal in lieu of sanitary sewers;
- (4) Plans of storm sewers or other methods of disposal of stormwater shall be submitted in the same manner as outlined in paragraph (3) above;
- (5) Plan of the proposed street lighting system, if any, showing locations, type, wattage, height, and the like;
- (6) Plan of the proposed tree planting, if any, showing location, kind, and the like.

(n) *Improvements to be installed prior to approval of final plat.*

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- (1) Prior to the filing with the agent of a final plat for approval, all improvements required under these regulations shall be completed, or provisions made therefor, in accordance with the provisions of this division and the design standards and specifications for roads, street drainage, water and sewer construction and improvements in the county, in one of the following methods:
    - a. Installation and completion by and at the cost of the subdivider;
    - b. The furnishing by the subdivider to the agent of a certified check or a personal, corporate or property bond with cash escrow or other method of performance guarantee approved by the county attorney and sufficient to cover the cost of all improvements required to be installed by the subdivider as estimated by the agent to guarantee the installation and completion of such improvements; or
    - c. The furnishing by the subdivider to the agent of evidence of the existence of agreements between the subdivider and qualified contractors for the installation and completion of the improvements and the contractor's performance bond with surety for the benefit of the county and subdivider, and satisfactory to the county attorney, in an amount to cover the cost of all the improvements required to be installed by the subdivider as estimated by the agent.
  - (o) If the subdivider elects to proceed by method b. or c. as outlined above, the subdivider shall set a time, subject to the approval of the agent, by which it is estimated the improvements will be installed and completed. Unless an extension of that time is approved by the agent and a new estimated date of completion established, the agent shall take necessary steps to proceed with the accomplishment and completion of the improvements, making use of the certified check or calling on the security of the bond. However, as dictated by the Code of Virginia, § 15.2-2241.1, bonds and other sureties will not be required for facilities which will be dedicated for public use until construction plans have been submitted for the sections of the subdivision where those facilities will be located.
  - (p) *Certification upon completion of improvements.* Upon the completion of the installation of all improvements and allowed by the Code of Virginia, § 15.2-2245, the subdivider shall furnish a statement, approved by the agent and prepared by a certified surveyor or engineer, to the effect that all construction is in substantial conformity to the regulations and requirements of this article, and the plans as approved by the agent. If the subdivider has, in the opinion of the agent, just cause for not completing the improvements in the entire subdivision where either a certified check or surety bond or performance bond has been posted, the agent may release the subdivision provided the subdivider furnishes a statement by a certified surveyor or engineer to the effect that all construction which has been completed conforms to the regulations and requirements of this article and the plans as approved by the agent; and provided further, that the subdivider has furnished satisfactory evidence that the undeveloped portion of the subdivision has been vacated by proper authority.
  - (q) *Periodic partial and final release of certain performance guarantees as prescribed in the Code of Virginia, § 15.2-2245.*
    - (1) Within 30 days after receipt of written notice by the subdivider of completion of part or all of any facilities or improvements required to be constructed by this article, the agent shall either grant a periodic partial or final complete release of any bond, escrow, letter of credit or other performance guarantee required by this section, or notify the subdivider or developer in writing of nonreceipt of approval by applicable state agency or of any specified defects or deficiencies in construction and suggested corrective measures. If no such action is taken by the agent within the 30-day period, the request shall be deemed approved and a partial release granted to the subdivider or developer. No final release shall be granted until after expiration of such 30-day period and there is an additional request in writing sent by certified mail, return receipt, to the county administrator. The agent shall act within ten working days of receipt of the request; then if no action is taken, the request shall be deemed approved and final release granted to the subdivider or developer. The agent shall not refuse to make a periodic partial or final complete release of a bond, escrow, letter of credit, or other

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performance guarantee for any reason not directly related to specified defects or deficiencies in construction of the facilities covered by such bond, escrow, letter of credit or other performance guarantee.

- (2) Upon written request by the subdivider, the agent shall be required to make periodic partial releases of such bond, escrow, letter of credit or other performance guarantee in a cumulative amount equal to 80 percent of the original amount for which the bond, escrow, letter of credit or other performance guarantee was taken, based upon the percentage of facilities completed and approved by the agent or state agency having jurisdiction. Periodic partial releases may not occur before the completion of at least 30 percent of the facilities covered by any bond, escrow, letter of credit or other performance guarantee, or after completion of more than 80 percent of such facilities. The agent shall not execute more than three periodic partial releases in any 12-month period. Upon final completion and acceptance of such facilities, the agent shall release any remaining bond, escrow, letter of credit or other performance guarantee to the subdivider. For the purpose of final release, the term "acceptance" is deemed to mean when such public facility is accepted by and taken over for operation and maintenance by the state agency, local government department or agency, or other public authority which is responsible for maintaining and for operating such facility upon acceptance.
- (3) For the purposes of this section, a certificate of partial or final completion of such facilities from either a duly licensed professional engineer or land surveyor, as defined in and limited to Code of Virginia, § 54-17.1 or from a department or agency designated by the agent may be accepted without requiring further inspection of such facilities.

(Ord. No. 09-21R2, Att. A, 9-27-2021; Ord. No. 08-22, 8-22-2022; Ord. No. 04-26, 2-9-2026)

State law reference(s)—Coordination of streets with other streets, Code of Virginia, § 15.2-2241(2); acceptance of dedication of right-of-way, Code of Virginia, § 15.2-2241(5); similar provisions, Code of Virginia, § 15.2-2245; drainage, Code of Virginia, § 15.2-2241(3); monuments, Code of Virginia, § 15.2-2241(7); standards for plat details, Code of Virginia, § 15.2-2241(1); Provisions of subdivision ordinance, Code of Virginia, § 15.2-2241 et seq.

**Secs. 86-461—86-469. Reserved.**

### *DIVISION 3. PLATTING REQUIREMENTS*

**Sec. 86-470. Plat to be drawn by surveyor.**

Every subdivision plat which is intended for recording shall be prepared by a certified professional engineer or land surveyor, duly licensed by the commonwealth who shall endorse upon each such plat a certificate signed by him setting forth the source of title of the owner of the land subdivided and the place of record of the last instrument in the chain of title; when the plat is of land acquired from more than one source of title, the outlines of the several tracts shall be indicated upon such plat. Provided, however, that nothing herein shall be deemed to prohibit the preparation of preliminary studies, plans or plats of a proposed subdivision by the owner of the land, city planners, architects, landscape architects, or others having training or experience in subdivision planning or design.

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The certified engineer or surveyor shall affix his seal to every final plat. All final plats intended for recordation shall comply with state library board regulations establishing standards for plats.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

State law reference(s)—Certificate on plat, Code of Virginia, § 15.2-2262.

### **Sec. 86-471. Revision of plats.**

No change, erasure or revision shall be made on any plat, nor on accompanying plans or data sheets, after approval of the agent has been endorsed thereon, unless written authorization for such changes has been granted by the agent.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

### **Sec. 86-472. Establishment of ownership.**

Only the legal owner, proprietor or trustee of property shall be entitled to submit a plat of subdivision and the agent may require satisfactory proof that the subdivider identified on the plat is in fact the owner, proprietor or trustee of the property shown on the plat.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

### **Sec. 86-473. Single lot plat requirements.**

- (a) The plat of a single-lot subdivision shall be drawn to a scale of one inch equals 100 feet or larger, and shall show the following information:
- (1) Name of subdivision;
  - (2) Date, scale and north arrow;
  - (3) Boundaries, dimensions, bearings and area of the new lot;
  - (4) Secondary highway to which the lot has access;
  - (5) Prospective tax parcel numbers from the commissioner of revenue;
  - (6) Zoning district;
  - (7) Surveyor's certificate as delineated in division 5—forms and surveyor's seal;
  - (8) Owner's consent statement as delineated in division 5—forms;
  - (9) Delineated boundaries of the Chesapeake Bay Resource Management (RMA) and Resource Protection Areas (RPA) (except on parcels of over 25 acres that are to be used for agricultural or forestry purposes; such language as is found in and required by - the office of the subdivision agent must be placed on the plat in such instances).
  - (10) The area covered by the primary drainage field and the 100 percent reserve drain field for septic tanks (except on parcels of over 25 acres that are not to be used for purposes that require septic tank and drainfield sanitary facilities; such language as required by the board of supervisors and provided in the office of the agent must be placed on the plat in such instances).
- (b) A minimum of seven copies of the plat of a single-lot subdivision shall be submitted to the agent or his designated representative, who shall review and approve the plat for recordation if it meets the requirements of access for single lot subdivisions, the minimum lot size requirements of the zoning

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ordinance and includes all of the features and information listed below. If deficiencies are noted on the plat, it shall be marked disapproved and the reasons therefor shall be transmitted to the subdivider in writing.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

State law reference(s)—Standards for plat details, Code of Virginia, § 15.2-2241(1).

**Sec. 86-474. Farmstead and cluster subdivision plat requirements.**

- (a) A plat creating a farmstead or cluster subdivision shall consist of a survey drawn to scale of one inch equals 100 feet or larger and shall include the following information:
  - (1) Name of subdivision;
  - (2) Date, scale and north arrow;
  - (3) Vicinity map;
  - (4) Surveyor's certificate as delineated in division 5—forms and surveyor's seal;
  - (5) Owner's consent statement as delineated in division 5—forms;
  - (6) Zoning district;
  - (7) Layout, bearings and dimensions of boundaries, numbers and area (exclusive of easements for private streets) of new lots;
  - (8) Layout and width of new and existing public and private streets;
  - (9) Any other information required by this article to be included on the plat including, but not limited to, a list of the proffered zoning conditions, if any, applicable to the property;
  - (10) Signature and date lines for the health official and agent and VDOT resident engineer if necessary;
  - (11) Delineated boundaries of the Chesapeake Bay Resource Management (RMA) and Resource Protection Areas (RPA) (Except on parcels of over 25 acres that are to be strictly used for agricultural, or forestry purposes and where business, industrial or residential uses are not envisioned, the disclaimer language found in and required by the office of the subdivision agent be placed on the plat in such instances).
  - (12) The area covered by the primary drainage field and 100 percent of the reserve drain field for septic tanks (Except on parcels of over 25 acres that are not to be used for purposes that require septic tank and drainfield facilities; the disclaimer language as is found in and required by the office of the subdivision agent must be placed on the plat in such instances).
- (b) *Submission and approval.*
  - (1) *Farmstead subdivisions not requiring new street construction.*
    - a. If no new public streets are to be constructed the applicant is required to submit to the agent a completed application with at least six blue or black line prints of the plat. All application fees shall be submitted to the agent along with any required soils information for on-site sewage disposal. The agent shall determine if the application is complete, including payment of all real estate taxes currently due on the property. If the application is incomplete it will not be accepted for further review. If the application is complete the agent will initiate review of the plat to ensure compliance with this article.
    - b. If the plat does not comply with this article, the agent shall void all copies of the plat in question and return five of the voided copies of the plat to the subdivider accompanied with written notice as to the submittal deficiencies.

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- c. If the plat complies with this article the agent shall forward the seven copies of plat to the health official with the required preliminary documentation and soil information.
  - d. The health official shall review the plat and soils information and indicate whether the lots are generally suitable for installation of on-site sewage disposal systems within the period of time prescribed by Code of Virginia, § 15.2-2260.
  - e. If the proposed parcels comply with health department requirements then the health official shall sign the plats and return five copies to the agent, retaining soils information and one plat for his records. The agent shall then sign and approve the plat for recordation within 35 days.
  - f. If the proposed parcels do not comply with health department requirements then the health official shall void all copies of the plat in question and return the voided copies of the plat to the agent accompanied with written notice as to deficiencies. The agent, in turn, shall disapprove and return five of the voided copies of the plat to the subdivider accompanied with written notice from the health department and county.
  - g. In any case of disapproval, the agent shall notify the subdivider in writing of the reasons for disapproval.
  - h. Any application on file for longer than six months from the date of application either due to inactivity or failure of the applicant to correct voided plats or otherwise comply with county or health department requirements shall constitute disapproval and require reapplication and resubmittal by the applicant.
- (2) *Farmstead and cluster subdivisions requiring new street construction.* If new public streets are to be constructed, the applicant is required to submit to the agent a completed application, at least seven blue or black line prints of the plat, and at least six blue or black line prints of road construction plans and specifications required by VDOT. All application fees shall be submitted to the agent along with any required soils information for on-site sewage disposal. The agent shall determine if the application is complete, including payment of all real estate taxes currently due on the property. If the application is incomplete it will not be accepted and reviewed. If the application is complete the agent will initiate review of the plat to ensure compliance with this section. The agencies reviewing must complete their review within the time allotted by the Code of Virginia, § 15.2-2260 and once in receipt of the state approvals the local agent shall act within 35 days.
- a. If the plat does not comply with this article, the agent shall void all copies of the plat in question and return six of the voided copies of the plat to the subdivider accompanied with written notice as to the submittal deficiencies.
  - b. If the plat complies with this article, the agent shall forward the seven copies of plat to the health official for the county with the required preliminary documentation and soil information, three blue or black line prints of road construction plans and specifications required by VDOT to the resident engineer, and one blue or black line print of road construction plans and specifications to the county environmental compliance officer.
  - c. The health official shall review the plat and soils information and indicate whether the lots are generally suitable for installation of on-site sewage disposal systems within the period of time prescribed by health department regulations.
  - d. If the proposed parcels comply with health department requirements then the health official shall sign the plats and return five copies to the agent, retaining soils information and one plat for his records.
  - e. If the proposed parcels do not comply with health department requirements, then the health official shall void all copies of the plat in question and return the voided copies of the plat to the agent accompanied with written notice as to deficiencies. The agent, in turn, shall disapprove

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and return five of the voided copies of the plat to the subdivider accompanied with written notice from the health department and county.

- f. The resident engineer shall review the road construction plans and specifications and indicate whether the plans meet state requirements for construction of roads within the period of time prescribed by VDOT regulations.
- g. If the plans comply with VDOT requirements then the resident engineer shall sign the plats and return five copies to the agent, retaining one plat for his records.
- h. If the plans do not comply with VDOT requirements then the resident engineer shall void all copies of the plan in question and return the voided copies to the agent accompanied with written notice as to deficiencies. The agent, in turn, shall disapprove and return five of the voided copies to the subdivider accompanied with written notice from the resident engineer and county.
- i. Upon completion of favorable review by the health official and the VDOT resident engineer, the agent may then sign and approve the plat for recordation. In any case of disapproval, the agent shall notify the subdivider in writing of the reasons for disapproval.
- j. Any application on file for longer than six months from the date of application either due to inactivity or failure of the applicant to correct voided plats or otherwise comply with King William county, VDOT or health department requirements shall constitute disapproval and require reapplication and resubmitted by the applicant.

(3) *Recordation of plat.*

- a. As directed by the State Code of Virginia, § 15.2-2241(8), the subdivider shall record the approved plat within six months after final approval by the agent. If subdivider fails to do so, the plat shall be null and void and reapplication and new signatures shall be required. However, in any case where construction of public facilities has commenced or a surety has been approved or furnished for the construction of such facilities then the time for plat recordation shall be extended to one year after final approval or to the time limit specified in the surety agreement, whichever is greater.
- b. Recordation of plats shall act as transfer of streets, termination of easements and rights-of-way as outlined in the Code of Virginia, § 15.2-2265.
- c. As prescribed by the Code of Virginia, § 15.2-2209.1, any subdivision plat valid under Code of Virginia, § 15.2-2260 and outstanding as of January 1, 2017 shall remain valid until July 1, 2020.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

State law reference(s)—Standards for plat details, Code of Virginia, § 15.2-2241(1); recordation of plat, Code of Virginia, § 15.2-2264 et seq.

**Sec. 86-475. Major subdivision plat requirements.**

- (a) *Preliminary requirements.* Whenever a subdivision consisting of more than four lots is proposed to be made, and before any sale or contract for sale or any construction work, including grading, is started, the owner or proprietor of the proposed subdivision or his duly authorized representative shall cause a preliminary plat to be prepared together with improvement plans and other supplementary materials as required herein. The preliminary plat shall comply fully with the health, zoning and other applicable ordinances in effect at the time the plat is submitted for tentative approval.
- (b) *Application for tentative approval.* Seven copies, or more if necessary, of the preliminary plat together with an equal number of copies of improvement plans for roads, water, sewers and other utilities and other supplementary material shall be submitted to the agent with written application for tentative approval. Two

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copies of the professional soil scientist's report required by subsection titled lot suitability shall also accompany the application for tentative approval.

(c) *Preliminary plat details.* The preliminary plat shall show the following information:

- (1) Subdivision name and location and name of person or firm preparing the plat;
- (2) The name and address of the record owner of the land proposed to be subdivided; the source of title with deed book references; and the owner or proprietor of the subdivision and the surveyor;
- (3) The location and names of adjoining subdivisions or names of the owners of adjoining parcels of land, establishing the boundary lines of the tract to be subdivided;
- (4) The location, width and names of all existing or platted streets or public ways within or adjacent to the subdivision for a distance of at least 300 feet and the location, width and names of all proposed streets, and location and width of proposed alleys within the proposed subdivision. Except for extension of existing streets, street names shall not duplicate nor closely resemble existing street names in the county;
- (5) The location, width and purpose of other right-of-way and easements and the location of all setback lines, whether or not controlled by zoning regulations;
- (6) The location of existing physical features, including existing buildings, to assist in identifying and studying the plat, wooded areas, watercourses, wetlands or any other significant natural or manmade physical features affecting the proposed subdivision. For waterfront property or property abutting a wetland, swamp or marsh as best it can be defined, the top of bank or bluff, toe of slope, and height of bank or bluff;
- (7) The boundaries of all property to be dedicated for public use, and of all property to be reserved by covenant in deeds for the common use of the occupants of lots in the subdivision, or otherwise reserved with a statement of the purpose for which such covenant or reservation is made or such use is restricted or limited;
- (8) General indication of plans for drainage and utilities;
- (9) The layout, lot lines, lot numbers and block letters and approximate dimensions of proposed lots;
- (10) The proposed use of the property to be subdivided and the zoning of same and the land adjacent to the tract;
- (11) Scale, north arrow (true meridian where practicable) and date. The agent may approve a modification of scale for a large subdivision;
- (12) A vicinity or location may in the form of an inset map made to the scale of 600 feet to the inch showing the relationship of the proposed subdivision to existing community facilities which serve or influence it, and including subdivision name and location, main roads and streets, schools, parks and playgrounds, scale, north arrow and date;
- (13) Delineated boundaries of the Chesapeake Bay Resource Management and Protection Areas, dam break inundation zones and floodplains;
- (14) The area covered by the primary drainage field and the 100 percent reserve drain field for septic tanks;
- (15) The location of any grave, object or structure marking a place of burial;
- (16) Whenever part of a tract is proposed for platting and it is intended to subdivide additional parts in the future, a sketch plan for the entire tract shall be submitted with the preliminary plat. This sketch is merely for informational purposes and is not binding on the subdivider or the agent;

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- (17) In all subdivisions where it is economically or technically practical to do so, the subdivider shall protect and preserve physical features such as large trees, natural growth, watercourses, scenic points, historic places, topsoil and other similar community assets that will add attractiveness and value to the property if preserved. Such features to be protected and preserved shall be delineated on the preliminary plat and keyed to an appropriate brief statement of intent to be set forth thereon.
- (d) *Common use details.* Where the subdivision design is such that certain open spaces or other spaces or features are to be reserved for the common use of occupants or where private streets are proposed, the agent may require, subject to approval by the county attorney, that suitable measures be taken for permanent maintenance of such spaces, features or streets, including establishment of a homeowners association if appropriate to the facts of a particular case.
- (e) *Transmittal of plat and plans.* Upon receipt of the preliminary plat and plans, the agent shall transmit one set to the commission, one set to the health official and one set to the resident engineer. The commission, health official and resident engineer shall review and either approve or disapprove the plat and plans in accord with Code of Virginia, § 15.2-2260 and shall notify the agent in writing of such action. In the case of disapproval, the agent shall notify the subdivider in writing of action taken by the commission, health official and resident engineer.
- (f) *The meaning of "tentative approval."* Tentative approval of a preliminary plat shall not constitute approval of the final plat or any guarantee of such approval. It shall be deemed an expression of approval of the layout submitted on the preliminary plat as a guide to the preparation of the final plat. No property shall be transferred or offered for sale nor shall a building permit be issued based on an approved preliminary plat. The final plat will be submitted for approval of the agent for recording when the requirements of these regulations have been complied with. Approval of a preliminary plat shall be valid for the period as specified by Code of Virginia, § 15.2-2260(F).
- (g) *Coordination with site plan review.* Where a proposed subdivision accompanies and is a part of a development for which site plan approval is required under the zoning ordinance, the subdivision plat and the site plan will be reviewed at the same time as nearly as possible under the requirements of these regulations.
- (h) *Final plat requirements.* When the provisions of section 86-460(o) through (q) have been complied with, the subdivider shall file with the agent the final plat for all of the subdivision or for that portion being developed at the time, in accordance with the requirements of these regulations in order to secure the final approval of the plat by the agent. The final plat shall conform to the preliminary plat as approved. The subdivider may record as a final plat only that portion of the approved preliminary plat which they proposed to develop immediately, in all cases subject to requirements of the zoning chapter.
- (i) *Final plat details.* The subdivider shall submit to the agent an original and five black or blue line prints of the final subdivision plat prepared by a registered professional engineer or registered land surveyor authorized to do business in the state, the original of which shall be clearly and legibly drawn in black India ink on a sheet 16 by 24 inches, including a margin of one-half inch outside ruled borderlines at bottom and right sides, and one and one-half inch for binding on the left 16-inch end and at the top of the sheet. The plat shall have a scale of 100 feet to the inch and shall clearly show the following:
- (1) The title of the plat shall be included within a space four inches high and six inches wide in the lower right-hand corner of the plat. The data therein shall be confined to the following: name and subdivision with designation of section if only a portion of the approved preliminary plat is being developed, the county and magisterial district applicable, date, scale and the registered surveyor or engineer who prepared the plat. The name of the subdivision shall be in bolder type than the rest of the title;
  - (2) The name of the record owner of the land being subdivided and the name of the subdivider;
  - (3) The prospective tax map numbers from the commissioner of revenue;

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- (4) The boundaries of the subdivision showing the length of its courses and distances to one hundredths of a foot and bearings to half minutes, having been determined by an accurate survey thereof in the field, which shall close with an error of closure not exceeding one foot in 10,000 feet. The names and locations of adjoining subdivisions or the names of the owners of parcels of land that may be unsubdivided;
  - (5) Accurate coordinates of selected or monumented points. Any error of closure permissible in paragraph (i)(4) above shall be adjusted before computation of coordinates;
  - (6) The exact location, alignment, arrangement and width along property lines of all streets, whether opened or not, intersecting or paralleling the boundaries of the subdivision;
  - (7) The exact location and material of all permanent reference monuments;
  - (8) The exact location, alignment, or arrangement of streets and alley lines in the subdivision, the names of all streets, the bearing, angles of intersection and width thereof, including their width along the line of any obliquely intersecting street;
  - (9) The lengths of arcs and radii and tangent bearings;
  - (10) The exact location, alignment or arrangements of all easements provided for use by public service corporations, with a statement of any restrictions or limitations placed on such use;
  - (11) The exact location, alignment or arrangement of all lot lines with their dimensions expressed in feet and hundredths of a foot and with their bearings or angles to half minutes;
  - (12) The tangent distances of all corners when rounded at intersections, except in cases where streets intersect at right angles;
  - (13) All lots shall be numbered with consecutive Arabic numerals in each block, and all blocks shall be lettered in consecutive alphabetical order. In case of a resubdivision of lots in any block, the lots shall be numbered with consecutive Arabic numerals, beginning with the numeral following the highest lot numeral in the block;
  - (14) The exact boundaries of all property to be dedicated for public use, and of all property to be reserved by covenant in deeds for the common use of all owners of lots in the subdivision or otherwise reserved, with a statement of the purpose to which such covenant or reservation is made or such use is restricted or limited;
  - (15) The location of front yard setback lines whether or not controlled by county zoning ordinances;
  - (16) The north point with magnetic bearing or if true meridian is shown the basis of its determination shall be stated;
  - (17) A certificate of the engineer or surveyor who prepared the plat certifying that the plat represents and is based on a survey made by him or under his direction and supervision; that all monuments shown thereon are actually in place or will be put in place before a date specified by him; that their location and character are truly shown on the plat; and that all of the provisions and requirements of this article have been observed and fully complied with;
  - (18) A statement to the effect that the subdivision as it appears on the plat, including the dedication of all streets, alleys, easements and other land for public purposes and use is with the free consent and in accordance with the desire of the subdivider and of the trustee or mortgagee, or each of them if more than one, in any deed or other instrumentality, if any, creating a lien on the land in the subdivision, or any part thereof, which shall be signed by the subdivider and trustee or mortgagee, and shall be duly acknowledged before some officer, authorized to take acknowledgments to deeds. All cloth prints and transparent copies shall contain such signatures;

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- (19) A certificate signed by the surveyor or engineer who prepared the plat setting forth the source of title of the owner of the land subdivided and the court in which the last conveyance or source of title is recorded. When the land in the subdivision was acquired by the subdivider from more than one source of title, the land acquired from each source shall be indicated on the plat (see division 5 forms);
  - (20) Vicinity map drawn to a scale of 600 feet to the inch;
  - (21) Delineated boundaries of the Chesapeake Bay Resource Protection Area, floodplains and dam break inundation zones;
  - (22) The area covered by the primary drainage field and the reserve drain field for septic tanks;
  - (23) The location of any grave, object or structure marking a place of burial;
- (j) *Application; approval or disapproval.* Copies of the final plat and other exhibits required for approval showing all or any part of a subdivision planned for immediate development shall be prepared as specified herein and shall be submitted to the agent within one year after tentative approval of the preliminary plat. The agent may extend this time for no more than one additional year to allow completion of construction plans pursuant to section 86-432 of this Code, or to allow completion and certification of improvements pursuant to sections 86-432 of this Code. Extensions beyond one additional year may be granted only by the board of supervisors. The commission or other agent may not delay the official submission by requiring pre-submission conferences, meetings, or reviews. Tentative plat approval shall become null and void at such time and in the manner prescribed by the Code of Virginia. The agent shall act on the final plat, as dictated by the Code of Virginia, § 15.2-2259, within 60 days after it has been officially submitted for approval by either approving or disapproving such plat in writing, and giving with the latter specific reasons therefor. Specific reasons for disapproval may be contained in a separate document or may be written on the plat itself, and shall relate in general terms such modifications or corrections as will permit approval of the plat. If the agent fails to approve or disapprove the plat within 60 days, the subdivider, after ten days' written notice to the agent, may petition the circuit court of the county to decide whether the plat should or should not be approved. The court shall hear the matter and make and enter such order with respect thereto as it deems proper, which may include directing approval of the plat. In no case shall the agent give approval for recording a greater number of lots than permitted under the zoning ordinance.
- (k) *Recording final plat.* As directed by the Code of Virginia, § 15.2-2241(8), after the agent has approved the final plat, the subdivider shall file such plat for recordation in the clerk's office of the circuit court of the county within six months after approval thereof; otherwise such approval shall become null and void. However, in any case where construction of public facilities has commenced or a surety has been approved or furnished for the construction of such facilities then the time for plat recordation shall be extended to one year after final approval or to the time limit specified in the surety agreement, whichever is greater.
- (1) Recordation of plats shall act as transfer of streets, termination of easements and rights-of-way as outlined in the Code of Virginia, § 15.2-2265.
  - (2) As prescribed by the Code of Virginia, § 15.2-2209.1, any subdivision plat valid under Code of Virginia, § 15.2-2260 and outstanding as of January 1, 2017 shall remain valid until July 1, 2020.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

State law reference(s)—Standards for plat details, Code of Virginia, § 15.2-2241(1); plat of proposed subdivision and site plans to be submitted for approval, Code of Virginia, § 15.2-2258; recordation of plat, Code of Virginia, § 15.2-2264 et seq. Preliminary plat, Code of Virginia, § 15.2-2260.

**Secs. 86-476—86-479. Reserved.**

## *DIVISION 4. VACATION OF PLATS*

### **Sec. 86-480. Vacating.**

The Code of Virginia, § 15.2-2278 sets forth that any plat of subdivision recorded in any clerk's office, may be vacated as outlined in the sections below, taken from the Code of Virginia, § 15.2-2270 et seq.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

### **Sec. 86-481. Interest to a locality.**

Any interest in streets, alleys, easements for public rites of passage, easements for drainage, and easements for a public utility granted to a locality as a condition of the approval of a site plan may be vacated according to the two methods listed in Code of Virginia, § 15.2-2270.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

### **Sec. 86-482. Before sale of lot.**

An approved and recorded plat of subdivision, or part thereof, may be vacated prior to the sale of any lot therein by utilizing the procedures set forth in Code of Virginia, § 15.2-2271 and subsequent amendments thereto.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

### **Sec. 86-483. After sale of lot.**

An approved and recorded plat of subdivision, or part thereof, may be vacated after the sale of any lot by utilizing one of the two methods specified in Code of Virginia, § 15.2-2272 and subsequent amendments thereto. The effects of such are outlined in Code of Virginia, § 15.2-2274.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

### **Sec. 86-484. Boundary lines.**

As provided in the Code of Virginia, § 15.2-2275, the boundary lines of any lot or parcel of land may be vacated, relocated or otherwise altered as a part of an otherwise valid and properly recorded deed or plat of subdivision or resubdivision. The action shall not involve the relocation or alteration of streets, alleys, easements for public passage, or other public areas. No easements or utility rights-of-way shall be relocated or altered without the express consent of all persons holding any interest therein.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

### **Sec. 86-485. Duty of clerk.**

The Code of Virginia, § 15.2-2276 dictates, when a recorded plat, or any part thereof, has been vacated, the clerk of the county circuit court shall write in plain legible letters across such plat, or the part thereof so vacated,

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the word "vacated," and also make a reference on the same to the volume and page in which the instrument of vacation is recorded.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

**Sec. 86-486. Fees.**

As allowed by Code of Virginia, § 15.2-2273, the board shall establish a fee, not exceeding \$150.00, for processing an application for vacation of plat.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

**Secs. 86-487—86-489. Reserved.**

*DIVISION 5. VIOLATIONS*

**Sec. 86-490. Violations.**

- (a) No building permit shall be issued nor shall construction be authorized by the county on lands where a subdivision plat is required to be approved and recorded as provided in this article and no certificate of occupancy shall be issued until the compliance with this article and other applicable provisions regarding the use of any structure or land where a subdivision plat is required to be approved and recorded as provided in this article has been approved by the agent.
- (b) A violation of any provision of this chapter shall constitute a class 1 misdemeanor, unless otherwise specifically provided for in this chapter. The violation of any provision of this article shall be punished by a fine of not more than \$1,000.00 for each lot or parcel of land subdivided or transferred or sold in violation thereof; and the description of such lot or parcel by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring shall not exempt the transaction from such penalties or from the remedies herein provided. The county may, notwithstanding the imposition of any fine in accordance with this section, seek equitable relief to enjoin any violation of this article, in any court of competent jurisdiction.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

**Secs. 86-491—86-549. Reserved.**

***ARTICLE XIX. FLOODS***

*DIVISION 1. GENERAL REGULATIONS*

**Sec. 86-550. Statutory authorization and purpose.**

Code of Virginia, § 15.2-2283 specifies that zoning ordinances shall be for the general purpose of promoting the health, safety, or general welfare of the public and of further accomplishing the objectives of Code of Virginia, § 15.2-2200 which encourages localities to improve the public health, safety, convenience, and welfare of their

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citizens. To these ends, flood ordinances shall be designed to provide for safety from flood, to facilitate the provision of flood protection, and to protect against loss of life, health, or property from flood.

In accordance with these directed provisions, this article is specifically adopted pursuant to the authority granted to King William County by Code of Virginia, § 15.2-2280.

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

- (1) Regulating uses, activities, and development which, alone or in combination with other existing or future uses, activities, and development, will cause unacceptable increases in flood heights, velocities, and frequencies;
- (2) Restricting or prohibiting certain uses, activities, and development from locating within districts subject to flooding;
- (3) Requiring all those uses, activities, and developments that do occur in flood-prone districts to be protected and/or floodproofed against flooding and flood damage; and
- (4) Protecting individuals from buying land and structures which are unsuited for intended purposes because of flood hazards.

(Ord. No. 09-21R2, Att. A, 9-27-2021; Ord. No. 12-22, 2-27-2023)

Ord. No. 12-22, adopted Feb. 27, 2023, amended § 86-550, and in so doing changed the title of said section from purpose of article to read as set out herein.

### **Sec. 86-551. Applicability of provisions.**

These provisions shall apply to all privately and publicly owned lands within the jurisdiction of King William County and identified as areas of special flood hazard according to the flood insurance rate map (FIRM) that is provided to King William County by the Federal Emergency Management Agency (FEMA).

(Ord. No. 09-21R2, Att. A, 9-27-2021)

### **Sec. 86-552. Compliance and liability.**

- (a) No land shall hereafter be developed and no structure shall be located, relocated, constructed, reconstructed, enlarged, or structurally altered except in full compliance with the terms and provisions of this article and any other applicable ordinances and regulations which apply to uses within the jurisdiction of this article.
- (b) The degree of flood protection sought by the provisions of this article is considered reasonable for regulatory purposes and is based on acceptable engineering methods of study, but does not imply total flood protection. Larger floods may occur on rare occasions. Flood heights may be increased by manmade or natural causes, such as ice jams and bridge openings restricted by debris. This article does not imply that districts outside the floodplain district or land uses permitted within such district will be free from flooding or flood damages.
- (c) This article shall not create liability on the part of King William County or any officer or employee thereof for any flood damages that result from reliance on this article or any administrative decision lawfully made thereunder.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

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### **Sec. 86-553. Records.**

Records of actions associated with administering this article shall be kept on file and maintained in perpetuity by the floodplain administrator, in compliance with federal and state retention laws and regulations.

(Ord. No. 09-21R2, Att. A, 9-27-2021; Ord. No. 12-22, 2-27-2023)

### **Sec. 86-554. Abrogation and greater restrictions.**

This article supersedes any ordinance currently in effect in flood-prone districts. Any ordinance, however, shall remain in full force and effect to the extent that its provisions are more restrictive.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

### **Sec. 86-555. Severability.**

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

(Ord. No. 09-21R2, Att. A, 9-27-2021)

### **Sec. 86-556. Penalties for violations.**

- (a) Any person who fails to comply with any of the requirements or provisions of this article, directions of the floodplain administrator or any authorized employee of King William County shall be guilty of a misdemeanor of the first class and subject to the penalties therefor.
- (b) In addition to the above penalties, all other actions are hereby reserved, including an action in equity for the proper enforcement of this article. The imposition of a fine or penalty for any violation of, or noncompliance with, this article shall not excuse the violation or noncompliance or permit it to continue; and all such persons shall be required to correct or remedy such violations within a reasonable time. Any structure constructed, reconstructed, enlarged, altered or relocated in noncompliance with this article may be declared by King William County to be a public nuisance and abatable as such. Flood insurance may be withheld from structures constructed in violation of this article.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

### **Sec. 86-557. Definitions.**

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

*Appurtenant or accessory structure* means a non-residential structure which is on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure. Accessory structures are not to exceed 600 square feet.

*Base flood* means the flood having a one percent chance of being equaled or exceeded in any given year.

*Base flood elevation* means the federal emergency management agency designated one percent annual chance water surface elevation of the base flood in relation to the datum specified on the community's flood

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insurance rate map. For the purposes of this article, the "base flood" is 100-year flood or one percent annual chance flood.

*Basement* means any area of the building having its floor sub-grade (below ground level) on all sides.

*Board of zoning appeals* means the board appointed to review appeals made by individuals with regard to decisions of the zoning administrator in the interpretation of this article.

*Development* means any manmade change to improved or unimproved real estate, including, but not limited to, buildings or other structures, temporary structures, mining, dredging, filling, grading, paving, excavation or drilling, or other land-disturbing activities or permanent or temporary operations or storage of equipment or materials.

*Elevated building* means a non-basement building built to have the lowest floor elevated above the ground level by means of solid foundation perimeter walls, pilings, or columns (posts and piers).

*Encroachment* means the advance or infringement of uses, plant growth, fill, excavation, buildings, permanent structures or development into a floodplain, which may impede or alter the flow capacity of a floodplain.

*Existing construction* means structures for which the start of construction commenced before the effective date of the FIRM. "Existing construction" may also be referred to as "existing structures."

*Flood or flooding* means:

- (1) A general or temporary condition of partial or complete inundation of normally dry land areas from:
  - a. The overflow of inland or tidal waters;
  - b. The unusual and rapid accumulation or runoff of surface waters from any source; or
  - c. Mudflows which are proximately caused by flooding as defined in subsection (1)b. of this definition and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.
- (2) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in subsection (1)a. of this definition.

*Flood insurance rate map (FIRM)* means an official map of a community, on which FEMA has delineated both the special hazard areas and the risk premium zones applicable to the community. A FIRM that has been made available digitally is called a digital flood insurance rate map (DFIRM).

*Flood insurance study (FIS)* means a report by FEMA that examines, evaluates and determines flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudflow and/or flood-related erosion hazards.

*Flood protection elevation* means an elevation that is one foot or more above the base flood elevation.

*Floodplain or flood-prone area* means any land area susceptible to being inundated by water from any source.

*Floodproofing* means any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

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*Floodway* means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

*Freeboard* means a factor of safety usually expressed in inches or feet above a flood level for purposes of floodplain management. "Freeboard" tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings, and the hydrological effect of urbanization in the watershed. When a freeboard is included in the height of a structure, the flood insurance premiums may be less expensive.

*Highest adjacent grade* means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

*Historic structure* means any structure that is:

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

*Hydrologic and hydraulic engineering analysis* means analyses performed by a licensed professional engineer, in accordance with standard engineering practices that are accepted by the Virginia Department of Conservation and Recreation (DCR) and FEMA, used to determine the base flood, other frequency floods, flood elevations, floodway information and boundaries, and flood profiles.

*Letters of map change (LOMC)* means an official FEMA determination, by letter that amends or revises an effective FIRM or FIS. Letters of map change include:

*Letter of map amendment (LOMA):* An amendment based on technical data showing that a property was incorrectly included in a designated special flood hazard area. A LOMA amends the current effective FIRM and establishes that a land as defined by metes and bounds or structure is not located in a special flood hazard area.

*Letter of map revision (LOMR):* A revision based on technical data that may show changes to flood zones, flood elevations, floodplain and floodway delineations, and planimetric features. A letter of map revision based on fill (LOMR-F) is a determination that a structure or parcel of land has been elevated by fill above the base flood elevation and is, therefore, no longer exposed to flooding associated with the base flood. In order to qualify for this determination, the fill must have been permitted and placed in accordance with the community's floodplain management regulations.

*Conditional letter of map revision (CLOMR):* A formal review and comment as to whether a proposed flood protection project or other project complies with the minimum NFIP requirements for such projects with respect to delineation of special flood hazard areas. A CLOMR does not revise the effective FIRM or FIS.

*Lowest floor* means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a

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basement area is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of 44 CFR 60.3.

*Manufactured home* means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes, the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days, but does not include a recreational vehicle.

*Manufactured home park or subdivision* means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

*New construction* means, for the purposes of determining insurance rates, structures for which the start of construction commenced on or after February 6, 1991, and includes any subsequent improvements to such structures. For floodplain management purposes, "new construction" means structures for which the start of construction commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

*Post-FIRM structures* means a structure for which construction or substantial improvement occurred on or after February 6, 1991.

*Pre-FIRM structures* means a structure for which construction or substantial improvement occurred on or before February 6, 1991.

*Recreational vehicle* means a vehicle which is:

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

*Repetitive loss structure* means a building covered by a contract for flood insurance that has incurred flood-related damages on two occasions during a ten-year period ending on the date of the event for which a second claim is made, in which the cost of repairing the flood damage, on the average, equaled or exceeded 25 percent of the market value of the building at the time of each flood event.

*Special flood hazard area* means the land in the floodplain subject to a one percent or greater chance of being flooded in any given year as determined in section 86-568, overlay concept, of this article.

*Start of construction* means, for other than new construction and substantial improvement, under the Coastal Barriers Resource Act (P.L. 97-348), means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, substantial improvement or other improvement was within 180 days of the permit date. The "actual start" means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. "Permanent construction" does not include land preparation, such as clearing, grading and filling; nor does it include the installation 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 the construction" means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

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*Structure* means, for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

*Substantial damage* means damage of any origin sustained by a structure whereby the cost of restoring the structure to its pre-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. It also means flood-related damages sustained by a structure on two occasions in a five-year period, in which the cost of the repair, on the average, equals or exceeds 25 percent of the marketed value of the structure at the time of each such flood event.

*Substantial improvement* means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the start of construction of the improvement. This term includes structures which have incurred substantial damage regardless of the actual repair work performed. The term does not, however, include either:

- (1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
- (2) Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.
- (3) Historic structures undergoing repair or rehabilitation that would constitute a substantial improvement, as defined above, must comply with all ordinance requirements that do not preclude the structure's continued designation as a historic structure. Documentation that a specific ordinance requirement will cause removal of the structure from the National Register of Historic Places or the State Inventory of Historic places must be obtained from the Secretary of the Interior or the State Historic Preservation Officer. Any exemption from ordinance requirements will be the minimum necessary to preserve the historic character and design of the structure.

*Violation* means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in this article is presumed to be in violation until such time as that documentation is provided.

*Watercourse* means a lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodically. "Watercourse" includes specifically designated areas in which substantial flood damage may occur.

(Ord. No. 09-21R2, Att. A, 9-27-2021; Ord. No. 12-22, 2-27-2023)

## ***DIVISION 2. ADMINISTRATION***

### **Sec. 86-558. Designation of the floodplain administrator.**

The zoning administrator or designee is hereby appointed to administer and implement these regulations and is referred to herein as the floodplain administrator. The floodplain administrator may:

- (1) Do the work themselves.
- (2) Delegate duties and responsibilities set forth in these regulations to qualified technical personnel, plan examiners, inspectors, and other employees.
- (3) Enter into a written agreement or written contract with another community or private sector entity to administer specific provisions of these regulations. Administration of any part of these regulations by another entity shall not relieve the community of its responsibilities pursuant to the participation

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requirements of the National Flood Insurance Program as set forth in the Code of Federal Regulations at 44 C.F.R. 59.22.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

**Sec. 86-559. Duties and responsibilities of the floodplain administrator.**

The duties and responsibilities of the floodplain administrator shall include but are not limited to:

- (1) Review applications for permits to determine whether proposed activities will be located in the special flood hazard area (SFHA).
- (2) Interpret floodplain boundaries and provide available base flood elevation and flood hazard information.
- (3) Review applications to determine whether proposed activities will be reasonably safe from flooding and require new construction and substantial improvements to meet the requirements of these regulations.
- (4) Review applications to determine whether all necessary permits have been obtained from the federal, state or local agencies from which prior or concurrent approval is required; in particular, permits from state agencies for any construction, reconstruction, repair, or alteration of a dam, reservoir, or waterway obstruction (including bridges, culverts, structures), any alteration of a watercourse, or any change of the course, current, or cross section of a stream or body of water, including any change to the 100-year frequency floodplain of free flowing non-tidal waters of the state.
- (5) Verify that applicants proposing an alteration of a watercourse have notified adjacent communities, DCR, and other appropriate agencies (Virginia Department of Environmental Quality, U.S. Army Corps of Engineers) and have submitted copies of such notifications to FEMA.
- (6) Approve applications and issue permits to develop in flood hazard areas if the provisions of these regulations have been met, or disapprove applications if the provisions of these regulations have not been met.
- (7) Inspect or cause to be inspected, buildings, structures, and other development for which permits have been issued to determine compliance with these regulations or to determine if noncompliance has occurred or violations have been committed.
- (8) Review elevation certificates and require incomplete or deficient certificates to be corrected.
- (9) Submit to FEMA, or require applicants to submit to FEMA, data and information necessary to maintain FIRMs, including hydrologic and hydraulic engineering analyses prepared by King William County, within six months after such data and information becomes available if the analyses indicate changes in base flood elevations.
- (10) Maintain records in perpetuity that are necessary for the administration of these regulations, including:
  - a. FISs, FIRMs (including historic studies and maps and current effective studies and maps) and letters of map change; and
  - b. Documentation supporting issuance and denial of permits, elevation certificates, documentation of the elevation (in relation to the datum on the FIRM) to which structures have been flood proofed, other required design certifications, variances, and records of enforcement actions taken to correct violations of these regulations.
- (11) Enforce the provisions of these regulations, investigate violations, issue notices of violations or stop work orders, and require permit holders to take corrective action.

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- (12) Advise the board of zoning appeals regarding the intent of these regulations and, for each application for a variance, prepare a staff report and recommendation.
  - (13) Administer the requirements related to proposed work on existing buildings:
    - a. Make determinations as to whether buildings and structures that are located in flood hazard areas and that are damaged by any cause have been substantially damaged.
    - b. Make reasonable efforts to notify owners of substantially damaged structures of the need to obtain a permit to repair, rehabilitate, or reconstruct, and prohibit the noncompliant repair of substantially damaged buildings except for temporary emergency protective measures necessary to secure a property or stabilize a building or structure to prevent additional damage.
  - (14) Undertake, as determined appropriate by the floodplain administrator due to the circumstances, other actions which may include but are not limited to: issuing press releases, public service announcements, and other public information materials related to permit requests and repair of damaged structures; coordinating with other federal, state, and local agencies to assist with substantial damage determinations; providing owners of damaged structures information related to the proper repair of damaged structures in special flood hazard areas; and assisting property owners with documentation necessary to file claims for increased cost of compliance coverage under NFIP flood insurance policies.
  - (15) Notify FEMA when the corporate boundaries of King William County have been modified and:
    - a. Provide a map that clearly delineates the new corporate boundaries or the new area for which the authority to regulate pursuant to these regulations has either been assumed or relinquished through annexation; and
    - b. If the FIRM for any annexed area includes special flood hazard areas that have flood zones that have regulatory requirements that are not set forth in these regulations, prepare amendments to these regulations to adopt the FIRM and appropriate requirements, and submit the amendments to the board of supervisors for adoption; such adoption shall take place at the same time as or prior to the date of annexation and a copy of the amended regulations shall be provided to DCR and FEMA.
  - (16) Upon the request of FEMA, complete and submit a report concerning participation in the NFIP which may request information regarding the number of buildings in the SFHA, number of permits issued for development in the SFHA, and number of variances issued for development in the SFHA.
  - (17) It is the duty of the floodplain administrator to take into account flood, mudslide and flood-related erosion hazards, to the extent that they are known, in all official actions relating to land management and use throughout the entire jurisdictional area of the county, whether or not those hazards have been specifically delineated geographically (e.g. via mapping or surveying).

(Ord. No. 09-21R2, Att. A, 9-27-2021; Ord. No. 12-22, 2-27-2023)

### **Sec. 86-560. Use and interpretation of FIRMs.**

The floodplain administrator shall make interpretations, where needed, as to the exact location of special flood hazard areas, floodplain boundaries, and floodway boundaries. The following shall apply to the use and interpretation of FIRMs and data:

- (1) Where field surveyed topography indicates that adjacent ground elevations:
  - a. Are below the base flood elevation, even in areas not delineated as a special flood hazard area on a FIRM, the area shall be considered as special flood hazard area and subject to the requirements of these regulations;

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- b. Are above the base flood elevation, the area shall be regulated as special flood hazard area unless the applicant obtains a letter of map change that removes the area from the SFHA.
- (2) In FEMA-identified special flood hazard areas where base flood elevation and floodway data have not been identified and in areas where FEMA has not identified SFHAs, any other flood hazard data available from a federal, state, or other source shall be reviewed and reasonably used.
  - (3) Base flood elevations and designated floodway boundaries on FIRMs and in FISs shall take precedence over base flood elevations and floodway boundaries by any other sources if such sources show reduced floodway widths and/or lower base flood elevations.
  - (4) Other sources of data shall be reasonably used if such sources show increased base flood elevations and/or larger floodway areas than are shown on FIRMs and in FISs.
  - (5) If a preliminary FIRM and/or a preliminary FIS has been provided by FEMA:
    - a. Upon the issuance of a letter of final determination by FEMA, the preliminary flood hazard data shall be used and shall replace the flood hazard data previously provided from FEMA for the purposes of administering these regulations.
    - b. Prior to the issuance of a letter of final determination by FEMA, the use of preliminary flood hazard data shall be deemed the best available data pursuant to section 86-567 and used where no base flood elevations and/or floodway areas are provided on the effective FIRM.
    - c. Prior to issuance of a letter of final determination by FEMA, the use of preliminary flood hazard data is permitted where the preliminary base flood elevations or floodway areas exceed the base flood elevations and/or designated floodway widths in existing flood hazard data provided by FEMA. Such preliminary data may be subject to change and/or appeal to FEMA.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

**Sec. 86-561. Reserved.**

**Sec. 86-562. Jurisdictional boundary changes.**

- (a) The county floodplain ordinance in effect on the date of annexation shall remain in effect and shall be enforced by the municipality for all annexed areas until the municipality adopts and enforces an ordinance which meets the requirements for participation in the National Flood Insurance Program. Municipalities with existing floodplain ordinances shall pass a resolution acknowledging and accepting responsibility for enforcing floodplain ordinance standards prior to annexation of any area containing identified flood hazards. If the FIRM for any annexed area includes special flood hazard areas that have flood zones that have regulatory requirements that are not set forth in these regulations, prepare amendments to these regulations to adopt the FIRM and appropriate requirements, and submit the amendments to the board of supervisors for adoption; such adoption shall take place at the same time as or prior to the date of annexation and a copy of the amended regulations shall be provided to department of conservation and recreation (division of dam safety and floodplain management) and FEMA.
- (b) In accordance with the 44 CFR 59.22(a)(9)(v), all NFIP participating communities must notify the Federal Insurance Administration and optionally the state coordinating office in writing whenever the boundaries of the community have been modified by annexation or the community has otherwise assumed or no longer has authority to adopt and enforce floodplain management regulations for a particular area.
- (c) In order that all FIRMs accurately represent the community's boundaries, a copy of a map of the community suitable for reproduction, clearly delineating the new corporate limits or new area for which the community

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has assumed or relinquished floodplain management regulatory authority must be included with the notification.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

**Sec. 86-563. District boundary changes.**

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

(Ord. No. 09-21R2, Att. A, 9-27-2021)

**Sec. 86-564. Interpretation of district boundaries.**

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

(Ord. No. 09-21R2, Att. A, 9-27-2021)

**Sec. 86-565. Submitting technical data.**

A community's base flood elevations may increase or decrease resulting from physical changes affecting flooding conditions. As soon as practicable, but not later than six months after the date such information becomes available, a community shall notify the FEMA of the changes by submitting technical or scientific data. Such a submission is necessary so that upon confirmation of those physical changes affecting flooding conditions, risk premium rates and floodplain management requirements will be based upon current data.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

**Sec. 86-566. Letters of map revision.**

When development in the floodplain causes a change in the base flood elevation, the applicant, including state agencies, must notify FEMA by applying for a CLOMR or a LOMR. Examples [include]:

- (1) Any development that causes a rise in the base flood elevations within the floodway.
- (2) Any development occurring in zone AE without a designated floodway, which will cause a rise of more than one foot in the base flood elevation.
- (3) Alteration or relocation of a stream (including but not limited to installing culverts and bridges) 44 CFR 65.3 and 65.6(a)(12).

(Ord. No. 09-21R2, Att. A, 9-27-2021)

***DIVISION 3. ESTABLISHMENT OF ZONING DISTRICTS***

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## Sec. 86-567. Description of special flood hazard districts.

- (a) Basis of districts. The various special flood hazard districts shall include the SFHAs. The basis for the delineation of these districts shall be the FIS and the FIRM for King William County prepared by the FEMA, federal insurance administration, dated May 9, 2023, and any subsequent revisions or amendments thereto. According to the FIRM provided by FEMA, King William County has the following special flood hazard areas: AE zone and A zone only.
- (b) King William County may identify and regulate local flood hazard or ponding areas that are not delineated on the FIRM. These areas may be delineated on a "local flood hazard map" using best available topographic data and locally derived information such as flood of record, historic high water marks or approximate study methodologies.
- (c) The boundaries of the SFHA districts are established as shown on the FIRM which is declared to be a part of this article and which shall be kept on file at the King William County offices.
  - (1) The floodway is in an AE zone and is delineated, for purposes of this article, using the criterion that certain areas within the floodplain must be capable of carrying the waters of the one percent annual chance flood without increasing the water surface elevation of that flood more than one foot at any point. The areas included in this floodway are specifically defined in Table 1—Summary of Discharges of the above-referenced FIS and shown on the accompanying FIRM. The following provisions shall apply within the floodway of an AE zone [44 CFR 60.3(d)]:
    - a. Within any floodway area, no encroachments, including fill, new construction, substantial improvements, or other development shall be permitted unless it has been demonstrated through hydrologic and hydraulic analysis performed in accordance with standard engineering practice that the proposed encroachment will not result in any increase in flood levels within the community during the occurrence of the base flood discharge. Hydrologic and hydraulic analyses shall be undertaken only by professional engineers or others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently accepted technical concepts. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough review by the floodplain administrator.
    - b. Development activities which increase the water surface elevation of the base flood may be allowed, provided that the applicant first applies, with King William County's endorsement, for a CLOMR, and receives the approval of the FEMA.
    - c. All new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of division 4 of this article.
    - d. The placement of manufactured homes (mobile homes) is prohibited, except in an existing manufactured home (mobile home) park or subdivision. A replacement manufactured home may be placed on a lot in an existing manufactured home park or subdivision provided the anchoring, elevation, and encroachment standards are met.
  - (2) The AE zones on the FIRM accompanying the FIS shall be those areas for which one percent annual chance flood elevations have been provided and the floodway has not been delineated. The following provisions shall apply within an AE zone [44 CFR 60.3(c)]:
    - a. Until a regulatory floodway is designated, no new construction, substantial improvements, or other development (including fill) shall be permitted within the areas of special flood hazard, designated as zone AE on the FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within King William County.

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- b. Development activities in zone AE on King William County's FIRM which increase the water surface elevation of the base flood by more than one foot may be allowed, provided that the applicant first applies, with King William County's endorsement, for a CLOMR, and receives the approval of the FEMA.
- (3) The A zone on the FIRM accompanying the FIS shall be those areas for which no detailed flood profiles or elevations are provided, but the one percent annual chance floodplain boundary has been approximated. For these areas, the following provisions shall apply [44 CFR 60.3(b)]:
- a. The approximated floodplain district shall be that floodplain area for which no detailed flood profiles or elevations are provided, but where a one-percent annual chance flood boundary has been approximated. Such areas are shown as zone A on the maps accompanying the FIS. For these areas, the base flood elevations and floodway information from federal, state, and other acceptable sources shall be used, when available. Where the specific one percent annual chance 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 base flood elevation. For development proposed in the approximate floodplain the applicant must use technical methods that correctly reflect currently accepted non-detailed technical concepts, such as point on boundary, high water marks, or detailed methodologies hydrologic and hydraulic analyses. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough review by the floodplain administrator. If no flood depth number is specified, the lowest floor, including basement, shall be elevated no less than two feet above the highest adjacent grade.
  - b. The floodplain administrator reserves the right to require a hydrologic and hydraulic analysis for any development. When such base flood elevation data is utilized, the lowest floor shall be elevated to at least 18 inches above the base flood level.
  - c. During the permitting process, the floodplain administrator shall obtain:
    - 1. The elevation of the lowest floor (including the basement) of all new and substantially improved structures; and
    - 2. If the structure has been floodproofed in accordance with the requirements of this article, the elevation (in relation to mean sea level) to which the structure has been floodproofed.
  - d. Base flood elevation data shall be obtained from other sources or developed using detailed methodologies comparable to those contained in a FIS for subdivision proposals and other proposed development proposals (including manufactured home parks) that exceed 50 lots or five acres, whichever is the lesser.

(Ord. No. 09-21R2, Att. A, 9-27-2021; Ord. No. 12-22, 2-27-2023)

### **Sec. 86-568. Overlay concept.**

- (a) The floodplain districts described above shall be overlays to the existing underlying districts as shown on the official zoning ordinance map, and as such, the provisions for the floodplain districts shall serve as a supplement to the underlying district provisions.
- (b) If there is any conflict between the provisions or requirements of the floodplain districts and those of any underlying district, the more restrictive provisions and/or those pertaining to the floodplain districts shall apply.

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

(Ord. No. 09-21R2, Att. A, 9-27-2021)

## *DIVISION 4. DISTRICT PROVISIONS*

### **Sec. 86-569. Permit and application requirements.**

- (a) *Permit requirement.* All uses, activities, and development occurring within any floodplain district, including placement of manufactured homes, shall be undertaken only upon the issuance of a zoning permit. Such development shall be undertaken only in strict compliance with the provisions of this article and with all other applicable codes and ordinances, as amended, such as the Virginia Uniform Statewide Building Code (VA USBC) and King William County's Subdivision Regulations. Prior to the issuance of any such permit, the floodplain administrator shall require all applications to include compliance with all applicable state and federal laws and shall review all sites to assure they are reasonably safe from flooding. 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) *Site plans and permit applications.* All applications for development within any floodplain district and all building permits issued for the floodplain shall meet the site plan requirements of this ordinance and incorporate the following information:
- (1) The elevation of the base flood at the site.
  - (2) The elevation of the lowest floor (including basement).
  - (3) For structures to be floodproofed (nonresidential only), the elevation to which the structure will be floodproofed.
  - (4) Topographic information showing existing and proposed ground elevations.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

### **Sec. 86-570. General standards.**

- (a) The following provisions shall apply to all permits:
- (1) New construction and substantial improvements shall be according to the VA USBC, and anchored to prevent flotation, collapse or lateral movement of the structure.
  - (2) Manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable state anchoring requirements for resisting wind forces.
  - (3) New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
  - (4) New construction or substantial improvements shall be constructed by methods and practices that minimize flood damage.

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- (5) Electrical, heating, ventilation, plumbing, air conditioning equipment and other service facilities, including duct work, shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
  - (6) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
  - (7) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.
  - (8) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.
- (b) In addition to provisions (a)(1) through (8) above, in all special flood hazard areas, the additional provisions shall apply:
- (1) 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 Department of Environmental Quality, and the Virginia Marine Resources Commission. Furthermore, in riverine areas, notification of the proposal shall be given by the applicant to all affected adjacent jurisdictions, the DCR, other required agencies, and the FEMA.
  - (2) The flood carrying capacity within an altered or relocated portion of any watercourse shall be maintained.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

## **Sec. 86-571. Elevation and construction standards.**

In all identified flood hazard areas where base flood elevations have been provided in the FIS or generated by a certified professional in accordance with section 86-567(c)(3), the following provisions shall apply:

- (1) *Residential construction.* New construction or substantial improvement of any residential structure (including manufactured homes) in zones AE and A with detailed base flood elevations shall have the lowest floor, including basement, elevated to the base flood elevation plus 18 inches.
- (2) *Nonresidential construction.* New construction or substantial improvement of any commercial, industrial, or nonresidential building (or manufactured home) shall have the lowest floor, including basement, elevated to or above 18 inches above the base flood level. Buildings located in all AE zones may be floodproofed in lieu of being elevated provided that all areas of the building components below the elevation corresponding to the base flood elevation (BFE) plus two feet are watertight with walls substantially impermeable to the passage of water, and use structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification, including the specific elevation (in relation to mean sea level) to which such structures are floodproofed, shall be maintained by the floodplain administrator.
- (3) *Space below the lowest floor.* In zones A and AE, fully-enclosed areas of new construction or substantially improved structures, which are below the regulatory flood protection elevation, shall:
  - a. Not be designed or used for human habitation, but shall only be used for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment (standard exterior door), or entry to the living area (stairway or elevator).

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- b. Be constructed entirely of flood-resistant materials below the regulatory flood protection elevation.
  - c. Include measures to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet this requirement, the openings must either be certified by a professional engineer or architect or meet the following minimum design criteria:
    1. Provide a minimum of two openings on different sides of each enclosed area subject to flooding. Each opening shall be located on exterior walls.
    2. The total net area of all openings must be at least one square inch for each square foot of enclosed area subject to flooding or the flood openings shall be engineered flood openings that are designed and certified by a licensed professional engineer to automatically allow entry and exit of floodwaters; the certification requirement may be satisfied by an individual certification, or an Evaluation Report issued by the ICC Evaluation Service, Inc.
    3. If a building has more than one enclosed area, each area must have openings to allow floodwaters to automatically enter and exit.
    4. The bottom of all required openings shall be no higher than one foot above the adjacent grade.
    5. Openings may be equipped with screens, louvers, or other opening coverings or devices, provided they permit the automatic flow of floodwaters in both directions.
    6. Foundation enclosures made of flexible skirting are not considered enclosures for regulatory purposes, and, therefore, do not require openings. Masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires openings as outlined above.
  - d. Accessory structures.
    1. Accessory structures in the SFHA shall comply with the elevation requirements and other requirements of this section or, if not elevated or dry floodproofed, shall:
      - i. Not be used for human habitation;
      - ii. Be limited to no more than 600 square feet in total floor area;
      - iii. Be useable only for parking of vehicles or limited storage;
      - iv. Be constructed with flood damage-resistant materials below the base flood elevation;
      - v. Be constructed and placed to offer the minimum resistance to the flow of floodwaters;
      - vi. Be anchored to prevent flotation;
      - vii. Have electrical service and mechanical equipment elevated to or above the base flood elevation;
      - viii. Shall be provided with flood openings which shall meet the following criteria:
        - (A) There shall be a minimum of two flood openings on different sides of each enclosed area; if a building has more than one enclosure below the lowest floor, each such enclosure shall have flood openings on exterior walls.
        - (B) The total net area of all flood openings shall be at least one square inch for each square feet of enclosed area (non-engineered flood openings),

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or the flood openings shall be engineered flood openings that are designed and certified by a licensed professional engineer to automatically allow entry and exit of floodwaters; the certification requirements may be satisfied by an individual certification, or an Evaluation Report issued by the ICC Evaluation Service, Inc.

- (C) The bottom of each flood openings shall be one foot or less above the higher of the interior flood or grade, immediately below the opening.
- (D) Any louvers, screens or other covers for the flood openings shall allow the automatic flow of floodwaters into and out of the enclosure areas.

ix. A signed Declaration of Land Restriction (Non-Conservation Agreement) shall be recorded on the property deed.

(4) Standards for manufactured homes and recreational vehicles.

- a. All manufactured homes placed, or substantially improved, on individual lots or parcels, must meet all the requirements for new construction, including the elevation and anchoring requirements in sections 86-570 and 86-571.
- b. All recreational vehicles placed on sites must either:
  - 1. Be on the site for fewer than 180 consecutive days, be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions); or
  - 2. Meet all the requirements for manufactured homes in subsection (4)a. of this section.

(Ord. No. 09-21R2, Att. A, 9-27-2021; Ord. No. 12-22, 2-27-2023)

**Sec. 86-572. Standards for subdivision proposals.**

- (a) All subdivision proposals shall be consistent with the need to minimize flood damage;
- (b) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage;
- (c) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards; and
- (d) Base flood elevation data shall be obtained from other sources or developed using detailed methodologies, hydraulic and hydrologic analysis, comparable to those contained in a FIS for subdivision proposals and other proposed development proposals (including manufactured home parks and subdivisions) that exceed 50 lots or five acres, whichever is the lesser.

(Ord. No. 09-21R2, Att. A, 9-27-2021)

*DIVISION 5. VARIANCES; CONTINUING USES*

**Sec. 86-573. Existing structures in floodplain areas.**

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:

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- (1) Existing structures in the floodway area shall not be expanded or enlarged unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practices that the proposed expansion would not result in any increase in the base flood elevation.
  - (2) Any modification, alteration, repair, reconstruction, or improvement of any kind to a structure and/or use located in any floodplain areas to an extent or amount of less than 50 percent of its market value shall conform to the VA USBC.
  - (3) The modification, alteration, repair, reconstruction, or improvement of any kind to a structure and/or use, regardless of its location in a floodplain area to an extent or amount of 50 percent or more of its market value, shall be undertaken only in full compliance with this article and shall require the entire structure to conform to the VA USBC.
  - (4) Change is not a substantial repair or substantial improvement, and no new square footage is being built in the floodplain that is not compliant and no new square footage is being built in the floodway.
  - (5) The change complies with this section and the VA USBC and the change, which added to all the changes made during a rolling five-year period does not constitute 50 percent of the structure's value.
  - (6) The changes are required to comply with a citation for a health or safety violation.
  - (7) The structure is a historic structure and the change required would impair the historic nature of the structure.

(Ord. No. 09-21R2, Att. A, 9-27-2021; Ord. No. 12-22, 2-27-2023)

#### **Sec. 86-574. Variances: factors to be considered.**

- (a) Variances shall be issued only upon:
  - (1) A showing of good and sufficient cause;
  - (2) After the board of zoning appeals has determined that failure to grant the variance would result in exceptional hardship to the applicant; and
  - (3) After the board of zoning appeals has determined that the granting of such variance 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.
- (b) While the granting of variances generally is limited to a lot size less than one-half acre, deviations from that limitation may occur. However, as the lot size increases beyond one-half acre, the technical justification required for issuing a variance increases. Variances may be issued by the board of zoning appeals for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, in conformance with the provisions of this section.
- (c) Variances may be issued for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that the criteria of this section are met,

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and the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

- (d) 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 district that will cause any increase in the one-percent annual chance flood.
  - (2) The danger that materials may be swept on to other lands or downstream to the injury of others.
  - (3) The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.
  - (4) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners.
  - (5) The importance of the services provided by the proposed facility to the community.
  - (6) The requirements of the facility for a waterfront location.
  - (7) The availability of alternative locations not subject to flooding for the proposed use.
  - (8) The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
  - (9) The relationship of the proposed use to the comprehensive plan and floodplain management program for the area.
  - (10) The safety of access by ordinary and emergency vehicles to the property in time of flood.
  - (11) The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site.
  - (12) The historic nature of a structure. Variances for repair or rehabilitation of historic structures may be granted upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
  - (13) Variances will not be issued for any accessory structure within the SFHA; or
  - (14) No variance shall be granted for an accessory structure exceeding 600 square feet.
  - (15) Such other factors which are relevant to the purposes of this article.
- (e) 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.
- (f) Variances shall be issued only after the board of zoning appeals has determined that the granting of such will not result in:
- (1) Unacceptable or prohibited increases in flood heights;
  - (2) Additional threats to public safety;
  - (3) Extraordinary public expense; and will not:
    - a. Create nuisances;
    - b. Cause fraud or victimization of the public; or

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- c. Conflict with local laws or ordinances.
- (g) Variances shall be issued only after the board of zoning appeals has determined that the variance will be the minimum required to provide relief.
- (h) 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-percent annual chance flood:
- (1) Increases the risks to life and property; and
  - (2) Will result in increased premium rates for flood insurance.
- (i) A record shall be maintained of the above notification as well as all variance actions, including justification for the issuance of the variances.
- (j) Variances will not be issued for any accessory structure within the SFHA. (Note: See article XIX, section 86-571(3))
- (Ord. No. 09-21R2, Att. A, 9-27-2021; Ord. No. 12-22, 2-27-2023)

## *DIVISION 6. ENACTMENT*

### **Sec. 86-575. Enactment; effective date.**

Enacted and ordained this 27th of February, 2023. This article of King William, Virginia shall become effective May 9, 2023.

(Ord. No. 09-21R2, Att. A, 9-27-2021; Ord. No. 12-22, 2-27-2023)